

FEDERAL REGISTER

VOLUME 35

• NUMBER 114

Friday, June 12, 1970

• Washington, D.C.

Pages 9099-9238

Agencies in this issue—

Agricultural Research Service
Agricultural Stabilization and
Conservation Service
Agriculture Department
Atomic Energy Commission
Business and Defense Services
Administration
Civil Aeronautics Board
Commodity Credit Corporation
Consumer and Marketing Service
Federal Aviation Administration
Federal Communications Commission
Federal Highway Administration
Federal Maritime Commission
Federal Power Commission
Federal Trade Commission
Food and Drug Administration
Housing and Urban Development
Department
Indian Affairs Bureau
International Commerce Bureau
Interstate Commerce Commission
Land Management Bureau
Maritime Administration
Mines Bureau
National Highway Safety Bureau
Securities and Exchange Commission
Small Business Administration
Tariff Commission
Wage and Hour Division

Detailed list of Contents appears inside.



MICROFILM EDITION FEDERAL REGISTER 35mm MICROFILM

Complete Set 1936-68, 174 Rolls \$1,224

Vol.	Year	Price	Vol.	Year	Price	Vol.	Year	Price
1	1936	\$8	12	1947	\$26	23	1958	\$36
2	1937	10	13	1948	27	24	1959	40
3	1938	9	14	1949	22	25	1960	49
4	1939	14	15	1950	26	26	1961	46
5	1940	15	16	1951	43	27	1962	50
6	1941	20	17	1952	35	28	1963	49
7	1942	35	18	1953	32	29	1964	57
8	1943	52	19	1954	39	30	1965	58
9	1944	42	20	1955	36	31	1966	61
10	1945	43	21	1956	38	32	1967	64
11	1946	42	22	1957	38	33	1968	62

Order Microfilm Edition from Publications Sales Branch
National Archives and Records Service
Washington, D.C. 20408



Area Code 202 Phone 962-8626
(49 Stat. 500, as amended; 44 U.S.C., Ch. 15), under regulations prescribed by the Administrative Committee of the Federal Register, approved by the President (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

Published daily, Tuesday through Saturday (no publication on Sundays, Mondays, or on the day after an official Federal holiday), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, pursuant to the authority contained in the Federal Register Act, approved July 26, 1935.

The regulatory material appearing herein is keyed to the CODE OF FEDERAL REGULATIONS, which is published, under 50 titles, pursuant to section 11 of the Federal Register Act, as amended (44 U.S.C. 1510). The CODE OF FEDERAL REGULATIONS is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

There are no restrictions on the republication of material appearing in the FEDERAL REGISTER or the CODE OF FEDERAL REGULATIONS.

Contents

AGRICULTURAL RESEARCH SERVICE

Rules and Regulations

- Domestic quarantine; imported fire ant (2 documents)..... 9103, 9104
Foreign quarantine; entry into Guam of fruits and vegetables... 9105

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

Rules and Regulations

- Sugarbeets; fair and reasonable prices, 1969 crop..... 9105

AGRICULTURE DEPARTMENT

See also Agricultural Research Service; Agricultural Stabilization and Conservation Service; Commodity Credit Corporation; Consumer and Marketing Service.

Notices

- Washington; designation of areas for emergency loans..... 9221

ATOMIC ENERGY COMMISSION

Notices

- Consumers Power Co.; change of location of hearing..... 9222

BUSINESS AND DEFENSE SERVICES ADMINISTRATION

Rules and Regulations

- Procedure for obtaining special rating authority for replacement of second and third quarter 1969 nickel inventories; revocation..... 9108

CIVIL AERONAUTICS BOARD

Rules and Regulations

- Delegation of authority to grant waivers of certain requirements.. 9107

Proposed Rule Making

- Charter regulations; supplemental notice..... 9218

Notices

Hearings, etc.:

- Sedalla, Marshall, Boonville Stage Line, Inc. (2 documents)..... 9222, 9223
Universal Airlines Co. et al... 9223

COMMERCE DEPARTMENT

See Business and Defense Services Administration; International Commerce Bureau; Maritime Administration.

COMMODITY CREDIT CORPORATION

Rules and Regulations

- Cotton; loan program, 1970 crop; correction..... 9106
Wheat; loan and purchase program, 1970 and subsequent crops; correction..... 9106

Notices

- Claims by or against CCC; delegations of authority (3 documents)..... 9220

CONSUMER AND MARKETING SERVICE

Rules and Regulations

- Potatoes, Irish, grown in southeastern States; expenses and rate of assessment..... 9105

Notices

- Humanely slaughtered livestock; identification of carcasses; changes in lists of establishments..... 9221

FEDERAL AVIATION ADMINISTRATION

Rules and Regulations

- Airworthiness directives:
British Aircraft Corp. airplanes..... 9106
North American Rockwell airplanes..... 9106
Standard instrument approach procedures; area navigation.... 9107

Proposed Rule Making

- Airworthiness directives; Morane Saulnier airplanes (3 documents)..... 9216, 9217
Operation of aircraft by crewmembers after consumption of alcoholic beverages..... 9217

FEDERAL COMMUNICATIONS COMMISSION

Notices

Hearings, etc.:

- Martin Lake Broadcasting Co. and Clanton Broadcasting Corp..... 9223
Media, Inc. and Jud, Inc..... 9226

FEDERAL HIGHWAY ADMINISTRATION

Rules and Regulations

- Motor carrier safety; rule making procedures..... 9209

FEDERAL MARITIME COMMISSION

Notices

- Trans-Pacific Passenger Conference; filing of agreement and rule change (2 documents)..... 9229, 9230

FEDERAL POWER COMMISSION

Notices

- Pennzoil United, Inc., et al.; applications for certificates, abandonment of service and petitions to amend certificates..... 9231

FEDERAL TRADE COMMISSION

Rules and Regulations

- Exemptions from labeling requirements and prohibitions; Christmas tree ornaments..... 9108

FOOD AND DRUG ADMINISTRATION

Rules and Regulations

- Antibiotic drugs; fee surcharge.. 9209
Food additives:
Sanitizing solutions..... 9208
Sulfadimethoxine..... 9208
Surface lubricants used in manufacture of metallic articles... 9208
Pesticide chemical tolerances; malathion..... 9207

Proposed Rule Making

- Arsenobenzene and antibiotic drugs in poultry feed; revocation of exemption from certification requirements..... 9215
Calcium cyanide; pesticide tolerances..... 9214
Labeling of food; misleading representations regarding origin of food or ingredient..... 9214
New drugs for investigational use in humans; delay before initiating clinical studies..... 9215

Notices

- American Cyanamid Co.; withdrawal of approval of new animal drug applications (2 documents)..... 9221, 9222

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

See Food and Drug Administration.

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

Proposed Rule Making

- Production of material or information in response to subpoenas or demands of courts or other authorities..... 9215

INDIAN AFFAIRS BUREAU

Notices

- Pine Ridge, S. Dak.; legalization of introduction, sale, or possession of intoxicants..... 9219

INTERIOR DEPARTMENT

See Indian Affairs Bureau; Land Management Bureau; Mines Bureau.

INTERNATIONAL COMMERCE BUREAU

Rules and Regulations

- Export control; revision of subchapter..... 9109

(Continued on next page)

INTERSTATE COMMERCE COMMISSION

Rules and Regulations

- Car service; distribution of boxcars 9213
- Commercial zones; Albuquerque, N. Mex. 9213

Notices

- Fourth section applications for relief 9233
- Motor carrier temporary authority applications 9233

LABOR DEPARTMENT

See Wage and Hour Division.

LAND MANAGEMENT BUREAU

Notices

- Oregon; proposed withdrawal and reservation of lands (2 documents) 9219

MARITIME ADMINISTRATION

Notices

- Oceanic Steamship Co.; application 9221

MINES BUREAU

Notices

- Chief, Branch of Procurement and Property Operations, Western Administrative Office, Denver, Colo.; delegation of authority 9220

NATIONAL HIGHWAY SAFETY BUREAU

Rules and Regulations

- Federal motor vehicle safety standards; new pneumatic tires and tire selection and rims for passenger cars 9211

SECURITIES AND EXCHANGE COMMISSION

Notices

- Hearings, etc.:
 - Pacific Coast Mutual Fund, Inc. 9230
 - Pennsylvania Electric Co. 9230

SMALL BUSINESS ADMINISTRATION

Notices

- Baltimore Community Investment Co.; issuance of small business investment company license 9233

TARIFF COMMISSION

Notices

- Ski poles; termination of preliminary inquiry 9233

TRANSPORTATION DEPARTMENT

See Federal Aviation Administration; Federal Highway Administration; National Highway Safety Bureau.

WAGE AND HOUR DIVISION

Rules and Regulations

- Sugar manufacturing industry in Puerto Rico; wage order 9108

List of CFR Parts Affected

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

A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1970, and specifies how they are affected.

7 CFR

- 301 (2 documents) 9103, 9104
- 319 9105
- 871 9105
- 953 9105
- 1421 9106
- 1427 9106

14 CFR

- 39 (2 documents) 9106
- 97 9107
- 385 9107

PROPOSED RULES:

- 39 (3 documents) 9216, 9217
- 91 9217
- 207 9218
- 208 9218
- 212 9218
- 214 9218
- 249 9218
- 295 9218
- 399 9218

15 CFR

- 368 9109
- 369 9112
- 370 9113
- 371 9119
- 372 9127
- 373 9136
- 374 9154
- 375 9156
- 376 9166
- 377 9173
- 378 9177
- 379 9178
- 385 9184
- 386 9185
- 387 9198
- 388 9200
- 389 9204
- 390 9206
- 399 9207

16 CFR

- 501 9108

21 CFR

- 120 9207
- 121 (3 documents) 9208
- 146 9209

PROPOSED RULES:

- 1 9214
- 120 9214
- 130 9215
- 144 9215

24 CFR

- PROPOSED RULES:
- 15 9215

29 CFR

- 689 9108

32A CFR

- BDSA (Ch. VI):
- BDSA Reg. 2, Dir. 13 9108

49 CFR

- 389 9209
- 571 9211
- 1033 9213
- 1048 9213

Rules and Regulations

Title 7—AGRICULTURE

Chapter III—Agricultural Research Service, Department of Agriculture PART 301—DOMESTIC QUARANTINE NOTICES

Subpart—Imported Fire Ant

MISCELLANEOUS AMENDMENTS

Pursuant to sections 8 and 9 of the Plant Quarantine Act of August 20, 1912, as amended, and section 106 of the Federal Plant Pest Act (7 U.S.C. 161, 162, 150ee), §§ 301.81(b), 301.81-1 (n) and (r), 301.81-3, and 301.81-4 of the regulations under Notice of Quarantine No. 81 (7 CFR 301.81(b), 301.81-1 (n) and (r), 301.81-3, and 301.81-4) relating to the imported fire ant are hereby revised to read as follows:

§ 301.81 Quarantine; restriction on interstate movement of specified regulated articles.

(b) *Quarantine restrictions on interstate movement of specified regulated articles.* No common carrier or other person shall move interstate from any quarantined State or District any of the articles listed in subparagraph (1) or (2) of this paragraph, except in accordance with the conditions prescribed in this subpart:

(1) When moved from any generally infested area or any area, outside the regulated areas, in a quarantined State or District:

(i) Soil, compost, decomposed manure, humus, muck, and peat, separately or with other things;

(ii) Plants with roots with soil attached;

(iii) Grass sod;

(iv) Hay and straw;

(v) Logs, pulpwood, and stumpwood;

(vi) Used mechanized soil-moving equipment;

(vii) Any other products, articles, or means of conveyance of any character whatsoever, not covered by subdivisions (i) through (vi) of this subparagraph, when it is determined by an inspector that they present a hazard of spread of the imported fire ant and the person in possession thereof has been so notified.

(2) When moved from any suppressive area in a quarantined State or District:

(i) Bulk soil;

(ii) Used mechanized soil-moving equipment;

(iii) Any other products, articles, or means of conveyance of any character whatsoever, not covered by subdivisions (i) and (ii) of this subparagraph, when it is determined by an inspector that they present a hazard of spread of the imported fire ant and the person in possession thereof has been so notified.

§ 301.81-1 Definitions.

(n) *Regulated articles.* Any articles as listed in § 301.81(b) (1) or (2).

(r) *Suppressive area.* That part of a regulated area where all establishments handling regulated articles, except products being produced on the farm, have been treated for eradication of the imported fire ant and where eradication of the entire infestation in that part of the regulated area is undertaken as the objective, as designated by the Director under § 301.81-2(a).

§ 301.81-3 Conditions governing the interstate movement of regulated articles from quarantined States and Districts.*

(a) Any regulated articles, except soil samples for processing, testing, or analysis, may be moved interstate from any quarantined State or District under the following conditions:

(1) With certificate or permit issued and attached in accordance with §§ 301.81-4 and 301.81-7, if moved:

(i) From any generally infested area or any suppressive area into or through any point outside of the regulated areas; or

(ii) From any generally infested area into or through any suppressive area; or

(iii) Between any noncontiguous suppressive areas; or

(iv) Between contiguous suppressive areas when it is determined by the inspector that the regulated articles present a hazard of spread of the imported fire ant and the person in possession thereof has been so notified;

(v) Through or reshipped from any regulated area when such movement is not authorized under subparagraph (2) (v) of this paragraph; or

(2) Without certificate or permit, if moved:

(i) From any generally infested area or any suppressive area, under the provisions of § 301.81-2b which exempts certain articles from certification and permit requirements; or

(ii) From a generally infested area to a contiguous generally infested area; or

(iii) From a suppressive area to a contiguous generally infested area; or

(iv) Between contiguous suppressive areas unless the person in possession of the articles has been notified by an inspector that a hazard of spread of the imported fire ant exists; or

(v) Through or reshipped from any generally infested area or suppressive area if the articles originated outside of

* Requirements under all other applicable Federal domestic plant quarantines must also be met.

the regulated areas and if the point of origin of the articles is clearly indicated, their identity has been maintained, and they have been safeguarded against infestation while in the regulated area in a manner satisfactory to the inspector; or

(3) From any area outside the regulated areas, if moved:

(i) With a certificate or permit attached; or

(ii) Without a certificate or permit, if:

(a) The regulated articles are exempt under the provisions of § 301.81-2b; or

(b) The point of origin of such movement is clearly indicated on the articles or shipping document which accompanies the articles and if the movement is not made through any regulated area.

(b) Unless specifically authorized by the Director in emergency situations, soil samples for processing, testing, or analysis may be moved interstate from any regulated area only to laboratories approved³ by the Director and so listed by him in a supplemental regulation.⁴ A certificate or permit will not be required to be attached to such soil samples except in those situations where the Director has authorized such movement only with a certificate or permit issued and attached in accordance with §§ 301.81-4 and 301.81-7. A certificate or permit will not be required to be attached to soil samples originating in areas outside of the regulated areas if the point of origin of such movement is clearly indicated on the articles or shipping document which accompanies the articles and if the movement is not made through any regulated area.

§ 301.81-4 Issuance and cancellation of certificates and permits.

(a) Certificates may be issued for any regulated articles (except soil samples for processing, testing, or analysis) by an inspector if he determines that they are eligible for certification for movement to any destination under all Federal domestic plant quarantines applicable to such articles and:

(1) Have originated in noninfested premises in a regulated area and have not been exposed to infestation while within the regulated areas; or

(2) Upon examination, have been found to be free of infestation; or

(3) Have been treated to destroy infestation in accordance with the treatment manual; or

(4) Have been grown, produced, manufactured, stored, or handled in

³ Pamphlets containing provisions for laboratory approval may be obtained from the Director, Plant Protection Division, ARS, U.S. Department of Agriculture, Federal Center Building, Hyattsville, Md. 20782.

⁴ For list of approved laboratories, see PPD 639.

such a manner that no infestation would be transmitted thereby.

(b) Limited permits may be issued by an inspector to allow the interstate movement of regulated articles (except soil samples for processing, testing, or analysis) not eligible for certification under this subpart, to specified destinations for limited handling, utilization, or processing, or for treatment in accordance with the treatment manual, when, upon evaluation of the circumstances involved in each specific case, he determines that such movement will not result in the spread of the imported fire ant and the requirements of other applicable Federal domestic plant quarantines have been met.

(c) Restricted destination permits may be issued by an inspector to allow the interstate movement (for other than scientific purposes) of regulated articles (except soil samples for processing, testing, or analysis) to any destination permitted under all applicable Federal domestic plant quarantines if such articles are not eligible for certification under all such quarantines but would otherwise qualify for certification under this subpart.

(d) Scientific permits to allow the interstate movement of regulated articles, and certificates or permits to allow the movement of soil samples for processing, testing, or analysis in emergency situations, may be issued by the Director under such conditions as may be prescribed in each specific case by the Director.

(e) Certificate, limited permit, and restricted destination permit forms may be issued by an inspector to any person for use by the latter for subsequent shipments of regulated articles (except soil samples for processing, testing, or analysis) provided such person is operating under a compliance agreement; and any such person may be authorized by an inspector to reproduce such forms on shipping containers or otherwise. Any such person may use the certificate forms, or reproductions of such forms, for the interstate movement of regulated articles from the premises of such person identified in the compliance agreement if such person has made appropriate determinations as specified in paragraph (a) of this section with respect to such articles. Any such person may use the limited permit forms, or reproductions of such forms, for the interstate movement of regulated articles to specified destinations authorized by the inspector in accordance with paragraph (b) of this section. Any such person may use the restricted destination permit forms, or reproductions of such forms, for the interstate movement of regulated articles not eligible for certification under all Federal domestic plant quarantines applicable to such articles, under the conditions specified in paragraph (c) of this section.

(f) Any certificate or permit which has been issued or authorized may be

withdrawn by the inspector or the Director if he determines that the holder thereof has not complied with any condition for the use of such document imposed by this subpart.

(Secs. 8 and 9, 37 Stat. 318, as amended, sec. 106, 71 Stat. 33; 7 U.S.C. 161, 162, 150ee; 29 F.R. 16210, as amended, 33 F.R. 15485)

The foregoing amendments of §§ 301.81 (b) and 301.81-1 (n) and (r) change the definitions of regulated articles and suppressive area and specifically designate only bulk soil and used mechanized soil-moving equipment as regulated articles when moved from a suppressive area, although, under the amendments, other articles may be so designated when it is determined that they present a hazard of spreading the imported fire ant. The amendments of §§ 301.81-3 and 301.81-4 provide that soil samples for processing, testing, or analysis may be moved from the regulated areas (without a certificate or permit) only to approved laboratories, or only in emergencies under authorization from the Director of the Plant Protection Division. The amendment of § 301.81-4 (f) clarifies the long-standing administrative interpretation of said section by expressly stating the power of the Director to withdraw certificates or permits.

The amendments of §§ 301.81 (b), 301.81-1 (n) and (r), and 301.81-4 (f) of the regulations shall become effective upon publication in the FEDERAL REGISTER, when they shall supersede those paragraphs of the regulations effective July 6, 1968. The other amendments of §§ 301.81-3 and 301.81-4 of the regulations shall become effective July 1, 1970, when they shall supersede the corresponding sections of the regulations effective July 6, 1968.

Notice of rule making was published in the FEDERAL REGISTER on November 7, 1969 (34 F.R. 18042), with respect to proposed amendments of the regulations relating to the movement of soil samples. Due consideration has been given to all comments received pursuant thereto and to all other relevant information.

Insofar as the changes in the definitions of regulated articles and suppressive area and in the listing of regulated articles for movement from such an area impose more stringent requirements concerning suppressive areas, they should be made effective promptly in order to accomplish their purpose in the public interest. Insofar as those amendments relieve restrictions with respect to such areas, they may be made effective less than 30 days after publication in the FEDERAL REGISTER. The amendment of § 301.81-4 (f) concerning the authority of the Director to withdraw certificates and permits relates to a matter of agency organization and procedure. It does not appear that further public rule-making procedures concerning the amendments would make additional information available to the Department.

Accordingly, it is found under the administrative procedure provisions of 5

U.S.C. 553, that further notice and other public procedure with respect to the amendments are unnecessary and impracticable, and good cause is found for making the amendments effective less than 30 days after publication thereof in the FEDERAL REGISTER.

Done at Washington, D.C., this 9th day of June 1970.

GEORGE W. IRVING, JR.,
Administrator,
Agricultural Research Service.

[F.R. Doc. 70-7332; Filed, June 11, 1970; 8:46 a.m.]

PART 301—DOMESTIC QUARANTINE NOTICES

Subpart—Imported Fire Ant

EXEMPTIONS

Under the authority of § 301.81-2 of the Imported Fire Ant Quarantine regulations (7 CFR 301.81-2, as amended), a supplemental regulation exempting certain articles from specified requirements of the regulations is hereby issued to appear in 7 CFR 301.81-2b as set forth below. The Director of the Plant Protection Division has found that facts exist as to the pest risk involved in the movement of such articles which make it safe to relieve the requirements as provided therein.

§ 301.81-2b Exempted articles.¹

The following articles are exempt from the certification, permit, or other requirements of this subpart if they meet the applicable conditions prescribed in paragraphs (a) through (e) of this section and have not been exposed to infestation after cleaning or other handling as prescribed in said subparagraphs:

(a) Compost, decomposed manure, humus, and peat, if dehydrated, ground, pulverized, or compressed.

(b) Logs and pulpwood: *Provided*, The railroad loading site has been treated in accordance with the treatment manual.

(c) Hay and straw, if used for packing or bedding.

(d) Stumpwood, if free of excessive amounts of soil: *Provided*, The railroad loading site has been treated in accordance with the treatment manual and the stumpwood is consigned to a processing plant.

(e) Used mechanized soil-moving equipment, if cleaned and repainted.

(Secs. 8 and 9, 37 Stat. 318, as amended, sec. 106, 71 Stat. 33; 7 U.S.C. 161, 162, 150ee; 29 F.R. 16210, as amended; 7 CFR 301.81-2)

This list of exempted articles shall become effective July 1, 1970, when it shall supersede the list of exempted articles in 7 CFR 301.81-2b which became effective April 29, 1969.

The purpose of this revision is to delete from the list of exempted articles

¹ The articles hereby exempted remain subject to applicable restrictions under other quarantines.

soil samples of any size if collected and shipped to a U.S. Army Corps of Engineers soil laboratory located within the conterminous United States; and soil samples of 1 pound or less which are packaged so that no soil will be spilled in transit and are consigned to a laboratory approved by the Director for such purpose.

Effective July 1, 1970, except when specifically authorized by the Director in emergency situations, soil samples for processing, testing, or analysis may be moved interstate from any regulated area only to laboratories approved by the Director and so listed by him.

Done at Hyattsville, Md., this 9th day of June 1970.

D. R. SHEPHERD,
Director, Plant Protection Division.
[P.R. Doc. 70-7331; Filed, June 11, 1970; 8:46 a.m.]

PART 319—FOREIGN QUARANTINE NOTICES

Subpart—Fruits and Vegetables

ENTRY INTO GUAM

Pursuant to the authority conferred by the proviso in the Fruit and Vegetable Notice of Quarantine (Notice of Quarantine No. 56, 7 CFR 319.56) and § 319.56-2 of the regulations supplemental to said quarantine (7 CFR 319.56-2), under sections 5 and 9 of the Plant Quarantine Act of 1912, as amended (7 U.S.C. 159, 162), § 319.56a(a) (10) of the administrative instructions appearing as 7 CFR 319.56a(a) (10) is hereby amended to read as follows:

§ 319.56a Administrative instructions and interpretation relating to entry into Guam of fruits and vegetables under § 319.56.

(a) * * *

(10) Asparagus, carrots (without tops), celery, lettuce, and radishes (without tops) from Thailand.

(Sec. 9, 37 Stat. 318; 7 U.S.C. 162, Interpretations or applies sec. 5, 37 Stat. 316; 7 U.S.C. 159; 29 P.R. 16210, as amended; 33 P.R. 15485; 7 CFR 319.56; 7 CFR 319.56-2)

This amendment shall become effective upon publication in the FEDERAL REGISTER.

This amendment adds asparagus, carrots (without tops), and radishes (without tops) to the list of fruits and vegetables authorized importation into Guam from Thailand. This action was taken following requests to allow such importations.

This relieving of restriction is not believed to present a hazard of plant pest dissemination into Guam. Nevertheless, such imports will be subject to treatment or refused entry at the port of entry in Guam should economically important pests not existing in Guam be detected on inspection upon arrival.

In order to be of maximum benefit to importers in Guam, the amendment should be made effective as soon as possible. Therefore, 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 unnecessary, and it may be made effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Hyattsville, Md., this 9th day of June 1970.

[SEAL] W. H. WHEELER,
Acting Director,
Plant Quarantine Division.
[P.R. Doc. 70-7333; Filed, June 11, 1970; 8:46 a.m.]

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

SUBCHAPTER I—DETERMINATION OF PRICES [Amdt. 1]

PART 871—SUGAR BEETS

Fair and Reasonable Prices; 1969 Crop

Pursuant to the provisions of the Sugar Act of 1948, as amended, § 871.25(d) of Chapter VIII, Title 7 of the Code of Federal Regulations, published December 2, 1969 (34 F.R. 19064), is amended to read as follows:

§ 871.25 Purchase agreements.

(d) The price for 1969 crop frozen or low sucrose content sugar beets covered by supplemental purchase contracts shall be not less than that agreed upon between the processor and the producer as provided in such supplemental contracts.

Statement of bases and considerations. Subsequent to the issuance of the determination of fair and reasonable prices for the 1969 crop of sugar beets additional supplemental purchase contracts were issued in certain areas of the Holly Sugar Corp. and the American Crystal Sugar Co. covering low sucrose content beets.

Under the terms of Holly's regular contracts, the processor has the right to reject frozen beets or beets of less than 12 percent sugar content. American Crystal's Rocky Ford area contracts provide that the company has the right to reject beets which in the company's opinion are not suitable for the manufacture of sugar. Beets of unusually low sucrose content resulted in Holly and American Crystal refusing to accept such beets under the regular pricing arrangement. Supplements to the 1969 contracts were agreed upon by the companies and the majority of growers having low sucrose beets. Under the terms of the new agreements, processors accepted low sucrose

content beets based on the payment to growers of 60 percent of the net proceeds from the sugar obtained through straight house operations from such beets. These agreements are similar to the supplemental agreements covering frozen sugar beets that were negotiated earlier in the harvesting season at The Great Western Sugar Co. and the Holly Sugar Corp. and approved in the fair price determination.

The provisions of these supplemental contracts that have been agreed to by the processor and producer are deemed to be fair and reasonable.

Accordingly, I hereby find and conclude that the foregoing amendment will effectuate the price provisions of the Sugar Act of 1948, as amended.

(Secs. 301, 403, 61 Stat. 929, as amended, 932, 7 U.S.C. 1131, 1153)

Effective date. This amendment shall become effective upon publication in the FEDERAL REGISTER and is applicable to 1969 crop sugar beets.

Signed at Washington, D.C., on May 25, 1970.

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

[P.R. Doc. 70-7335; Filed, June 11, 1970; 8:46 a.m.]

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

[953.207]

PART 953—IRISH POTATOES GROWN IN SOUTHEASTERN STATES

Expenses and Rate of Assessment

Notice of rule making regarding the proposed expenses and rate of assessment, to be effective under Marketing Agreement No. 104 and Order No. 953, both as amended (7 CFR Part 953), regulating the handling of Irish potatoes grown in the Southeastern States production area which is comprised of certain designated counties of Virginia and North Carolina, was published in the FEDERAL REGISTER May 27, 1970 (35 F.R. 8290). This regulatory program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.). The notice afforded interested persons an opportunity to file written data, views, or arguments pertaining thereto not later than 10 days following publication in the FEDERAL REGISTER. None was filed.

After consideration of all relevant matter presented, including the proposals set forth in the aforesaid notice which were recommended on May 19 by the Southeastern Potato Committee, established pursuant to said amended marketing agreement and order, it is hereby found and determined that:

§ 953.207 Expenses and rate of assessment.

(a) The expenses the Secretary finds may be necessary to be incurred by the Southeastern Potato Committee, established pursuant to Marketing Agreement No. 104, as amended and this part, to enable such committee to carry out its functions pursuant to provisions of the aforesaid amended marketing agreement and order, during the fiscal period ending March 31, 1971, will amount to \$11,125.

(b) The rate of assessment to be paid by each handler in accordance with the amended Marketing Agreement and this part shall be four-tenths of one cent (\$0.004) per hundredweight of potatoes handled by him as the first handler thereof during the said fiscal period; *Provided*, That potatoes for canning, freezing, and "other processing" as defined in the recent amendment to the act (Public Law 91-196) shall be exempt.

(c) Unexpended income in excess of expenses for the fiscal period may be carried over as a reserve.

(d) Terms used in this section shall have the same meaning as when used in the said amended marketing agreement and this part.

It is hereby found that good cause exists for not postponing the effective date of this section until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that: (1) The relevant provisions of said amended marketing agreement and this part require that the rate of assessment fixed for a particular fiscal period shall be applicable to all assessable potatoes from the beginning of such fiscal period, and (2) the current fiscal period began on April 1, 1970, and the rate of assessment herein fixed will automatically apply to all assessable potatoes beginning with such date.

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

Dated: June 8, 1970.

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

[F.R. Doc. 70-7334; Filed, June 11, 1970; 8:46 a.m.]

Chapter XIV—Commodity Credit Corporation, Department of Agriculture

SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

[CCC Grain Price Support Regs., 1970 and Subsequent Crops Wheat Supp.]

PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES

Subpart—1970 and Subsequent Crops Wheat Loan and Purchase Program

Correction

In F.R. Doc. 70-6457 appearing at page 8204 in the issue for Tuesday, May 26,

1970, the word "interstate" in the seven-teenth line of § 1421.466(a) should be capitalized, and the word "cargoes" in the eleventh line of § 1421.469(b)(1) should read "charges".

PART 1427—COTTON

Subpart—1970 Crop Supplement to Cotton Loan Program Regulations

Correction

In F.R. Doc. 70-6458 appearing at page 8343 in the issue for Thursday, May 28, 1970, the following changes should be made:

1. The last line of the authority citation should read "1441, 1444, 1421."

2. In § 1427.1522 the loan rate for Birmingham, Ala., should read "20.50", and the loan rate for Fresno, Calif., should read "19.60".

3. In § 1427.1523 under the grade "Gray" the last column should read:

+230
-50
-385
-570

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Docket No. 10285; Amdt. 39-1012]

PART 39—AIRWORTHINESS DIRECTIVES

British Aircraft Corp. Models BAC 1-11 200 and 400 Series Airplanes

A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive requiring deactivation or modification of the razor socket circuit to preclude overheating of the transformer on British Aircraft Corp. Models BAC 1-11 200 and 400 series airplanes was published in the FEDERAL REGISTER, 35 F.R. 6325.

Interested persons have been afforded an opportunity to participate in the making of the amendment. No objections were received.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (14 CFR 11.89), § 39.13 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive:

BRITISH AIRCRAFT CORP. Applies to Models BAC 1-11 200 and 400 series airplanes having razor socket supply transformer P/N RD.10590 installed.

To prevent overheating of the razor socket supply transformer when a noncompatible electrical appliance is connected into a razor socket, within the next 1,500 hours' time in service after the effective date of this AD,

unless already accomplished, accomplish either of the following:

(a) Deactivate the razor sockets by disconnecting, insulating, and tying back the socket supply cable from the appropriate circuit breaker and fitting a locking clamp to the circuit breaker knob; or

(b) Modify the razor socket circuit to provide a ¼-ampere fuse in the positive line of the rectified output of the transformer in accordance with British Aircraft Corp. Model BAC 1-11 Service Bulletin No. 25-PM4458 dated February 9, 1970, or a later ARB-approved issue, or an FAA-approved equivalent.

(British Aircraft Corp. Model BAC 1-11 Service Bulletin No. 25-A-PM4458 refers to this subject)

This amendment becomes effective July 13, 1970.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, 49 U.S.C. 1354(a), 1421, and 1423; sec. 6(e), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., on June 8, 1970.

WILLIAM G. SHREVE, Jr.,
Acting Director,
Flight Standards Service.

[F.R. Doc. 70-7368; Filed, June 11, 1970; 8:49 a.m.]

[Airworthiness Docket No. 69-WE-30-AD; Amdt. 39-1007]

PART 39—AIRWORTHINESS DIRECTIVES

North American Rockwell Models NA-265, NA-265-20, -30, -40, and -60 Airplanes

Amendment 39-899 (34 F.R. 20418), AD 69-26-5, requires as an interim action the inspection, rework or replacement, as necessary, of nose landing gear components, the use of increased nose tire inflation pressure, and the establishment of an operating procedure to minimize nose gear shimmy on Models NA-265, NA-265-20, NA-265-30, NA-265-40, and NA-265-60 airplanes. After issuing Amendment 39-899, due to service experience, the agency determined that a hazardous condition is still likely to exist or develop in these airplanes. Therefore, the AD is being superseded by a new AD that requires modification of the nose gear by the addition of a balance weight forward of the wheel axle.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

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

NORTH AMERICAN ROCKWELL. Applies to Models NA-265, NA-265-20, NA-265-30, NA-265-40 (Serial Nos. 282-1 through 282-97), and NA-265-60 (Serial Nos. 306-1 through 306-63) airplanes.

Compliance required within the next 100 hours time in service after the effective date of this AD unless already accomplished.

To prevent severe nose gear shimmy and subsequent failure of the nose gear strut, modify the nose strut by the addition of a balance weight, support bracket and hardware, and replace five wheel brake system hydraulic lines located in the nose wheel well in accordance with the instructions contained in Los Angeles Division of North American Rockwell Corp. Sabreliner Field Service Bulletin No. 70-4, dated June 10, 1970, or later revision approved by the Chief, Aircraft Engineering Division, FAA Western Region.

This amendment supersedes Amendment 39-899 (34 F.R. 20418), AD 69-26-5.

This amendment becomes effective June 16, 1970.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, 49 U.S.C. 1354(a), 1421, and 1423, sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to North American Rockwell Corp., Los Angeles Division, International Airport, Los Angeles, Calif. 90009. These documents may also be examined at FAA Western Region, 5651 West Manchester Avenue, Los Angeles, Calif. 90045, and FAA Headquarters, 800 Independence Avenue SW., Washington, D.C. 20553. A historical file of this material in full is maintained by the FAA at its headquarters in Washington, D.C., and at FAA Western Region.

Issued in Los Angeles, Calif., on June 2, 1970.

ARVIN O. BASNIGHT,
Director, FAA Western Region.

The incorporation by reference provisions in this document were approved by the Director of the Federal Register on June 11, 1970.

[F.R. Doc. 70-7369; Filed, June 11, 1970; 8:49 a.m.]

[Docket No. 10362; Amdt. 97-709]

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

Area Navigation Instrument Approach Procedures

The purpose of this amendment to Part 97 of the Federal Aviation Regulations is to provide for the publication of Area Navigation (RNAV) Standard Instrument Approach Procedures (SIAPs).

The Federal Aviation Administration has recently introduced the area naviga-

tion concept based on airborne navigation systems. Instrument approach procedures predicated on the RNAV concept have been developed and will be published under Subpart C of this part in the FEDERAL REGISTER pursuant to § 97.20. Since the RNAV SIAPs represent a type of procedure distinct from those now published, a new section must be added to Part 97 for proper identification.

In view of the imminence of the issuance of the Area Navigation Standard Instrument Approach Procedures, and in view of the fact that this amendment serves only to identify such procedures, I find that notice and public procedure hereon are impracticable and good cause exists for making it effective in less than 30 days.

In consideration of the foregoing, Part 97 of the Federal Aviation Regulations is amended, effective June 15, 1970, as follows:

By adding a new section to follow immediately after § 97.31 designated as follows:

§ 97.33 Area navigation (RNAV) procedures.

(Secs. 307, 313(a), and 1110, of the Federal Aviation Act of 1958, 49 U.S.C. 1348, 1354(a), and 1510; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., on June 4, 1970.

J. H. SHAFFER,
Administrator.

[F.R. Doc. 70-7367; Filed, June 11, 1970; 8:49 a.m.]

Chapter II—Civil Aeronautics Board

SUBCHAPTER E—ORGANIZATION REGULATIONS

[Reg. OR-46; Amdt. 14]

PART 385—DELEGATIONS AND REVIEW OF ACTION UNDER DELEGATION; NONHEARING MATTERS

Delegation of Authority To Grant Waivers of Certain Requirements

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 8th day of June 1970.

Sections 378.10 and 378a.10 require tour operators to file tour documents 60 days prior to commencement of inclusive tour charters (ITC) and contract bulk inclusive tours (BIT), respectively. Sections 378.12 and 378a.12 require that only the total tour price, including all land tour accommodations and air transportation, be advertised since one cannot be sold without the other. Tour operators engaging in ITC and BIT operations for the first time often represent that tour brochures have already been printed at considerable expense, separately listing the land tour and air transportation prices, because the operators were not familiar with Parts 378 and 378a. Requests for waivers to permit use of such

brochures have generally been granted by the Board where a showing has been made that the public will not be prejudiced by departures from the Board's requirements, and where the rule would cause substantial expense in revising brochure advertising.

We find that Board precedents with respect to these matters have been sufficiently established to permit the delegation of authority to the Director, Bureau of Operating Rights, to determine the merits of such applications for waivers within established policy.

Since the delegation of authority to a staff member is not a substantive rule, but a rule of agency organization and procedure, notice and public procedure hereon are not required and the rule may be made effective immediately.

Accordingly, the Board hereby amends § 385.13 (14 CFR 385.13), effective June 8, 1970, by revising paragraph (v) to read:

§ 385.13 Delegation to the Director, Bureau of Operating Rights.

(v) With respect to inclusive tour charters and/or contract bulk inclusive tours performed under Parts 378 and 378a of this chapter, respectively:

(1) Grant waivers of § 378.2(b) (2) of this chapter to permit, on air/sea inclusive tours, daytime stops by a cruise ship in lieu of overnight stops where:

(i) The daytime stop is of at least 12 hours' duration; and

(ii) The daytime stop is preceded or followed by a night at sea;

(2) Grant or deny waivers of §§ 378.10 and 378a.10 of this chapter regarding the 60-day procedural filing requirement;

(3) Grant or deny waivers of §§ 378.12 and 378a.12 of this chapter with respect to permission to tour operators to publish prices in a form other than that prescribed. Such waivers may be granted where:

(i) Brochures have been already printed and brochure reprinting costs would be at least \$450 per tour departure;

(ii) No prior such waiver has been granted to the tour operator under either Part 378 or Part 378a of this chapter;

(iii) Advertising in other media will comply with Board requirements;

(iv) Future brochure printings will comply with Board requirements; and

(v) The tour price is not published in such a manner as to be patently deceptive or misleading.

(Sec. 204(a), Federal Aviation Act of 1958, as amended, 72 Stat. 743, 49 U.S.C. 1324; Reorganization Plan No. 3 of 1961, 75 Stat. 837; 26 F.R. 5989)

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

[F.R. Doc. 70-7348; Filed, June 11, 1970; 8:47 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—EXEMPTIONS FROM REQUIREMENTS AND PROHIBITIONS UNDER PART 500

Christmas Tree Ornaments

The Federal Trade Commission on April 3, 1970 (35 F.R. 5558) proposed a new § 501.2 of the Fair Packaging and Labeling Act regulations which would exempt Christmas tree ornaments from certain of the mandatory requirements of Part 500 of the regulations. The proposal would permit such ornaments which are so packaged as to be visible to the retail purchaser at the time of purchase, to omit size or dimensions from the required declaration of contents provided the declaration expresses the quantity in terms of numerical count of the ornaments.

In response to an invitation to interested parties to comment only one such comment was received, and this comment concurred with the proposed exemption. The Commission has therefore concluded that the exemption as proposed should be adopted.

Accordingly, pursuant to the provisions of the Fair Packaging and Labeling Act (sections 5, 6, 80 Stat. 1289, 1299, 1300; 15 U.S.C. 1454, 1455), Part 501 of Subchapter E is amended by adding the following new section.

§ 501.2 Christmas tree ornaments.

Christmas tree ornaments packaged and labeled for retail sale are exempt from the net quantity statement requirements of Part 500 of this chapter which specify how the net quantity statement should be expressed, provided:

(a) The quantity of contents is expressed in terms of numerical count of the ornaments, and

(b) The ornaments are so packaged that the ornaments are clearly visible to the retail purchaser at the time of purchase.

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: June 9, 1970.

By direction of the Commission.

[SEAL] JOSEPH W. SHEA,
Secretary.

[F.R. Doc. 70-7362; Filed, June 11, 1970; 8:49 a.m.]

Title 29—LABOR

Chapter V—Wage and Hour Division, Department of Labor

PART 689—SUGAR MANUFACTURING INDUSTRY IN PUERTO RICO

Wage Order

Pursuant to sections 5 and 8 of the Fair Labor Standards Act of 1938 (52 Stat. 1062, 1064, as amended; 29 U.S.C. 205, 208) and Reorganization Plan No. 6 of 1950 (3 CFR 1949-53 Comp. p. 1004), and by means of Administrative Order No. 612 (35 F.R. 1020), the Secretary of Labor appointed and convened Industry Committee No. 94 for the Sugar Manufacturing Industry in Puerto Rico, referred to the Committee the question of the minimum rate or rates of wages to be paid under section 6(c) of the Act to employees in the industry, and gave notice of a hearing to be held by the Committee.

Subsequent to an investigation and a hearing conducted pursuant to the notice, the Committee has filed with the Administrator of the Wage and Hour Division of the Department of Labor a report containing its findings of fact and recommendations with respect to the matters referred to it.

Accordingly, as authorized and required by section 8 of the Fair Labor Standards Act of 1938, Reorganization

Plan No. 6 of 1950, and 29 CFR 511.3, the recommendations of Industry Committee No. 94 are hereby published, to be effective June 28, 1970, in this order amending § 689.2 of Title 29, Code of Federal Regulations.

As amended, § 689.2 reads as follows:

§ 689.2 Wage rates.

(a) Pre-1966 coverage classification.

(1) The minimum wage for this classification is \$1.31 an hour.

(b) 1966 coverage classification. (1)

The minimum wage for this classification is \$1.45 an hour for the period beginning February 1, 1970, and ending January 31, 1971; and \$1.50 an hour thereafter.

(Secs. 5, 6, 8, 52 Stat. 1062, 1064, as amended; 29 U.S.C. 205, 206, 208)

Signed at Washington, D.C., this 8th day of June 1970.

FRANCIS J. COSTELLO,
Acting Administrator, Wage and Hour Division, Department of Labor.

[F.R. Doc. 70-7366; Filed, June 11, 1970; 8:49 a.m.]

Title 32A—NATIONAL DEFENSE, APPENDIX

Chapter VI—Business and Defense Services Administration, Department of Commerce

[BDSA Reg. 2, Dir. 13—Revocation]

BDSA REG. 2, DIR. 13—PROCEDURE FOR OBTAINING SPECIAL RATING AUTHORITY FOR REPLACEMENT OF SECOND AND THIRD QUARTER 1969 NICKEL INVENTORIES

Revocation

Direction 13 to BDSA Reg. 2 (35 F.R. 4211) is hereby revoked. This revocation does not relieve any person of any obligation or liability incurred under Direction 13 to BDSA Reg. 2, nor deprive any person of any rights received or accrued under said direction prior to the effective date of this revocation.

(Sec. 704, 64 Stat. 816, as amended, 50 U.S.C. App. 2154; sec. 1, Public Law 90-370, 82 Stat. 279)

This revocation is effective June 12, 1970.

BUSINESS AND DEFENSE SERVICES ADMINISTRATION,
WILLIAM D. LEE,
Administrator.

[F.R. Doc. 70-7337; Filed, June 11, 1970; 8:47 a.m.]

Title 15—COMMERCE AND FOREIGN TRADE

Chapter III—Bureau of International Commerce, Department of Commerce

SUBCHAPTER B—EXPORT REGULATIONS

[13th Gen. Rev. of the Export Regulations]

REVISION OF SUBCHAPTER

Parts 368 through 399 of the Code of Federal Regulations are revised to read as set forth below.

- Part
- 368 U.S. Import Certificate and Delivery Verification Procedure.
 - 369 Restrictive Trade Practices or Boycotts.
 - 370 Export Licensing General Policy and Related Information.
 - 371 General Licenses.
 - 372 Individual Validated Licenses and Amendments.
 - 373 Special Licensing Procedures.
 - 374 Reexports.
 - 375 Documentation Requirements.
 - 376 Special Commodity Policies and Provisions.
 - 377 Short Supply Controls.
 - 378 Special Nuclear Controls.
 - 379 Technical Data.
 - 385 Special Country Policies and Provisions.
 - 386 Export Clearance.
 - 387 Enforcement.
 - 388 Administrative Proceedings.
 - 389 Administrative Reviews and Appeals.
 - 390 General Orders.
 - 399 Commodity Control List and Related Matters.

Effective date: June 1, 1970.

RAUER H. MEYER,
Director, Office of Export Control.

PART 368—U.S. IMPORT CERTIFICATE AND DELIVERY VERIFICATION PROCEDURE

- Sec.
- 368.1 Effect of regulations.
 - 368.2 International Import certificate.
 - 368.3 Delivery verification certificate.
 - 368.4 Penalties and sanctions for violations.

AUTHORITY: The provisions of this Part 368 issued under sec. 3, 63 Stat. 7; 50 U.S.C. App. 2023; E.O. 10945, 26 F.R. 4487, 3 CFR 1959-1963 Comp.; E.O. 11038, 27 F.R. 7003, 3 CFR 1959-1963 Comp.

§ 368.1 Effect of regulations.

(a) *Representations and commodities covered*—(1) *General.* The United States and a number of other countries have undertaken to increase the effectiveness of their respective controls over international trade in strategic commodities by means of an import certificate/delivery verification (IC/DV) procedure. This procedure provides that, where required by the exporting country with respect to a specific transaction, the importer certifies to the government of the importing country that he will import specific commodities into the economy of that country and will not reexport such commodities except in accordance with the export control regulations of that country. The government of the importing country, in turn, certifies that such representations have been made.

(2) *Commodities covered and administering U.S. agencies*—(1) *Office of Export Control.* The Office of Export Control will receive from importers in the United States the representations regarding the intended destination of commodities and will provide a certification that such representations have been made (a) for commodities under the export control jurisdiction of the Office of Export Control that are identified by the symbol "A" on the Commodity Control List and (b) by agreement with the Atomic Energy Commission, for commodities classified as "source material," "byproduct material," "special nuclear material," or "facilities for the production or utilization of special nuclear material," as defined in the Atomic Energy Act of 1954, as amended, and the regulations of the Atomic Energy Commission (see § 370.10(e) of this subchapter).

(ii) *Treasury Department.* The U.S. Treasury Department, Alcohol, Tobacco, and Firearms Division, Washington, D.C. 20224, administers similar procedures with respect to arms, ammunition, and implements of war as enumerated in the U.S. Munitions List (22 CFR Part 121).

(b) *Exports.* Comparable procedures with respect to exports from the United States are described in Part 375 of this subchapter.

§ 368.2 International Import Certificate.

(a) *Procedure*—(1) *General.* Where a person in the United States purchases or expects to receive commodities from one of the foreign countries participating in the IC/DV procedure and is required by the government of the exporting country to furnish an Import Certificate, he shall use FC 828/IRS4522, International Import Certificate, and accompanying Form FC-827, Import Certificate Cross-Reference Card (see Supplement S-18 for facsimiles), showing his name and address. All items on the International Import Certificate are required to be completed. The forms shall be sent to the Office of Export Control, or the nearest field office listed in subparagraph (2) of this paragraph, in triplicate for commodities on the Commodity Control List; and in quadruplicate for atomic energy commodities. Forms are obtainable from any field office (see list on page 1 under Field Office Addresses) or the Office of Export Control (Attention: 852), U.S. Department of Commerce, Washington, D.C. 20230. Representations by the importer which prescribe that the commodities will be entered into the United States do not preclude the temporary unloading of the commodities in a foreign trade zone for subsequent entry into the economy of the United States.

(2) *Where to file.* Except as noted in subparagraph (4) of this paragraph, all requests for certification and validation of International Import Certificates or requests to amend such Certificates may be filed with the Office of Export Control (Attention: 852), U.S. Department of Commerce, Washington, D.C. 20230, or with any of the following field offices of the U.S. Department of Commerce:

- | | |
|---------------|-----------------|
| Boston. | Miami. |
| Buffalo. | New Orleans. |
| Chicago. | New York. |
| Cincinnati. | Philadelphia. |
| Cleveland. | Phoenix. |
| Dallas. | Pittsburgh. |
| Detroit. | Portland, Oreg. |
| Houston. | San Francisco. |
| Jacksonville. | Savannah. |
| Los Angeles. | Seattle. |

(3) *Presentation and validation.* The International Import Certificate may be presented for validation either in person or by mail. The validated form will be returned to the U.S. importer and dispatched by him to the foreign exporter or otherwise disposed of in accordance with the regulations of the exporting country.

(4) *Foreign excess property.* Where foreign excess property imported into the United States is involved, a request for certification and validation of an International Import Certificate shall be submitted in triplicate directly to the Office of Export Control (Attention: 852), U.S. Department of Commerce, Washington, D.C. 20230. However, if a request for such certification of Form FC-826 is made at the same time as a Form FEPP-1, Application for Foreign Excess Property Import Determination, both forms may be sent together to the Foreign Excess Property Officer (Attention: 614), Business and Defense Services Administration, U.S. Department of Commerce, Washington, D.C. 20230, who will refer the Form FC-826 to the Office of Export Control for action. A request for an International Import Certificate for foreign excess property requires the following special information:

(i) *Exporter (Item 2).* Name and address of the person or firm in the exporting country who is handling the transaction for the U.S. importer, or the importer's name and the name and address of the U.S. military disposal installation from which the commodities were obtained; and

(ii) *Description of goods (Item 3).* A complete description of the commodity (ies) being imported, as well as the contract number and lot numbers, and the name and address of the U.S. military disposal installation if this has not been entered in Item 2.

(iii) *Approval code.* When approved, the International Import Certificate number covering the foreign excess property will be suffixed by the code "USMS."

(5) *Validity period.* (i) The International Import Certificate must be submitted to the foreign government within 6 months from the date of certification by the U.S. Department of Commerce. The expiration of this 6-month period in no way affects the responsibility of the importer to fulfill the commitments made in obtaining the Certificate.

(ii) Where the validity period of a Certificate has expired before its presentation to the foreign government and an extension is desired, the U.S. importer should apply for a new Certificate. (See subparagraph (1) (ii) of this paragraph for unused Certificates.)

(6) *Statements and representations.* All statements and representations made in an International Import Certificate, and in any amendment thereto, shall be deemed to be continuing in nature until the transaction described in the Certificate is completed and the commodities are delivered into the economy of the importing country. Any change of fact or intention in regard to the transaction set forth in the Certificate shall be promptly disclosed to the Office of Export Control by the U.S. importer by presentation of an amended Certificate that sets forth all the changes and is accompanied by the original Certificate bearing the certification of the Office of Export Control. If the original Certificate has been transmitted by the U.S. importer to his foreign exporter, the importer shall, wherever possible, obtain the original Certificate prior to applying for an amendment. Where the original Certificate is unobtainable because the foreign exporter has surrendered it to his government, or for any other valid reason, the importer shall submit a written statement giving his reasons for failure to submit the original Certificate.

(7) *Triangular transaction (Commodities not entering the U.S.)* In accordance with international practice, the government office issuing the International Import Certificate will, upon request, stamp the Certificate with a triangular symbol as notification to the government of the exporting country that the importer is uncertain whether the commodities will be imported into the United States or that he knows the commodities will not be imported into the United States, but that, in any case, the commodities will not be delivered to any other destination except in accordance with the U.S. Export Control Regulations. A triangular Certificate will not be issued covering foreign excess property sold abroad by the U.S. Department of Defense. The triangular symbol on a Certificate is not, in and of itself, an approval by the Office of Export Control to transfer or sell commodities to a foreign consignee. (See subparagraph (8) of this paragraph for method of obtaining such approval.)

(8) *Approval of shipment, transfer, or sale of commodities to a foreign consignee before delivery under International Import Certificate.* (i) The written approval of the Office of Export Control is required before commodities covered by a U.S. International Import Certificate, whether or not bearing a triangle, may be shipped to a destination other than the United States or Canada or sold to a foreign purchaser, and before title to or possession of such commodities may be transferred to a foreign transferee.¹ This requirement does not apply

¹ The attention of U.S. purchasers is directed to the Transaction Control Regulations of the U.S. Treasury Department (Title 31 of the Code of Federal Regulations, section 505.01 et seq.). These regulations prohibit persons within the United States from purchasing or selling, or arranging the purchase or sale, without a Treasury Department license, of any merchandise in any foreign

after the commodities have been delivered in accordance with the undertaking set forth in the Certificate.

(ii) Where prior approval is required, a letter requesting authorization to release the shipment shall be submitted to the Office of Export Control (Attention: 852), U.S. Department of Commerce, Washington, D.C. 20230. The letter shall contain the International Import Certificate number; date issued; location of the issuing office; names, addresses, and identities of all parties to the complete transaction; and the quantity, dollar value, and description of the commodity. The letter shall be accompanied by an International Import Certificate, an ultimate consignee statement, or other documentation required by the Export Control Regulations for the country of ultimate destination, as provided for license applications in §§ 375.1, 375.2, 375.3, and 375.4 of this subchapter. Where none of these sections apply to the transaction, the letter shall include the intended end-use of the commodities.

country when the transaction involves a shipment from any foreign country to Country Group W, Y, or Z (except Cuba, for which the Cuban Assets Control Regulations mentioned below restrict shipments to Cuba), of merchandise identified by the symbol "A" in the last column of the Commodity Control List (§ 399.1), or of a type prohibited by any of the several regulations referred to in § 370.10. (See Supplement No. 1 to Part 370 for Country Group designations.)

The attention of purchasers is also directed to the Foreign Assets Control Regulations and the Cuban Assets Control Regulations of the U.S. Treasury Department (Title 31 of the Code of Federal Regulations, sections 500.101 et seq. and 515.101 et seq.). These Regulations prohibit persons subject to the jurisdiction of the United States from engaging in any unlicensed transactions with Communist China, North Korea, North Vietnam, Cuba, or nationals thereof, or in any unlicensed transactions involving property in which Communist China, North Korea, North Vietnam, Cuba, or nationals thereof, have, or have had, any interest, direct or indirect, since Dec. 17, 1950. The Foreign Assets Control Regulations also prohibit persons subject to the jurisdiction of the United States from engaging in any unlicensed transaction with respect to merchandise outside the United States if such merchandise is of Communist Chinese, North Vietnamese, or Cuban origin, or is Chinese type merchandise specified in the regulations.

The Cuban Assets Control Regulations, which parallel the Foreign Assets Control Regulations, apply to Cuba and its nationals. (See The Cuban Assets Control Regulations of the U.S. Treasury Department, Title 31 of the Code of Federal Regulations, section 515.101 et seq.)

The Rhodesian Sanctions Regulations of the U.S. Treasury Department (Title 31 of the Code of Federal Regulations, section 530.101 et seq.) also contain restrictions of interest to U.S. purchasers. These regulations prohibit, unless licensed, the importation of merchandise of Rhodesian origin; transfers of property which involve merchandise destined to Southern Rhodesia or to or for the account of business nationals thereof; other transfers of property to or on behalf of or for the benefit of any person in Rhodesia; and the importation of ferrochrome produced in any country from chromium ore or concentrates of Rhodesian origin.

(iii) Where the letter request is approved and is supported by a foreign import certificate (other than a Swiss Blue Import Certificate), no further approval from the Office of Export Control is required for the purchaser or transferee to resell or again transfer the commodities. However, where the Office of Export Control approves a request that was not supported by a foreign import certificate, the person to whom approval is granted is required to inform the purchaser or transferee, in writing, that the commodities are to be shipped to the approved destination only and that no other disposition of the commodities is permitted without the approval of the Office of Export Control. (Authority to further resell or transfer the commodities does not relieve any person from complying with foreign laws. See § 373.1(a) of this subchapter.)

(iv) If the transaction is approved, a validated letter of approval will be sent to the U.S. purchaser for retention in his records. Where a Delivery Verification Certificate or other official government confirmation of delivery is required, the letter will so indicate.

(v) If the commodities covered by an International Import Certificate have been imported into a destination other than the United States and the foreign exporter of the commodities requests a Delivery Verification Certificate, the person who obtained the International Import Certificate shall obtain a Delivery Verification Certificate from the person to whom the commodities were delivered in the actual importing country. (If a Delivery Verification Certificate is unobtainable, other official government confirmation of delivery shall be obtained. The Delivery Verification Certificate or other official government confirmation of delivery shall be submitted to the Office of Export Control, together with an explanatory letter giving the Import Certificate number, date issued, and location of issuing office. The Office of Export Control will then issue a Delivery Compliance Notice, Form IA-956, in two copies, the original of which shall be forwarded to the country of origin in order to serve as evidence to the exporting country that the requirements of the U.S. Government have been satisfied with respect to delivery of the commodities.)

(9) *Delivery, sale, or transfer of commodities to another U.S. purchaser.* (i) Commodities covered by an International Import Certificate may not be sold, and title to or possession of such commodities may not be transferred, to another U.S. purchaser or transferee before the commodities are delivered to the United States (or to an approved foreign destination, as provided by subparagraph (8) of this paragraph), except in accordance with the provisions described in subdivision (ii) of this subparagraph. The provisions of this subparagraph do not apply after the commodities have been delivered in accordance with the undertaking set forth in the certificate.

(ii) Resale or transfer to another U.S. purchaser or transferee requires the prior approval of the Office of Export Control

only in cases where the buyer or transferee is listed in Supplement No. 1 to Part 388 of this subchapter, Table of Denial and Probation Orders. However, the person who obtained the International Import Certificate is required to notify the Office of Export Control of any change in facts or intentions relating to the transaction, and in all cases that person is held responsible for the delivery of the commodities in accordance with the Export Control Regulations. The seller or transferor is therefore required in all cases to secure, prior to sale or transfer, and to retain in his files for 3 years, written acceptance by the purchaser or transferee of (a) all obligations undertaken by, and imposed under the Export Control Regulations upon, the holder of the Certificate; and (b) an undertaking that all subsequent sales or transfers will be made subject to the same conditions.

(iii) The responsibility of the International Import Certificate holder for obtaining a Delivery Verification Certificate also applies to those cases where the commodities are resold to a U.S. purchaser. This is explained fully in § 386.3(a)(1).

(10) *Reexport or transshipment of commodities after delivery to United States.* Commodities imported into the United States under the provisions of a U.S. International Import Certificate may not be reexported to any destination under the provisions of General License GTT (see § 371.4 of this subchapter). However, all other provisions of the Export Control Regulations applicable to commodities of domestic origin shall apply to the reexport of commodities of foreign origin shipped to the United States under a U.S. International Import Certificate.

(11) *Lost, destroyed, or unused International Import Certificates—(i) Lost or destroyed Certificates.* Where an International Import Certificate is lost or destroyed, a duplicate copy may be obtained by the person in the United States who executed the original Certificate by submitting to any of the offices listed in subparagraph (2) of this paragraph new Forms FC-826 and FC-827 in the same way as an original request, except that the forms shall be accompanied by a letter detailing the circumstances under which the original International Import Certificate was lost or destroyed and certifying:

(a) That the original International Import Certificate No. _____, dated _____, issued to (name and address of U.S. importer) for import from (foreign exporter's name and address) has been lost or destroyed; and

(b) That if the original International Import Certificate is found, the applicant agrees to return the original or duplicate of the Certificate to the Office of Export Control.

(ii) *Unused Certificates.* Where the transaction will not be completed and the International Import Certificate will not be used, the Certificate shall be returned for cancellation to the Office of Export Control (Attention: 852), U.S. Depart-

ment of Commerce, Washington, D.C. 20230.

§ 368.3 Delivery Verification Certificate.

(a) *Requirements—(1) General.* (i) U.S. importers may be requested by their foreign exporters to supply them with a certified Form FC-908, U.S. Delivery Verification Certificate (see Supplement S-19 for facsimile), covering commodities imported into the United States. These requests are made by foreign governments to assure that strategic commodities shipped to the United States are not diverted from their intended destination. In these instances, the issuance of an export license by the foreign country is conditioned upon the subsequent receipt of a Delivery Verification Certificate from the U.S. importer.

(ii) The responsibility of a person or firm executing a U.S. International Import Certificate for providing the foreign exporter with confirmation of delivery of the commodities includes instances where the commodities are resold or transferred to another U.S. person or firm prior to actual delivery to the United States or to an approved foreign destination. The person who executed the Certificate shall secure in writing from the U.S. purchaser or transferee, and retain in his files for three years, (a) acceptance of the obligation to provide him with either the Delivery Verification Certificate (or other official government confirmation of delivery if a Delivery Verification Certificate is unobtainable) or assurance that this document was submitted to the Office of Export Control; and (b) an undertaking that each succeeding U.S. transferee or purchaser will assume the same obligation or assurance. In each case the seller or transferor shall transmit to the U.S. purchaser or transferee the identification number of the International Import Certificate covering the export from the foreign country and request that they pass it on to any other U.S. purchasers or transferees.

(iii) Failure of the U.S. importer to comply with his foreign exporter's request for a Delivery Verification Certificate will result in the exporter's inability to fulfill his obligation to his government and may result in his being denied further export licenses and/or subjected to other penalties. Obviously, this would prevent the U.S. importer from participating in further import transactions with that foreign exporter. It also may result in the U.S. importer being prevented from trading with the exporting country requesting the Delivery Verification Certificate.

(2) *Completion and disposition of Delivery Verification Certificates.* A U.S. importer who is required by the foreign government to obtain a Delivery Verification Certificate shall present Form FC-908, Delivery Verification Certificate revised October 15, 1969, in duplicate, to a U.S. customs office. A Delivery Verification Certificate will be certified by a U.S. customs office only where the import is made under a warehouse or consump-

tion entry. Form FC-908 shall be completed by the U.S. importer in all respects except as to type of customs entry (warehouse or consumption), entry number, date of entry, and the certification signature and date (all contained in the official use only block, at the bottom of the form). The commodities shall be described on the form in the same terms as those shown on the related International Import Certificate. The importer shall dispatch the original of the certified Delivery Verification Certificate to the foreign exporter or otherwise dispose of it in accordance with the instructions of the exporting country. The duplicate copy will be retained by the U.S. customs office. Form FC-908 may be obtained from all U.S. Department of Commerce field offices (see list on page 1 under Field Office Addresses), from the Office of Export Control (Attention: 852), U.S. Department of Commerce, Washington, D.C. 20230, and from U.S. customs offices.

(3) *Issuance of U.S. Delivery Compliance Notice in lieu of Delivery Verification Certificate.* Where a U.S. party is required to provide a Delivery Verification Certificate but does not wish to disclose the name of his customer to the foreign supplier (e.g., in the event that the commodities are resold or transferred to another person or firm before the commodities enter the United States), he may submit an authenticated Form FC-903, Delivery Verification Certificate, together with an explanatory letter requesting a Delivery Compliance Notice, to the Office of Export Control (Attention: 852), U.S. Department of Commerce, Washington, D.C. 20230. The Office of Export Control will then provide the U.S. party with an original and a copy of an authenticated Form IA-956, Delivery Compliance Notice, signifying that the commodities were imported into the United States and that a satisfactory U.S. Delivery Verification Certificate has been submitted to the Office of Export Control. The U.S. party shall forward the original to the foreign supplier for submission to the foreign government and retain the copy in its files.

(4) *Lost or destroyed Delivery Verification Certificate.* When a Delivery Verification Certificate is lost or destroyed, the U.S. importer shall submit a letter to the Office of Export Control (Attention: 852), U.S. Department of Commerce, Washington, D.C. 20230, certifying:

(i) That the original Delivery Verification Certificate has been lost or destroyed;

(ii) The circumstances under which it was lost or destroyed;

(iii) The type of customs entry (warehouse or consumption), entry number, and date of entry; and

(iv) The number and date of the related International Import Certificate.

The Office of Export Control will, in applicable cases, notify the exporting government that a Delivery Verification Certificate has been issued.

§ 368.4 Penalties and sanctions for violations.

(a) *Administrative.* The enforcement provisions of Part 387 of this subchapter and § 390.2(a) of this subchapter, and the sanctions set forth in § 388.1(a) of the Export Control Regulations in this subchapter shall apply to transactions involving imports into the United States covered by this part and to both foreign and U.S. parties involved in a violation of this part. Any provisions of Part 387 and § 390.2(a) of this subchapter which, by their terms, relate to "exports" or "imports from the United States" are also deemed to apply and extend to imports into the United States, applications for International Import Certificates (Form FC-326 presented to U.S. Department of Commerce for certification), International Import Certificates, and Delivery Verification Certificates, dealt with in this part. (Applications for International Import Certificates, and Delivery Verification Certificates, as specified in this part, are included within the definition of export control documents set forth in § 370.2 of the Export Control Regulations in this subchapter.)

(b) *Criminal.* The False Statements Act makes it a criminal offense to make a wilfully false statement or conceal a material fact, or knowingly use a document containing a false statement, in any matter within the jurisdiction of a U.S. department or agency. Maximum penalties under this provision are \$10,000 fine or imprisonment for 5 years, or both. In addition, a violation of the Export Administration Act or any regulation, order, or license issued thereunder is punishable by a fine of not more than \$10,000 or by imprisonment for not more than 1 year, or both (also see § 387.1(a) of this subchapter).

PART 369—RESTRICTIVE TRADE PRACTICES OR BOYCOTTS

- Sec.
369.1 General policy.
369.2 Reporting requirement.
369.3 Examples of requests related to restrictive trade practices or boycotts.
369.4 Effect of other provisions.

AUTHORITY: The provisions of this Part 369 issued under sec. 3, 63 Stat. 7; 50 U.S.C. App. 2023; E.O. 10945, 26 F.R. 4487, 3 CFR 1959-1963 Comp.; E.O. 11038, 27 F.R. 7003, 3 CFR 1959-1963 Comp.

§ 369.1 General policy.

It is the policy of the United States to oppose restrictive trade practices or boycotts fostered or imposed by foreign countries against any country not included in Country Group S, W, Y, or Z.¹ All exporters engaged in the export from the United States of articles, materials, supplies, or information including technical data (whether directly or through distributors, dealers, or agents) are encouraged and requested to refuse to take (but are not legally prohibited from taking) any action, including the furnishing

¹ Country Groups are listed in Supplement No. 1 to Part 370.

of information or the signing of agreements, that has the effect of furthering or supporting such restrictive trade practices or boycotts.

§ 369.2 Reporting requirement.

(a) *Scope.* In order to implement the policy set forth in § 369.1, a reporting requirement is established. The provisions of this section apply to any U.S. exporter who receives a request for an action, including the furnishing of information or the signing of agreements, that has the effect of furthering or supporting a restrictive trade practice or boycott fostered by any foreign country against any country not included in Country Group S, W, Y, or Z. (See § 369.3 for examples of restrictive trade practices or boycotts.) Where such request is received by any other person handling any phase of the transaction for the exporter, that person (forwarding agent, etc.) is responsible for informing the exporter of the request so that the latter may report it.

(b) *Report from U.S. exporter.* Any U.S. exporter who receives a request, or is informed of a request, relating to a restrictive trade practice or boycott, as described in paragraph (a) of this section shall report the request to the Office of Export Control (Attention: 852), U.S. Department of Commerce, Washington, D.C. 20230. The exporter's report may be submitted in accordance with the procedure set forth in either subparagraph (1) or (2) of this paragraph. (The information contained in these reports is subject to the provisions of Section 7(c) of the Export Administration Act regarding confidentiality of information.)

(1) *Single transaction report.* If the report covers only a single transaction it shall be submitted to the Office of Export Control within 15 business days from the date the exporter receives the request. This report shall be made on Form IA-1014, U.S. Exporter's Report of Request Received for Information Certification, or Other Action Indicating a Restrictive Trade Practice or Boycott Against a Foreign Country² (see Supplement S-21 for facsimile of form). If the request is for information and is received in the form of a questionnaire, a copy of this questionnaire shall accompany the report. Copies of requests received in other forms need not be submitted with the report, but appropriate quotations from the request shall be included in the report. Whenever an exporter receives more than one request for action with reference to the same export transaction, only the first request need be reported.

(2) *Multiple transactions report.* Instead of submitting a report for each

² See § 370.2 for definition of U.S. Exporter.
³ Copies of Form IA-1014 may be obtained at all U.S. Department of Commerce Field Offices (see list on page 1 under Field Office Addresses) and from the Office of Export Control (Attention: 852), U.S. Department of Commerce, Washington, D.C. 20230.

transaction regarding which a request is received, the exporter may submit a report covering all transactions regarding which requests are received from a single person or firm during a single calendar quarter. This report shall be made by letter to the Office of Export Control no later than the 15th day of the first month following the calendar quarter covered by the report. If the exporter has received requests from more than one foreign person or firm, a separate report shall be submitted for each person or firm. Each letter shall include the following information:

- (i) Name and address of U.S. exporter submitting report;
- (ii) Calendar quarter covered by report;
- (iii) Name of country(ies) against which the request is directed;
- (iv) Date(s) request(s) was (were) received;
- (v) Name and address of requestor;
- (vi) Number of transactions to which restrictions were applicable;
- (vii) Type(s) of request(s) received. (If questionnaire, attach copy. If other than questionnaire, give the type of document or other form of request and the specific information or action requested.);
- (viii) Quantity, description, and value of the commodities or technical data covered by the request(s). (The description may conform to the description on the order or to usual commercial terminology and may, but need not be, in terms of the Commodity Control List or Schedule B.); and
- (ix) Whether or not the U.S. exporter intends to comply with the request(s). (Submission of the information required by this § 369.2(b)(2)(ix) would be helpful to the U.S. Government but is not mandatory.)

§ 369.3 Examples of requests related to restrictive trade practices or boycotts.

A request which promotes or upholds a restrictive trade practice or boycott may be received by U.S. exporters in the form of general questionnaires to be answered, specific statements or certifications to be supplied in particular transactions, or other types of requests for action. Shown below are examples of requests that could indicate the furthering or supporting of restrictive trade practices or boycotts. This is not to be interpreted as being a comprehensive list.

(a) A request for information as to whether the U.S. exporter or any subsidiary or affiliate of the U.S. exporter has, or intends to have, any stockholders owners, employees, or officers who are nationals of a boycotted country.

(b) A request for information as to whether the U.S. exporter or any subsidiary or affiliate of the U.S. exporter has, or intends to have, any stockholders, owners, employees, or officers who are members of a religious organization or of a race, creed or color generally associated with a boycotted country.

(c) A request for information as to whether the U.S. exporter or any subsidiary or affiliate of the U.S. exporter has, or intends to have, any business relationship with a boycotted country or a national of a boycotted country. These business relationships include but are not limited to trade in commodities or technical know-how, licensing arrangements, advertising, or promotion of sale of goods originating in a boycotted country, or use of such goods as components in a manufacturing process.

(d) A request for information as to whether the U.S. exporter or any subsidiary or affiliate of the U.S. exporter does any business, or intends to do any business, with any firm that has a business relationship with a boycotted country or a national of a boycotted country.

(e) A request for information as to whether the U.S. exporter or any subsidiary or affiliate of the U.S. exporter has any investments, including branches, subsidiaries, affiliates, or holdings, or any commercial or legal representation in a boycotted country or a business firm located in, or doing business in, a boycotted country.

(f) A restriction prohibiting the U.S. exporter or any subsidiary or affiliate of the U.S. exporter from using shipping or transportation facilities that are "black-listed" by the importing country. (However, a request or restriction solely precluding the export of commodities to the importing country on (1) shipping or transportation facilities owned, controlled, operated, or chartered by a country or a national of a country, friendly to the United States but not friendly to the importing country, or (2) a carrier that stops at a port in a country friendly to the United States but not friendly to the importing country prior to stopping at the port of unloading, is not deemed a restrictive practice within the meaning of section 2(4) of the Export Administration Act, but rather a precautionary measure to avoid any risk of confiscation of the commodities. Accordingly, these two types of shipping restrictions are exempted from the reporting requirement of this section.)

§ 369.4 Effect of other provisions.

Insofar as consistent with the provisions of this part, all of the provisions of the Export Control Regulations, including Parts 387 and 388 of this subchapter, apply equally to the reporting requirement set forth in § 369.2. Attention is called particularly to the provisions of § 387.11 of this subchapter under which pertinent records must be kept and made available for inspection for a 3-year period.

PART 370—EXPORT LICENSING GENERAL POLICY AND RELATED INFORMATION

- Sec. 370.1 General policy.
- 370.2 Definitions of terms.
- 370.3 Prohibited exports.
- 370.4 Shipments to territories, dependencies, and possessions of the United States and trust territories.

- Sec. 370.5 Intransit shipments without unloading.
 - 370.6 Shipments entering foreign trade zones.
 - 370.7 Unauthorized disposition of foreign excess personal property purchased from the U.S. armed forces in foreign countries.
 - 370.8 Shipments via Hong Kong.
 - 370.9 Shipments which transit Country Group Y or Z en route to any other destination.
 - 370.10 Exports controlled by U.S. Government agencies other than Office of Export Control.
 - 370.11 Information to exporters.
- Supplement No. 1—Country Groups.
Supplement No. 2—U.S. Munitions List.

AUTHORITY: The provisions of this Part 370 issued under sec. 3, 63 Stat. 7; 50 U.S.C. App. 2023; E.O. 10945, 26 F.R. 4487, 3 CFR 1959-1963 Comp.; E.O. 11038, 27 F.R. 7003, 3 CFR 1959-1963 Comp.

§ 370.1 General policy.

(a) *Purposes for controls over exports.* Export controls administered by the U.S. Department of Commerce under the Export Administration Act, are used to the extent necessary:

(1) To protect the domestic economy from the excessive drain of scarce materials and to reduce the serious inflationary impact of abnormal foreign demand;

(2) To further significantly the foreign policy of the United States and to fulfill its international responsibilities; and

(3) To exercise the necessary vigilance over exports from the standpoint of their significance to the national security of the United States.

(b) *Restrictive trade practices or boycotts.* The United States opposes restrictive trade practices or boycotts fostered or imposed by foreign countries against other countries friendly to the United States.

(c) *End use.* Where commodities are licensed for export on the basis of the specific end uses, applications will be considered for approval only if they conform to appropriate end uses.

(d) *Commodity advisory panels and Committees.* Commodity advisory panels and committees will be consulted regarding problems arising in the administration of export licensing policy. (See § 390.1 of this subchapter.)

(e) *Foreign government recommendations.* The Department of Commerce reserves the right in all respects to determine to what extent any recommendations made by foreign governments should be followed.

§ 370.2 Definitions of terms.

(a) The following are definitions of terms as used in the Export Control Regulations.

(1) *Export Administration Act.* Export Administration Act of 1969, effective January 1, 1970.

(2) *Export Control Law.* Replaced by Export Administration Act of 1969.

(3) *Export control regulations.* Regulations set forth in Parts 368-399, inclusive, of this subchapter of the Code of Federal Regulations.

(4) *Law or regulation relating to export control.* Any statute, proclamation, executive order, regulation, rule, license, or order applicable to any conduct involving an export transaction shall be deemed to be a "law or regulation relating to export control".

(5) *United States.* Unless otherwise stated, the 50 States, the District of Columbia, the Canal Zone, Puerto Rico, and all territories, dependencies, and possessions of the United States.

(6) *Department of Commerce.* Specifically includes the Office of Export Control and the Bureau of International Commerce.

(7) *Country groups.* For export control purposes foreign countries are separated into seven country groups designated by the symbols S, T, V, W, X, Y, and Z. Canada is not included in any country group and is referred to by name. (See Supplement No. 1 to Part 370 of this subchapter for a list of countries in each Country Group.)

(8) *General license.* A license established by the U.S. Department of Commerce for which no application is required and for which no document is granted or issued. It is available for use by all persons, and permits export within the provisions thereof as prescribed in the Export Control Regulations. These general licenses are not applicable to exports under the licensing jurisdiction of agencies other than the Department of Commerce.

(9) *Validated license.* A document issued by or under the authority of the Office of Export Control, authorizing export.

(10) *License application; application for license.* License application and similar wording mean an application for a validated export license.

(11) *Amendment.* An authorization by the Office of Export Control revising the terms set forth on a validated export license.

(12) *Reexport.* The term reexport in any export control regulation, license, order, or export control document includes reexport, transship, or divert from one foreign destination to another.

(13) *Commodity Control List (CCL).* The list of commodities under the export control jurisdiction of the Office of Export Control, U.S. Department of Commerce.

(14) *Commodity.* Any article, material, or supply except technical data.

(15) *Net value.* The actual selling price less shipping charges or current market price to the same type of purchaser in the United States, whichever is the larger.

(16) *Schedule B numbers.* The 7-digit commodity description numbers appearing in the 1965 edition of the Bureau of the Census publication, Schedule B, Statistical Classification of Domestic and Foreign Commodities Exported from the United States, and amendments thereto.

(17) *Export Control Commodity Numbers.* The commodity classification numbers used in § 399.1 of the Export Control Regulations in this subchapter. The Export Control Commodity Number has

either three or five digits which are the same as the initial digits of the corresponding Schedule B number.

(18) *Export control document.* A validated export license; application for export license; request for authorization to reexport; any and all documents submitted in accordance with requirements in the export control regulations in support of or in relation to an application for export license or a request for re-export authorization; application for International Import Certificate; International Import Certificate; Delivery Verification Certificate or similar evidence of delivery; Shipper's Export Declaration presented in connection with shipment to any country including Canada; a dock receipt or bill of lading issued by any carrier, in connection with any export subject to the Export Control Regulations; a U.S. exporter's report of request received for information, certification, or other action indicating a restrictive trade practice or boycott against a foreign country, submitted to the U.S. Department of Commerce in accordance with the provisions of Part 369; Customs Form 7512, Transportation Entry and Manifest of Goods Subject to Customs Inspection and Permit, when used for Transportation and Exportation (T. & E.) or Immediate Exportation (I.E.); and any other document issued by a U.S. Government agency as evidence of the existence of an export license for the purpose of loading onto an exporting carrier or otherwise facilitating or effecting an export from the United States of any commodity or technical data requiring an export license, or the reexport of any such commodity or technical data.

(19) *Bill of lading.* The contract of carriage and receipt for commodities or technical data issued by the carrier. It includes an air waybill, but does not include an inland bill of lading or a domestic air waybill covering movement to port only.

(20) *Individual license.* Any validated license, other than the special licenses listed below, authorizing the export of specific technical data or a specified quantity of commodities during a specified period to a designated consignee.

(21) *Periodic requirements license* (§ 373.5 of this subchapter). A special license authorizing the export during a 1-year period of one or more commodities identified by the symbol "E" in the last column of the Commodity Control List (§ 399.1 of this subchapter) to one or more ultimate consignees in a named ultimate destination.

(22) *Project license* (§ 373.2 of this subchapter). A special license authorizing the export of commodities (and technical data where specified) required for a specified activity during a period of approximately 1 year from the issuance of the license.

(23) *Time limit license* (§ 373.6 of this subchapter). A special license authorizing export of an unlimited quantity of commodities for a period of 1 year to one or more ultimate consignees located in Country Group T.

(24) *Distribution license* (§ 373.3 of this subchapter). A special license

authorizing export of certain commodities to approved consignees in one or more of 12 specified countries during a period of 1 year. The consignees must be foreign distributors or users of the licensed commodity.

(25) *Service supply license* (§ 373.7 of this subchapter). A special license enabling persons or firms in the United States and abroad to provide prompt service for equipment (i) exported from the United States, (ii) produced abroad by a subsidiary, affiliate, or branch of a U.S. firm, or (iii) produced abroad by a manufacturer who uses parts imported from the United States in the manufactured product.

(26) *Person or firm.* An individual, corporation, partnership, association, company, or any other kind of organization, situated, residing, or doing business in the United States or any foreign country, including any government or agency thereof, as well as a citizen or national of the United States or any foreign country.

(27) *Applicant for export license.* The party (or his duly authorized agent) who, as the principal party in interest in the export transaction, has the power and responsibility for determining and controlling the sending of the commodities and technical data out of the country and is thus in reality the exporter. (For this purpose, it is the identity of the applicant and his role in the transaction, rather than the terms of sale, with which the Office of Export Control is primarily concerned.) The applicant must be subject to the jurisdiction of the United States.

(28) *U.S. exporter.* That person who, as the principal party in interest in the export transaction, has the power and responsibility for determining and controlling the sending of the commodities and technical data out of the United States.

(29) *Order party.* That person in the United States who conducted the direct negotiations or correspondence with the foreign purchaser or ultimate consignee and received the order from the foreign purchaser or ultimate consignee.

(30) *Licensee.* The person named in the export control document as exporter.

(31) *Purchaser.* The person abroad who has entered into the export transaction with the applicant (licensee) or order party to purchase the commodities or technical data for delivery to the ultimate consignee.

(32) *Ultimate consignee.* The person in the country of ultimate destination named on the license to whom the licensee is authorized to export by sale, consignment, or otherwise (the true party in interest receiving the export for the designated end use). A bank, freight forwarder, forwarding agent, or other party, when acting as an intermediary, is not acceptable as the ultimate consignee.

(33) *Intermediate consignee.* The person to whom the commodities or technical data may be consigned for the purpose of effecting delivery to the ultimate consignee. This will usually be a bank, forwarding agent, or other intermediary who acts in a foreign country as an agent

for the exporter, the purchaser, or the ultimate consignee.

(34) *Forwarding agent.* The person authorized by a named exporter to perform for that exporter actual services which facilitate the export of commodities or technical data. The forwarding agent need not be a person regularly engaged in the freight forwarding business. He shall be designated by the exporter in writing in the power of attorney set forth on the declaration or in a general power of attorney, or other written form, subscribed and sworn to by a duly authorized officer or employee of the exporter.

(35) *Customs officer.* The customs officers in the Bureau of Customs and postmasters unless the context indicates otherwise.

(36) *Port of export.* The port where the cargo to be shipped abroad is laden aboard the exporting carrier. It includes, in the case of an export by mail, the place of mailing.

(37) *Shipper's export declaration.* Any declaration required under regulations of the Department of Commerce and other U.S. Government departments or agencies in connection with exports.

(38) *Exporting carrier.* Any instrumentality of water, land, or air transportation by which an export is effected, including any domestic air carrier on which any cargo for export is laden or carried that is covered by a Shipper's Export Declaration authenticated by a customs officer.

(39) *Airline.* Any person or firm engaged primarily in the transport of persons or property by aircraft for compensation or hire, pursuant to authorization by the U.S. Government or a foreign government.

(40) *U.S. airline.* Any citizen of the United States who is authorized by the U.S. Government to engage as an airline. For purposes of this definition, a U.S. citizen is:

(i) An individual who is a citizen of the United States or one of its possessions; or

(ii) A partnership of which each member is such an individual; or

(iii) A corporation or association created or organized under the laws of the United States, or of any State, Territory, or possession of the United States, of which the president and two-thirds of the board of directors and other managing officers thereof are such individuals and in which at least 75 percent of the voting interest is owned or controlled by persons who are citizens of the United States or of one of its possessions.¹

(41) *Canadian airline.* Any citizen of Canada who is authorized by the Canadian Government to engage as an airline. For purposes of this definition, a Canadian citizen is:

(i) An individual who is a citizen of Canada; or

¹ This definition of "citizen of the United States" is also set forth in title I, section 101(13) of the Federal Aviation Act of 1958, Public Law 85-726, 85th Congress (72 Stat. 737).

(ii) A partnership of which each member is such an individual; or

(iii) A Canadian company incorporated under the laws of Canada or any province having a total foreign stock interest not greater than 40 percent and having the Chairman or Acting Chairman and at least two-thirds of the Directors thereof Canadian citizens.²

(42) *Single shipment.* A shipment of commodities which moves at the same time from one exporter to one consignee or intermediate consignee on the same exporting carrier even though such shipment is to be forwarded to one or more ultimate consignees.

§ 370.3 Prohibited exports.

(a) *General provisions.* Subject to the provisions of §§ 370.4, 370.5, and 370.6, the export from the United States of all commodities and all technical data as refined in § 379.1 of this subchapter is hereby prohibited unless and until a general license authorizing such export shall have been established or a validated license or other authorization for such export shall have been granted by the Office of Export Control, except:

(1) Any export to Canada, for consumption in Canada³ other than:

(i) The types of technical data described in § 379.4(c) of this subchapter;

(ii) Commodities related to nuclear weapons, nuclear explosive devices, or nuclear testing, as described in §§ 378.1 and 379.4(c) of this subchapter;

(iii) The following copper commodities:

(a) Copper bearing ash and residues (Export Control Commodity No. 28401);

(b) Copper or copper-base alloy waste and scrap (Export Control Commodity No. 28402);

(c) Nickel alloy waste and scrap containing 50 percent or more copper, irrespective of nickel content (Export Control Commodity No. 28403); and

(d) Copper-base alloy ingots (Export Control Commodity No. 68212); and

(iv) Electronic, mechanical, or other devices, as described in § 376.13(a) of this subchapter, primarily useful for surreptitious interception of wire or oral communications.

(2) Exports for the official use of or consumption by the U.S. Armed Forces when shipped by or consigned to any branch thereof under a U.S. Government Bill of Lading or a U.S. Government space charter or by means of a U.S. Government-owned or Government-chartered carrier; and

(3) Exports of commodities and technical data controlled by another U.S. Government agency (see § 370.10).

(b) *Revocation of export licenses and other authorizations.* All export licenses and other authorizations to ex-

port or reexport are subject to revision, suspension, or revocation without notice. It may be necessary for the Office of Export Control to stop a shipment or an export transaction at any stage of its progress; e.g., in order to prevent an unauthorized export or reexport. If a shipment is already en route, it may be further necessary to order the return or unloading of such shipment at any port of call in accordance with the provisions set forth in § 388.10 of this subchapter.

§ 370.4 Shipments to territories, dependencies and possessions of the United States and Trust Territories.

No license is required for shipments from the United States to the Canal Zone, Puerto Rico, or any territory, dependency, or possession of the United States as listed in Schedule C, Classification of Country Designations Used in Compiling the U.S. Foreign Trade Statistics, issued by the Bureau of the Census. Nor is a license required for shipments to the Trust Territory of the Pacific Islands; i.e., the Caroline Islands, the Marshall Islands, and the Marianas Islands (except Guam, which is an island possession of the United States).

§ 370.5 Intransit shipments without unloading.

Commodities or technical data shipped by vessel from one foreign country and passing through the United States in transit to another foreign country may be exported without a license from the Office of Export Control; provided that while in waters subject to the jurisdiction of the United States they have not been unladen from the vessel on which they entered such waters, and provided further, that they are not originally manifested to the United States.

§ 370.6 Shipments entering foreign trade zones.

Shipments of commodities or technical data of foreign origin for which no customs entry has been made and which enter a U.S. foreign trade zone may be exported from the foreign trade zone without a validated export license except as described below.

(a) *Country Group W, X, Y, or Z.* Shipments to Country Group W, X, Y, or Z (see Supplement No. 1 to Part 370 for country groups) require a validated license if a shipment of similar commodities or technical data of U.S. origin could not be made from the customs territory of the United States to such a destination under the provisions of a general license.

(b) *Shipments covered by International Import Certificates.* Commodities shipped to the United States under a Form FC-826, International Import Certificate, in accordance with the procedure described in § 368.2 of this subchapter, require a validated license.

(c) *Shipments originating in Canada.* Shipments of commodities originating in Canada require a validated license only when:

(1) The shipment does not meet the conditions set forth in § 371.4 (b) (1) of this subchapter; or

(2) The shipment cannot be exported directly from the United States to Country Group T under the provisions of General License G-DEST.

(d) *Foreign excess property disposed of by the U.S. Government.* Commodities of U.S. or foreign origin disposed of by the U.S. Government under a foreign excess property disposal program which enter a U.S. foreign trade zone without a customs entry may be exported from the foreign trade zone without an export license; except that a validated export license is required where the same shipment made directly from the customs territory of the United States to the same destination would require a validated export license.

§ 370.7 Unauthorized disposition of foreign excess personal property purchased from the U.S. Armed Forces in foreign countries.

(a) *General.* In the event the U.S. Armed Forces shall sell in any foreign country any commodity, in used or new condition, that was exported from the United States pursuant to § 370.3(a) (2), the prohibitions and sanctions provided in Parts 387 and 388 of this subchapter shall apply whenever such commodity is, or is attempted to be transhipped, diverted, or reexported to any destination contrary to the provisions of the contract of sale executed by the U.S. Armed Forces or to the Export Control Regulations referred to therein.

(b) *Applicability.* The provisions of this § 370.7 shall apply to any person who directly or indirectly participates in, or has an interest in, any transaction involving commodities sold by the U.S. Armed Forces in any foreign country. Sanctions may include denial of participation in Armed Forces foreign excess personal property disposals, as well as U.S. denial of export privileges.

(c) *Enforcement.* By arrangement with the Department of Defense in enforcing the provisions of this § 370.7, the Office of Export Control will apply the prohibitions and sanctions of Parts 387 and 388 of this subchapter to:

(1) Cases involving any commodity of U.S. origin that is or is attempted to be transhipped, diverted or reexported to Country Group Z (see Supplement No. 1 to this Part 370 for country group designations); and

(2) Cases involving generally, but not exclusively, any commodity not identified by the symbol "B" in the last column of the Commodity Control List that is or is attempted to be transhipped, diverted or reexported to Country Group Y.

§ 370.8 Shipments via Hong Kong.

Shipments may be made from the United States via Hong Kong to another foreign destination in accordance with the following: (Transshipment authority does not relieve any person from complying with foreign laws. See §§ 374.9 and 379.8(d) of this subchapter.)

(a) *Shipments not unloaded at Hong Kong.* General and validated license shipments manifested to any ports other than Hong Kong, Macao, and destinations in Country Group Y or Z, and

² The substance of this definition of "citizen of Canada" is also set forth in the regulations and/or policy of the Canadian Air Transport Board.

³ See § 374.8 for shipments to Canada, not intended for consumption in Canada, and regarding the requirement of a Shipper's Export Declaration for certain exports to Canada.

which proceed through Hong Kong only to exchange bills of lading, and not to be discharged, off-loaded, or transhipped at Hong Kong, may proceed without the necessity of bonding such shipments against discharge in Hong Kong, provided the bill of lading calls for discharge at the port to which the shipment is manifested. Bills of lading permitting discharge only at an unrestricted port by the use of a statement such as "Singapore via Hong Kong" may be cleared without bond. However, shipments which are either manifested to, or under bills of lading calling for "Hong Kong" as port of discharge or "Hong Kong in transit to Singapore," or any other similar designation indicating Hong Kong as port of discharge, may not be cleared without a validated export license specifically authorizing transshipment at Hong Kong.

(b) *General License G-DEST; shipments under a through bill of lading—*
(1) *Transshipment at Hong Kong.* Shipments of all commodities under General License G-DEST may be transhipped at Hong Kong without obtaining a validated export license, provided:

(i) Such transshipments are made under a through bill of lading to a destination outside of Hong Kong, Macao, or Country Group Y or Z; and

(ii) The originating or on-forwarding carrier maintains custody of the shipment at all times or the shipment is exportable directly from the United States to Hong Kong under another general license.

(2) *Contract of carriage for transportation to ultimate destination.* For purposes of this § 370.8 a through bill of lading includes a contract of carriage with a carrier for transportation of the commodities from the United States to the country of ultimate destination named on the authenticated Shipper's Export Declaration. The actual transportation may be made by more than one carrier and may involve more than one transportation document.

(c) *Validated license shipments under a through bill of lading.* Subject to the provisions of paragraph (b) of this section, commodities or technical data shipped under a validated license for an ultimate destination other than Hong Kong may be transhipped at Hong Kong without obtaining specific authorization from the Office of Export Control on the validated license.

§ 370.9 Shipments which transit Country Group Y or Z en route to any other destination.¹

The export from the United States of commodities or technical data to be unladen from a vessel or aircraft in Country Group Y or Z, or to move in transit through Country Group Y or Z en route to Canada or a destination in Country

¹ See § 372.8(b) with respect to filing applications for validated licenses to export commodities which will be unladen from a vessel or aircraft in Country Group Y or Z or which will move in transit through Country Group Y or Z en route to a destination in any other country group.

Group S, T, V, W, or X, is hereby prohibited unless a validated license specifically authorizes the transshipment or in-transit shipment, or both, except:

(a) An export to West Berlin which will transit East Germany (the Soviet Zone of Germany and the Soviet Sector of Berlin); or

(b) An export of technical data or of a commodity identified by the symbol "B" in the last column of the Commodity Control List, to any destination not in Country Group Y or Z, provided that shipment is exportable under a general license directly from the United States to the country of transit or unloading in Country Group Y or Z.

(Transshipment authority does not relieve any person from complying with foreign laws. See § 374.9 of this subchapter.)

§ 370.10 Exports controlled by U.S. Government agencies other than Office of Export Control.

(a) *Arms, ammunition, and implements of war.* Regulations administered by the Office of Munitions Control, U.S. Department of State, Washington, D.C. 20520, govern the export of arms, ammunition, and implements of war. These regulations are issued under the authority of section 414, as amended, 68 Stat. 848; 22 U.S.C. 1934; sections 101 and 105 E.O. 10973, 26 F.R. 10469; section 6, Departmental Delegation of Authority No. 104, 26 F.R. 10608, as amended; 27 F.R. 9925, 28 F.R. 7231; and Redelegation of Authority No. 104-3-A, 28 F.R. 7231. The commodities covered by these regulations are listed in Supplement No. 2 to this part.

(b) *Gold.* Regulations administered by the Office of Domestic Gold and Silver Operations, U.S. Department of the Treasury, Washington, D.C. 20220, govern the export of gold, except that the export of fabricated gold (as defined in 31 CFR 54.4) of which not more than 90 percent of the total domestic value is attributable to the gold content thereof shall also be subject to the Export Control Regulations of the U.S. Department of Commerce. The Treasury regulations are issued under the authority of the Gold Reserve Act of 1934 (48 Stat. 337; 31 U.S.C. sections 440-445 (1964)); section 5(b) of the Act of October 6, 1917 (40 Stat. 415), as amended by section 2 of the Act of March 9, 1933 (48 Stat. 1); and title III, section 301 of the First War Powers Act, 1941 (55 Stat. 839; 12 U.S.C. section 95a (1964)).

(c) *Coins containing silver.* Regulations administered by the Office of Domestic Gold and Silver Operations, U.S. Department of the Treasury, Washington, D.C. 20220, govern the export of U.S. coins containing silver. This includes the silver dollar, the subsidiary silver coins and the clad half dollar, or 50-cent piece. The regulations are issued under the authority of the Coinage Act of 1965 (79 Stat. 254; 31 U.S.C. section 395 (Supp. III, 1965-1967)).

(d) *Narcotics.* Regulations administered by the Bureau of Narcotics and Dangerous Drugs, U.S. Department of

Justice, Washington, D.C. 20537, govern the export of the following narcotic drugs: (1) Amidone or Methadon (Adanon and Dolophine—trade names); (2) Coca leaves and their derivatives; (3) Isonipocaine (Demerol—trade name); (4) Marihuana or cannabis; (5) Opium and its derivatives; (6) Opiates; and (7) Any medicine or preparation containing any quantity of the foregoing drugs or their derivatives. The regulations are issued under the Narcotic Drugs Import and Export Act (35 Stat. 614; 21 U.S.C. sections 171-185 (1964)), and the Marihuana Tax Act of 1937 (50 Stat. 551; 26 U.S.C. sections 4741 et seq. (1964), as amended (Supp. III, 1965-1967)).

(e) *Commodities subject to Atomic Energy Act.* Regulations administered by the Division of State and License Relations, U.S. Atomic Energy Commission, Washington, D.C. 20545, govern the export of the materials and facilities set forth and defined below, except that components for such facilities are licensed by the Office of Export Control. Such regulations are issued under the authority of the Atomic Energy Act of 1954 (68 Stat. 1921; 42 U.S.C. sections 2011-2296 (1964), as amended (Supp. III, 1965-1967)).

(1) *Byproduct material.* The term "byproduct material" means any radioactive material (except special nuclear material) yielded in or made radioactive by exposure to the radiation incident to the process of producing or utilizing special nuclear material.

(2) *Source material.* The term "source material" means any material except special nuclear material, which contains: by weight one-twentieth of one percent (0.05 percent) or more of (i) uranium, (ii) thorium, or (iii) any combination thereof.

(3) *Special nuclear material.* The term "special nuclear material" means plutonium, uranium-233, uranium enriched in the isotope 233 or in the isotope 235, or any material artificially enriched by any of the foregoing.

(4) *Production facility.* The term "production facility" means:

(i) Any nuclear reactor designed or used primarily for the formation of plutonium or U²³⁵; or

(ii) Any facility designed or used for the separation of the isotopes of uranium or the isotopes of plutonium, except laboratory scale facilities designed or used for experimental or analytical purposes only; or

(iii) Any facility designed or used for the chemical, physical, or metallurgical processing or fabricating or alloying of special nuclear material, except laboratory scale facilities designed or used for experimental or analytical purposes only.

(5) *Utilization facility.* The term "utilization facility" means any nuclear reactor other than one designed or used primarily for the formation of plutonium or U²³⁵.

(f) *Watercraft.* Regulations administered by the U.S. Maritime Administration, Washington, D.C. 20235, and other agencies as listed below govern the export of watercraft.

(1) *Export authorization by U.S. Maritime Administration and U.S. Department of State.* Vessels of war, as defined in the U.S. Munitions List, require export authorization from both the Office of Munitions Control, U.S. Department of State, Washington, D.C. 20520, and the U.S. Maritime Administration.

(2) *Export authorization by U.S. Maritime Administration and Office of Export Control.* Watercraft (including vessels of war) exported for the purpose of scrapping, dismantling, dismembering, or destroying the hulls or hulks thereof, require export authorization from both the Office of Export Control and the U.S. Maritime Administration for export to Country Group W, X, Y, or Z. (See Supplement No. 1 to this Part 370 for country group designations.)

(3) *Export authorization by U.S. Maritime Administration only.* (i) Watercraft described in subparagraph (2) of this paragraph, when exported to destinations other than those in Country Group W, X, Y, or Z, require export authorization from the U.S. Maritime Administration only.

(ii) The sale to a foreign purchaser and/or the transfer to foreign registry of watercraft owned by citizens of the United States, regardless of size, type, or documentation, is subject to the approval of only the U.S. Maritime Administration.

(iii) The U.S. Maritime Administration regulations are issued under the authority of the Shipping Act of 1916 (39 Stat. 728; 46 U.S.C. sections 801-842 (1964), as amended (Supp. III, 1965-1967)).

(g) *Natural gas and electric energy.* Regulations administered by the U.S. Federal Power Commission, Washington, D.C. 20426, govern the export of "natural gas" and "electric power", as defined in the Acts cited below, and the construction, operation, maintenance, or connection of facilities for such export at the United States side of international boundaries. The regulations relating to "natural gas" are issued under the authority of the Natural Gas Act of 1938 (52 Stat. 822; 15 U.S.C. section 717(b) (1964)); the regulations relating to "electric power" are issued under the authority of the Federal Power Act (49 Stat. 847; 16 U.S.C. sections 791-828(c) (1964), as amended (Supp. III, 1965-1967)).

(h) *Tobacco seeds and plants.* Regulations administered by the Administrator, Consumer and Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20426, govern the export of any tobacco seed and/or live tobacco plants subject to the Tobacco Seed and Plant Exportation Act of June 5, 1940 (49 Stat. 1239; 7 U.S.C. sections 515-517 (1964)). The regulations are issued under the authority of the above-cited Act.

§ 370.11 Information to exporters.

To minimize the administrative impact of export controls on U.S. business firms and to enable exporters to coordi-

nate their business activities with the export control policies of the U.S. Department of Commerce, the Office of Export Control will undertake to inform exporters of the reasons that may subject an export license application to lengthy examination or denial. At the request of an exporter, the Office of Export Control will provide such information to the extent consistent with the national security, the foreign policy of the United States, and the confidentiality provisions of the Export Administration Act of 1969. Requests for this information should be held to a minimum, however, so as not to impede the normal processing of cases and thereby interfere with the effective administration of export control.

(a) *Considerations that may occasion lengthy examination.* Listed below are the most frequent reasons for delay or lengthy examination. Exporters are urged to submit with their applications any evidence or information, including brochures and technical literature, pertinent to these considerations.

(1) Determination as to whether a comparable commodity or technical data is produced abroad and is available to the proposed destination from Free World sources.

(2) Determination as to the potential strategic uses of a commodity or technical data. Frequently, this involves consultation with technicians in other government agencies and in industry.

(3) Because of the potential uses of a commodity or technical data in a manner that is of concern to the U.S. Government for national security or foreign policy reasons, the Office of Export Control must:

(i) Attempt to verify, through government channels, the end use stated in an application and/or supporting documents to assure that it is a reliable indication of the future use of the commodity or technical data;

(ii) Seek additional information, through government channels, as to the range of activities engaged in by a prospective end user; and/or

(iii) Consult other U.S. government agencies to obtain their views as to whether approval would be detrimental to the national security.

(4) Because of the strategic nature of certain commodities and technical data, the United States and other Free World governments have agreed to control their exports to destinations in Country Groups W, Y, and Z. In certain instances, it is necessary to consult with these other Free World governments before action on an application can be taken.

(5) Where one or more of the foreign parties to an export transaction is unknown to the Office of Export Control, the U.S. Foreign Service is requested to provide information that will permit action to be taken.

(b) *Request for information.* (1) The request for information shall be submitted on Form IA-743-A (Rev.). Request for, and Advice on, Status of Pending Application, Amendment, or Reexport Request. The request may be made only by the applicant or applicant's agent.

The Office of Export Control will respond as soon as possible, noting on the reverse side of the form the pertinent reason(s) for the delay or likelihood of denial.

(2) Approximately 98 percent of applications for licenses to export to Country Groups T, V, and X are acted upon within 2 weeks of receipt in the Office of Export Control. Applications for licenses to export to any other country group generally require more intensive scrutiny, but approximately 75 percent of these applications are acted upon within 4 weeks of receipt.

(3) Unless emergency circumstances necessitate immediate notification, applicants should not request information until the following time periods expire:

(i) For a destination in Country Group T, V, or X: Three weeks from date application, amendment, or reexport request was mailed.

(ii) For a destination in any other country group: Five weeks from date application, amendment, or reexport request was mailed.

NOTE: An additional week has been added to the time period shown in § 370.11(b) (2) above to allow for postal transport time to and from the Office of Export Control. Earlier submissions may only serve to disrupt normal processing operations and cause unnecessary delay in acting upon the case.

Supplement No. 1—Country Groups

For export control purposes foreign countries are separated into seven country groups designated by the symbols "S," "T," "V," "W," "X," "Y," and "Z". Listed below are the countries included in each country group. Canada is not included in any country group and will be referred to by name throughout the Export Control Regulations.

COUNTRY GROUP S

Southern Rhodesia.

COUNTRY GROUP T

NORTH AMERICA

Northern Area:

Greenland.
Miquelon and St. Pierre Islands.

Southern Area:

Mexico (including Cozumel and Revilla Gigedo Islands).

Central America:

British Honduras.
Costa Rica.
El Salvador.
Guatemala.
Honduras (including the Bay Islands).
Nicaragua.
Panama, Republic of.

Bermuda and Caribbean Area:

Bahamas.
Barbados.
Bermuda.
Dominican Republic.
French West Indies.
Haiti (including Gonave and Tortuga Islands).
Jamaica.
Leeward and Windward Islands.
Netherlands Antilles (formerly Curacao, N.W.I.).
Trinidad and Tobago.

SOUTH AMERICA

Northern Area:

Columbia.
French Guiana (including Inini).
Guyana (formerly British Guiana).
Surinam (Netherlands Guiana).
Venezuela.

Western Area:

Bolivia.
Chile (including the islands Sala-y-Gomez, Juan Fernandez, San Felix, San Ambrosio and Easter Island).
Ecuador (including the Galapagos Islands).
Peru.
Eastern Area:
Argentina.
Brazil (including the islands of St. Paul, Fernando Noronha, and Trinidad (in South Atlantic)).
Falkland Islands.
Paraguay.
Uruguay.

COUNTRY GROUP V

All countries not included in any other country group (except Canada).

COUNTRY GROUP W

Poland.
Romania.

COUNTRY GROUP X

Hong Kong.
Macao.

COUNTRY GROUP Y

Albania.
Bulgaria.
Czechoslovakia.
East Germany (Soviet Zone of Germany and the Soviet Sector of Berlin).
Estonia.
Hungary.
Latvia.
Lithuania.
Outer Mongolia.
Union of Soviet Socialist Republics.

COUNTRY GROUP Z

China (Mainland):

Including Inner Mongolia; the provinces of Tsinghai and Sikiang; Sinkiang; Tibet; and Manchuria (includes the former Kwantung Leased Territory, the present Port Arthur Naval Base Area, and Liaoning Province); but excluding Republic of China (Taiwan) (Formosa) and Outer Mongolia.

Communist-controlled area of Vietnam.
Cuba.
North Korea.

Supplement No. 2—U.S. Munitions List

The following articles¹ are designated by the Office of Munitions Control, U.S. Department of State, as arms, ammunition, and implements of war:²

CATEGORY I—FIREARMS

(a) Nonautomatic and semiautomatic firearms, to caliber .50 inclusive, shotguns with barrels less than 18 inches in length, and all components and parts therefor (see §§ 121.03 and 123.30 through 123.4).³

(b) Automatic firearms, and all components and parts therefor, to caliber .50 inclusive (see § 121.03).³

(c) Insurgency-counterinsurgency type firearms or other weapons having a special military application regardless of caliber; and all components and parts therefor.

¹ The term "article" shall mean any of the arms, ammunition, and implements of war and technical data relating thereto enumerated in the U.S. Munitions List.

² Arms, ammunition and implements of war must be mangled, crushed or cut beyond the possibility of restoration to their original identity, before they can be licensed by the Office of Export Control for export as scrap metal. (See § 399.2, Interpretation 12.)

³ This cross-referenced section refers to the regulations of the Office of Munitions Control, U.S. Department of State, Washington, D.C. 20520.

(d) Firearms silencers.
(e) Bayonets and specifically designed components therefor.
(f) Riflescopes (except sporting type sights including optical) and specifically designed components therefor.

CATEGORY II—ARTILLERY AND PROJECTORS

(a) Guns over caliber .50, howitzers, mortars, and recoilless rifles.

(b) Military flame throwers and projectors.
(c) Components and parts including, but not limited to, mounts and carriages for the articles in paragraphs (a) and (b) of this category.

CATEGORY III—AMMUNITION

(a) Ammunition for the arms in Categories I and II of this section (see §§ 123.03 and 121.04).³

(b) The following components, parts, accessories, and attachments: Cartridge cases, powder bags, bullets, jackets, cores, shells (excluding shotgun), projectiles, boosters, fuzes and components therefor, primers, and other detonating devices for such ammunition (see § 121.04).³

(c) Ammunition belting and linking machines.

(d) Ammunition manufacturing machines, and ammunition loading machines (except hand loading).

CATEGORY IV—LAUNCH VEHICLES, GUIDED MISSILES, BALLISTIC MISSILES, ROCKETS, TORPEDOES, BOMBS, AND MINES

(a) Launch vehicles, guided missiles, ballistic missiles, bombs, grenades, rockets, torpedoes, rocket torpedoes, depth charges, land and naval mines, and military demolition blocks and blasting caps (see § 121.05).³

(b) Apparatus, devices, and materials for the handling, control, activation, detection, protection, discharge, or detonation of the articles in paragraph (a) of this category (see § 121.06).³

(c) Missile and space vehicle powerplants.

(d) Military explosive excavating devices.

(e) Filament winding machines designed for or modified for the manufacture of structural forms, for articles in this category.

(f) Ablative materials fabricated or semi-fabricated from advanced composites (e.g., silica, graphite, carbon, and boron filaments) for the articles in this category, including the tape wrapping and other techniques for their production.

(g) All specifically designed components, parts, accessories, attachments, associated equipment, and specialized production equipment for the articles in this category.

CATEGORY V—PROPELLANTS, EXPLOSIVES, AND INCENDIARY AGENTS

(a) Propellants for the articles in Categories III and IV of this section (see § 121.09).³

(b) Military explosives (see § 121.10).³

(c) Military fuel thickeners (see § 121.11).³

(d) Military pyrotechnics.

CATEGORY VI—VESSELS OF WAR AND SPECIAL NAVAL EQUIPMENT

(a) Warships, amphibious warfare vessels, landing craft, mine warfare vessels, patrol vessels, auxiliary vessels, service craft, floating dry docks, and experimental types of naval ships (see § 121.12).³

(b) Turrets and gun mounts, missile systems, arresting gear, special weapons systems, protective systems, submarine storage batteries, catapults and other components, parts, attachments, and accessories specifically de-

³ This cross-referenced section refers to the regulations of the Office of Munitions Control, U.S. Department of State, Washington, D.C. 20520.

signed for combatant vessels, including but not limited to, battleships, command ships, guided missile ships, cruisers, aircraft carriers, destroyers, frigates, escorts, mine-sweepers, and submarines.

(c) Submarine and torpedo nets, and mine sweeping equipment. Components, parts, attachments, and accessories specifically designed therefor.

(d) Harbor entrance magnetic, pressure, and acoustic detection devices, controls, and components thereof.

(e) Naval nuclear propulsion plants, their land prototypes and special facilities for their construction, support, and maintenance, including any machinery, device, component, or equipment specifically developed or designed for use in such plants or facilities (see § 123.38).³

CATEGORY VII—TANKS AND MILITARY VEHICLES

(a) Military type armed or armored vehicles, military railway trains, and vehicles fitted with, designed, or modified to accommodate mountings for arms or other specialized military equipment.

(b) Military tanks, tank recovery vehicles, half-tracks, and gun carriers.

(c) Self-propelled guns and howitzers.

(d) Military trucks, trailers, holsts, and skids specifically designed for carrying and handling the articles in paragraph (a) of Categories III and IV; military mobile repair shops specifically designed to service military equipment.

(e) Military recovery vehicles.

(f) Amphibious vehicles (see § 121.07).³

(g) All specifically designed components, parts, accessories, attachments, and associated equipment, including military bridging and deep water fording kits, for the articles in this category.

CATEGORY VIII—AIRCRAFT, SPACECRAFT, AND ASSOCIATED EQUIPMENT

(a) Aircraft, including helicopters, designed, modified, or equipped for military purposes, including but not limited to the following: Gunnery, bombing, rocket or missile launching, electronic surveillance, reconnaissance, refueling, aerial mapping, military liaison, cargo carrying or dropping, personnel dropping, military trainers, drones, and lighter-than-air aircraft (see § 121.13).³

(b) Spacecraft including manned and unmanned, active and passive satellites.

(c) Military aircraft engines, except reciprocating engines, and spacecraft engines specifically designed or modified for the aircraft and spacecraft specified in paragraphs (a) and (b) of this category.

(d) Airborne equipment, including but not limited to, JATO units and airborne refueling equipment, specifically designed for use with the aircraft, spacecraft, and engines of the types in paragraphs (a), (b), and (c) of this category.

(e) Launching, arresting, and recovery equipment for the articles in paragraphs (a) and (b) of this category.

(f) Nonexpansive balloons in excess of 3,000 cubic feet capacity, except such types as are in normal sporting use.

(g) Power supplies and energy sources specifically designed for spacecraft.

(h) Components, parts, accessories, attachments, and associated equipment, including propellers and airfield matting, specifically designed or modified for the articles specified in paragraphs (a) through (g) of this category.

(i) Developmental aircraft components known to have a significant military application.

(j) Parachutes, except such types as are in normal sporting use, and complete canopies, harnesses, and platforms, and electronic release mechanisms therefor.

(k) Ground effect machines (GEMS), including surface effect machines and other air cushion vehicles, except such machines as are in normal commercial use, and all components, parts, accessories, attachments, and associated equipment specifically designed or modified for use with such machines.

(l) Inertial systems, and specifically designed components therefor, inherently capable of yielding accuracies of better than 1 to 2 nautical miles per hour c.e.p.

CATEGORY IX—MILITARY TRAINING EQUIPMENT

(a) Military training equipment includes but is not limited to attack trainers, radar target trainers, radar target generators, gunnery training devices, anti-submarine warfare trainers, target equipment, armament trainers, pilotless aircraft trainers, mobile training units, military flight simulation devices, operational flight trainers, flight simulators, radar trainers, instrument flight trainers, and navigation trainers.

(b) Components, parts, accessories, attachments, and associated equipment specifically designed or modified for the articles in paragraph (a) of this category.

CATEGORY X—PROTECTIVE PERSONNEL EQUIPMENT

(a) Military body armor (including armored vests), flak suits, and components and parts specifically designed therefor; military helmets, including liners.

(b) Partial pressure suits, pressurized breathing equipment, military oxygen masks, anti-"G" suits, protective clothing for handling guided missile fuel, military crash helmets, liquid oxygen converters used for aircraft (enumerated in Category VIII(a)), missiles, catapults, and cartridge-actuated devices utilized in emergency escape of personnel from aircraft (enumerated in Category VIII(a)).

(c) Protective apparel and equipment specifically designed for use with the articles in paragraphs (a) through (d) in Category XIV.

(d) Components, parts, accessories, attachments, and associated equipment specifically designed for use with the articles in paragraphs (a), (b), and (c) of this category.

CATEGORY XI—MILITARY AND SPACE ELECTRONICS

(a) Electronic equipment assigned a military designation, including but not limited to the following items: radar, active and passive countermeasures, counter countermeasures, underwater sound, computers, navigation, guidance, electronic fuzes, object-locating methods and means, displays that represent signals of military use, identification systems, missile and antimissile systems, telemetering and communications electronic equipment; and regardless of designation, any experimental or developmental electronic equipment specifically designed or modified for military application or for use with a military system.

(b) Electronic equipment specifically designed or modified for spacecraft and spaceflight.

(c) Components, parts, accessories, attachments, and associated equipment specifically designed for use or currently used with the equipment in paragraphs (a) and (b) of this category, except such items as are in normal commercial use.

CATEGORY XII—FIRE CONTROL, RANGE FINDER, OPTICAL, AND GUIDANCE AND CONTROL EQUIPMENT

(a) Fire control systems; gun and missile tracking and guidance systems; military infrared, image intensifier and other night sighting and night viewing equipment; military masers and military lasers; gun laying

equipment; range, position, and height finders and spotting instruments; aiming devices (electronic, gyroscopic, optic, and acoustic); bomb sights, bombing computers, military television sighting and viewing units, inertial platforms, and periscopes for the articles of this section.

(b) Inertial and other weapons or space vehicle guidance and control systems; spacecraft guidance, control, and stabilization systems; astro compasses; and star trackers.

(c) Components, parts, accessories, attachments, and associated equipment specifically designed or modified for the articles in paragraphs (a) and (b) of this category, except such items as are in normal commercial use.

CATEGORY XIII—AUXILIARY MILITARY EQUIPMENT

(a) Aerial cameras, space cameras, special purpose military cameras, and specialized processing equipment therefor; military photointerpretation, stereoscopic plotting, and photogrammetry equipment, and specifically designed components therefor.

(b) Speech scramblers, cryptographic devices (encoding and decoding), and specifically designed components therefor, ancillary equipment, and especially devised protective apparatus for such devices, components, and equipment.

(c) Self-contained diving and underwater breathing apparatus designed for a military purpose, and specifically designed components therefor.

(d) Armor plate.

(e) Concealment and deception equipment, including but not limited to, special paints, decoys, and simulators, and components, parts, and accessories specifically designed therefor.

(f) Energy conversion devices for producing electrical energy from nuclear, thermal, or solar energy, or from chemical reaction, specifically designed or modified for military application.

(g) Chemiluminescent compounds and solid state devices specifically designed or modified for military application.

CATEGORY XIV—TOXICOLOGICAL AGENTS AND EQUIPMENT; RADIOLOGICAL EQUIPMENT

(a) Chemical agents, including lung irritants, vesicants, lacrimators, and tear gases, sternalators and irritant smokes, and nerve gases and incapacitating agents (see § 121.08).²

(b) Biological agents adapted for use in war to produce death or disablement in human beings or animals or to damage crops and plants.

(c) Equipment for dissemination, detection, and identification of, and defense against the articles in paragraphs (a) and (b) of this category (see § 123.31).²

(d) Nuclear radiation detection and measuring devices, except such devices as are in normal commercial use.

(e) Components, parts, accessories, attachments, and associated equipment specifically designed or modified for the articles in paragraphs (c) and (d) of this category.

CATEGORY XV—HELIUM GAS

Contained helium and admixtures thereof (see §§ 121.14 and 123.36).²

CATEGORY XVI—NUCLEAR WEAPONS DESIGN AND TEST EQUIPMENT (SEE § 123.38)²

(a) Any article, material, equipment, or device which is specifically designed or

² This cross-referenced section refers to the regulations of the Office of Munitions Control, U.S. Department of State, Washington, D.C. 20520.

specifically modified for use in the design, development, or fabrication of nuclear weapons or nuclear explosive devices.

(b) Any article, material, equipment, or device which is specifically designed or specifically modified for use in the devising, carrying out, or evaluating of nuclear weapons tests or any other nuclear explosions, except such items as are in normal commercial use for other purposes.

(c) Cold cathode tubes such as krytrons and sprytrons.

CATEGORY XVII—CLASSIFIED ARTICLES

All articles, including technical data relating thereto, not enumerated herein, containing information which is classified as requiring protection in the interests of national defense.

CATEGORY XVIII—TECHNICAL DATA

Technical data relating to the articles designated in this subchapter as arms, ammunition, and implements of war (see §§ 125.01, 125.11, and 123.38).²

CATEGORY XIX—(RESERVED)

CATEGORY XX—OCEANOGRAPHIC AND ASSOCIATED EQUIPMENT

(a) Submersible vessels, manned and unmanned, designed for military purposes or having independent capability to maneuver vertically or horizontally at depths below 1,000 feet.

(b) Submersible vessels, manned or unmanned, designed in whole or in part from technology developed by or for the U.S. Armed Forces.

(c) Any of the articles in Categories VI, IX, XI, XIII and elsewhere in § 121.01² that may be used with submersible vessels.

(d) Equipment, components, parts, accessories, and attachments designed specially for any of the articles in paragraphs (a) and (b) of this category.

CATEGORY XXI—(RESERVED)

CATEGORY XXII—MISCELLANEOUS ARTICLES

Any article and technical data relating thereto not enumerated herein, having significant military applicability, determined by the Director, Office of Munitions Control, Department of State, in consultation with appropriate agencies of the Government and having the concurrence of the Department of Defense.

PART 371—GENERAL LICENSES

Sec.	Definition.
371.1	General provisions.
371.2	General License G-DEST; shipments of commodities to destinations not requiring a validated license.
371.3	General License GIT; intransit shipments.
371.4	General License GLV; shipments of limited value.
371.5	General License Baggage.
371.6	General License Tools of Trade.
371.7	General License GLD; dunnage.
371.8	General License Ship Stores.
371.9	General License Plane Stores.
371.10	General License Crew.
371.11	General License RCS; shipments to U.S. or Canadian vessels, planes, and airline installations or agents.
371.12	General License GUS; shipments to personnel and agencies of the U.S. Government.
371.13	General License GLC; exports of commercial vehicles by certain civil airlines and by private or common carriers.
371.14	

- Sec.
 371.15 General License GTP-U.S.; goods imported for display at U.S. exhibitions or trade fairs.
 371.16 General License GTP-F; goods temporarily exported for display at foreign exhibitions or trade fairs.
 371.17 General License GLR; return of certain commodities imported into the United States.
 371.18 General License GIFT; shipments of gift parcels.
 371.19 General License GATS; aircraft on temporary sojourn.
 371.20 General License GMS; shipments under the Mutual Security Act.
 371.21 General License GTDA and GTDR; technical data.
 371.22-371.50 [Reserved]
 371.51 Supplement 1; exceptions to Country Group W validated license requirement; incorporation by reference.

Authority: The provisions of this Part 371 issued under sec. 3, 63 Stat. 7; 50 U.S.C. App. 2023; E.O. 10945, 26 F.R. 4487, 3 CFR 1959-1963 Comp.; E.O. 11038, 27 F.R. 7003, 3 CFR 1959-1963 Comp.

§ 371.1 Definition.

A "general license" is a license established by the U.S. Department of Commerce permitting export within the provisions thereof as prescribed in the Export Control Regulations.¹ No application is required for its use and no document issued. A general license is not applicable to the export of commodities or technical data under the licensing jurisdiction of agencies other than the Department of Commerce.

§ 371.2 General provisions.

(a) *Export declarations.* No export may be made pursuant to any general license unless, prior to such export, whenever required by the Export Control Regulations, or by the Census Bureau Foreign Trade Statistics Regulations, a Shipper's Export Declaration describing the commodity or commodities to be exported has been filed with the customs office at the port of export or with the Postmaster at the place of mailing; or unless, at the time of such export, whenever the filing of a declaration is not required, an oral export declaration describing the commodity(ies) is made to a customs officer at the port of export.

(b) *Use of general license symbol.*—(1) *Shipper's export declaration.* A person exporting any commodity or technical data pursuant to any general license shall enter on any required Shipper's Export Declaration, the general license symbol authorizing the export. The use of such symbol shall constitute a certification by the exporter that the terms, provisions, and conditions of the general license have been met.

(2) *Mail shipments.* (1) Except as provided in subdivision (1) of this subparagraph, the general license symbol shall be entered on the address side of the parcel wrapper and shall be followed by the phrase "Export License Not Required." The use of such symbol and

phrase constitutes a certification by the exporter that the terms, provisions, and conditions of the general license have been met.

(ii) Neither the symbol nor the phrase is required if the material meets the provisions of General License GTDA or GTDR, or if it does not require a validated license for shipment to any destination. In the latter instance, the word "none" appears on the Commodity Control List in the column headed "Validated License Required for Shipment to Country Groups Shown Below".

(c) *Prohibited shipments.* No general license may be used to effect an export to any destination if:

(1) The general license has been suspended, revoked, or is otherwise not applicable to the intended destination. (General licenses and other authorizations to export may, at any time without prior notice, be revised, suspended, or revoked by the Office of Export Control, as set forth in § 370.3(b) of this subchapter, whenever there is reason to believe that the export regulations have been, or will be violated.);

(2) The commodity and/or technical data will be unladen from a vessel or aircraft in Country Group Y or Z, or will move in transit through Country Group Y or Z, en route to another country, except as provided in § 370.9 of this subchapter.

(3) The shipment, except for an export of a commodity under General License RCS (see § 371.12), is destined to, or for the use of, a foreign vessel or aircraft whether an operating vessel or aircraft or one under construction, located in any port including a Canadian port, unless a general license permits the shipment to be made (i) to the country in which the vessel or aircraft is located, and (ii) to the country in which the vessel or aircraft is registered, or will be registered in the case of a vessel or aircraft under construction, and (iii) to the country, including a national thereof, which is currently controlling, leasing, or chartering the vessel or aircraft.

(4) The export of the commodity and/or technical data is contrary to a denial or probation order listed in Supplement No. 1 to Part 388 of this subchapter;

(5) The exporter knows or has reason to believe that the commodity and/or technical data will be reexported from the country of the foreign purchaser and/or ultimate consignee, and such reexport has not been approved by the Office of Export Control either specifically or by general authorization in the Export Control Regulations, or is otherwise prohibited by the Export Control Regulations. (See Part 374 of this subchapter);

(6) The commodity is related to nuclear weapons, nuclear explosive devices, or nuclear testing as described in § 378.1 of this subchapter or the technical data to be shipped is related to nuclear weapons, nuclear explosive devices, or nuclear testing, as described in § 379.4(c)

(1) of this subchapter, unless the technical data may be exported under the provisions of General License GTDA;

(7) The commodity is an electronic, mechanical, or other device, as described in § 376.13 of this subchapter, primarily useful for surreptitious interception of wire or oral communications, except that such commodity may be exported under General License GUS (§ 371.13) or GMS (§ 371.20); or

(8) The commodity is not listed on the Commodity Control List (§ 399.1 of this subchapter).

(d) *Choice of general license.* When two or more types of general licenses are applicable, any one of such general licenses may be used. However, exports of commodities under any applicable general license on a vessel or aircraft of foreign registry departing from the United States for use on board such vessel or aircraft must conform to the requirements for export under General License Ship Stores or General License Plane Stores. (See §§ 371.9 and 371.10.)

(e) *Country groups.* When a commodity can be exported under a general license to a particular country group (see Supplement 1 to Part 370 of this subchapter for list of country groups) it may, subject to the provisions of the Export Control Regulations, be exported to any destination in that country group. Conversely, if the commodity cannot be exported to a particular country group, it cannot be exported to any destination in that group.

(f) *Consignee/consignor control under general license.* (1) General licenses may be revoked or suspended as to any person within or without the United States by an order issued pursuant to the provisions of Part 388 of this subchapter.

(2) Subject to the provisions of each general license, shipments may be made thereunder by any consignor to any consignee in any destination except persons for whom the general license privilege has been revoked or suspended.

(g) *Recordkeeping.* The Export Control Regulations require the keeping of records. See § 387.11 of this subchapter.

§ 371.3 General License G-DEST; shipments of commodities to destinations not requiring a validated license.

(a) *Scope.* A general license designated G-DEST is established, authorizing, subject to the provisions of this § 371.3, the export of any commodity listed on the Commodity Control List to any destination for which a validated license is not required by the information set forth in the column titled "Validated License Required for Country Groups Shown Below." One or more country group symbols are entered in the column referred to above indicating that a validated license is required for any destination in that country group. If the symbol for the country group which includes the destination of a proposed export is listed, a validated export license is required and General License G-DEST is inapplicable. Conversely, if the country group symbol which includes the proposed destination is not shown in that column, then the export may be made under the provisions of General License G-DEST. (See § 370.9 of this subchapter for regulations relating to shipments

¹ See Table of General Licenses at end of Summary preceding Part 368 for a brief statement of the provisions of each General License.

transiting Country Group Y or Z en route to another country.)

(b) *Footnotes to Commodity Control List.* If a footnote to the Commodity Control List (§ 399.1 of this subchapter) modifies or alters any provision of General License G-DEST, the provisions of the footnotes shall govern.

(c) *Exceptions to validated license requirement for Romania.* The commodities listed in Supplement No. 1 to this Part 371 are exportable to Romania under this general license regardless of the symbol "W" shown in the column entitled "Validated License Required for Country Groups Shown Below" on the Commodity Control List.

§ 371.4 General License GIT; intratit shipments.

(a) *Scope.* (1) A general license designated GIT is established, authorizing, subject to the provisions of this § 371.4, the export from the United States of commodities which originate in one foreign country and are destined to another foreign country: *Provided*, That such commodities are moving in transit¹ through the United States under a Transportation and Exportation (T. & E.) customs entry or an Immediate (I.E.) customs entry made at a U.S. Customs Office.

(2) Only those exports of foreign origin which, if of United States origin, could be made to Country Group S, W, X, Y, or Z (excluding Cuba), respectively, under the provisions of a general license, may be exported to those destinations under General License GIT.

(3) "Commodities which originate in a foreign country" includes not only commodities grown, produced or manufactured in a foreign country, but also those commodities originally grown, produced, or manufactured in the United States, so altered by further processing, manufacture, or assembly in a foreign country that they have either been substantially enhanced in value, or have lost their original identity with respect to form.

(b) *Shipments excepted from the provisions of General License GIT.* In addition to the prohibited shipments listed under § 371.2(c) the following may not be exported or reexported from the United States under General License GIT:

(1) Commodities shipped to the United States under the provisions of a Form

¹ See § 370.5 regarding shipments moving in transit via the United States without unloading and § 372.8 (a) for export license application requirements for intratit shipments where General License GIT is not applicable.

² A commodity withdrawn from a bonded warehouse in the United States under a "withdrawal for export" customs entry is considered as "moving in transit" within the meaning of General License GIT. It is not considered as "moving in transit" if it is withdrawn from a bonded warehouse under any other type of customs entry or if its transit has been broken for a processing operation, regardless of the type of customs entry.

FC-826, International Import Certificate; and

(2) Commodities disposed of by U.S. Government agencies under foreign excess property disposal programs.

(c) *Shipments originating in Canada.*

(1) The provisions of General License GIT are applicable, as modified herein, to all shipments from Canada moving in transit through the United States to any foreign destination, regardless of the origin of the commodities. For each such shipment, the customs officer at the U.S. port of export shall require a copy of Form B-13, Canadian Customs Entry, certified or stamped by the Canadian customs authorities, except where the shipment is made under a validated U.S. export license or applicable U.S. general license other than General License GIT, or is valued at less than \$50. Where the commodity description, quantity, ultimate consignee, country of ultimate destination, or any other pertinent detail of such shipment is not the same on the U.S. Shipper's Export Declaration as that on the required Form B-13, a corrected Form B-13 authorizing the shipment is required.

(2) Any parties to the export shall submit any further proof that the customs officer at the U.S. port of entry or the port of export may require to enable him to determine that General License GIT applies, including the fact that the destination of the shipment is properly authorized by the Canadian authorities. An export shall not be cleared for shipment by the customs officer at the U.S. port of export under General License GIT unless all provisions of this general license have been complied with.

§ 371.5 General License GLV; shipments of limited value.

(a) *Scope.* A general license designated GLV is established, authorizing subject to the provisions of this § 371.5, the export in a single shipment of any commodity on the Commodity Control List:

(1) To a destination in Country Group T, V, or X, provided that the net value of the commodity included in a single entry does not exceed the GLV dollar-value limit specified for each respective Country Group in the column headed "GLV \$ Value Limits for Shipments to Country Groups T, V, X";¹ and

(2) From the U.S. Virgin Islands to the British Virgin Islands, provided that the net value of the shipment does not exceed \$500 or the amount specified as the GLV dollar-value limit for Country Group T, whichever is greater.

(b) *Definitions.*—(1) "Net value." The actual selling price less shipping charges, or the current market price to the same type of purchaser in the United States, whichever is the larger.

(2) "Single shipment." A shipment of commodities moving at the same time

¹ Where a dash (—) is indicated in the column, the commodity may not be shipped to that Country Group under General License GLV. Another general license, however, may be applicable.

from one exporter to one consignee or intermediate consignee on the same exporting carrier even though such shipment is to be forwarded to one or more ultimate consignees. However, not more than one shipment may be made by parcel post or mail per calendar week from one exporter to one consignee or intermediate consignee.

(c) *Evasion of "single shipment" provisions.* Any device used to evade the validated export license requirements is prohibited. Such devices include but are not limited to (1) splitting orders from a single consignee into two or more GLV shipments where the total value exceeds the maximum GLV dollar-value limit specified for a single shipment; and (2) soliciting from a single consignee a number of separate orders that conform to GLV dollar-value limits but which have a combined value in excess thereof.

§ 371.6 General license baggage.

(a) *Scope.* A general license designated baggage is established, authorizing subject to the provisions of this § 371.6, a person leaving the United States to take to any destination, as personal baggage, accompanied or unaccompanied, the classes of commodities listed in paragraph (b) (1), (2), and (3) of this section, provided the commodities are owned by such person or members of his immediate family; are intended for and necessary and appropriate for the use of such person or members of his immediate family; and are not intended for sale. Accompanied baggage is that taken by a person departing from the United States on the same carrier on which he departs. Unaccompanied baggage is baggage sent from the United States on a carrier other than that on which a person departs. Unaccompanied shipments under this general license shall be clearly marked "Baggage." Shipments of unaccompanied baggage may be made at the time of, or within a reasonable time prior to or after, departure of the consignee or owner from the United States. However, only commodities identified by the symbol "B" in the last column of the Commodity Control List may be taken out of the United States to Country Group S, W, Y, or Z under this general license. This general license may not be used by members of crews of vessels or aircraft (see § 371.11 for General License Crew).

(b) *Definitions.*—(1) *Personal effects.* Usual and reasonable kinds and quantities of wearing apparel, articles of personal adornment, toilet articles, medicinal supplies, food, souvenirs, games, and similar personal effects, and their containers. As used here, usual and reasonable quantities and kinds of food should be limited, generally, to the quantities and kinds necessary and appropriate for use by a traveler or members of his immediate family during the outgoing and any immediate return voyage. For example, such quantities of food as would obviously be intended for consumption or other distribution after the voyage is completed are not included under this general license.

(2) *Household effects.* Usual and reasonable kinds and quantities of furniture, household effects, household furnishings, and their containers.

(3) *Vehicles.* Usual and reasonable kinds and quantities of vehicles, such as passenger cars, station wagons, trucks, trailers, motorcycles, bicycles, tricycles, perambulators, and their containers.

(c) *Customs authority to limit or prohibit shipments.* Customs officers shall limit or prohibit the export of any commodity(ies) under General License Baggage if the kind or quantity is in excess of the limitations set forth in this Section, or if they shall have cause to suspect that such export is being made for the purpose or with intent to evade any of the Export Control Regulations.

§ 371.7 General License Tools of Trade.

(a) *Scope.* A general license designated Tools of Trade is established, authorizing subject to the provisions of this § 371.7, a person leaving the United States to take abroad usual and reasonable kinds¹ and quantities of tools necessary in his trade, occupation, or employment under the conditions described in subparagraphs (1) and (2) of this paragraph. In all instances such tools must accompany the person leaving the United States.

(1) *Tools owned by person leaving the United States.* Such tools may be taken to any destination, provided:

(i) The tools consist of implements or instruments used in such person's trade, occupation, or employment (containers for such implements or instruments may be included);

(ii) The tools are for the personal use of the person taking the commodities abroad;

(iii) The tools will not be sold abroad; and

(iv) Only tools identified by the symbol "B" in the last column of the Commodity Control List may be exported or reexported under this general license to Country Group S, W, Y, or Z.

(2) *Tools not owned by person leaving the United States.* Where the person leaving the United States does not own the tools, such tools may be taken to any destination except Country Group W, X, Y, or Z for use in installing, inspecting, testing, calibrating, or repairing any type of commodity subject to the following conditions:

(i) Only tools identified by the symbol "B" in the last column of the Commodity Control List may be exported to Country Group S;

(ii) The tools consist of instruments or implements used in installing, inspecting, testing, calibrating, or repairing any type of commodity (containers for such instruments or implements may be included);

(iii) The tools are exported temporarily and are not sold abroad;

(iv) From the time the tools are exported until they are returned to the United States, they will be under the control of a person who is employed by or

acting as agent for the owner of the tools;

(v) The owner of the tools or a responsible official of the organization owning the tools promptly informs the Office of Export Control by letter that the tools will be or have been shipped under General License Tools of Trade. This letter shall be addressed to the Office of Export Control, Attention: 854, U.S. Department of Commerce, Washington, D.C. 20230, and shall include the following information:

(a) General description and approximate value of the tools;

(b) Temporary destination of the tools;

(c) Date the tools will be or were shipped; and

(d) The following certification:

I (We) hereby certify that the tools described in this letter (1) will be used in installing, inspecting, testing, calibrating, or repairing a commodity; (2) will not be exported or reexported contrary to the provisions of § 371.7(a) (2) of the Export Control Regulations; and (3) that (name of person) is authorized by (me) (us) to take these tools abroad.

(b) *Customs authority to limit or prohibit shipments.* Customs Officers shall limit or prohibit the export of any commodity(ies) under General License Tools of Trade if the kind or quantity is in excess of the limitations set forth in this section, or if they have cause to suspect that such export is being made for the purpose, or with intent, to evade any provision of the Export Control Regulations.

§ 371.8 General License GLD; dunnage.

A general license designated GLD is hereby established, authorizing subject to the provisions of this § 371.8, the export to any destination except Country Group Z (excluding Cuba), of usual and reasonable¹ kinds and quantities of dunnage necessary and appropriate to stow or secure cargo on the outgoing and any immediate return voyage of an exporting carrier, when exported solely for use as dunnage, not intended for unloading in a foreign country and not exported under a bill of lading.

§ 371.9 General License Ship Stores.

(a) *Scope.* A general license designated Ship Stores is hereby established, authorizing subject to the provisions of this section, the export on vessels of U.S. or foreign registry departing from the United States, of usual and reasonable¹ kinds and quantities of the commodities indicated in subparagraph (1) of this paragraph, provided such commodities are not intended for unloading in a foreign country and are not exported under a bill of lading as cargo.²

(1) The commodities listed below may be exported, subject to the conditions set forth in paragraph (b) of this section, for use or consumption on board a vessel of any registry, during the outgoing and immediate return voyage, except a vessel

¹ See § 371.6(b) (1).

² When a validated license is required, see § 372.4.

registered in, owned or controlled by, or under charter or lease to a Country Group Z country or a national of such country.

(1) Bunker fuel;

(ii) Deck, engine, and steward department stores, provisions and supplies for both port and voyage requirements;

(iii) Medical and surgical supplies;

(iv) Food stores;

(v) Slop chest articles; and

(vi) Saloon stores or supplies.

(2) Equipment and spare parts for permanent use on a vessel, when necessary for the proper operation of such vessel, may be exported on board a vessel of any registry, except a vessel registered in, owned or controlled by, or under charter or lease to a Country Group W, Y, or Z country or a national of any of these countries.

(b) *Restrictions on petroleum and petroleum products*—(1) *Far eastern communist countries.* No export of petroleum or petroleum products (including those used as bunker fuel) listed in subparagraph (4) of this paragraph may be made under this general license on a foreign vessel of 500 gross registered tons or more departing from the United States for use on board such vessel if the vessel (i) has called at a port under Far Eastern Communist control³ during the 180 days immediately preceding the date on which such commodities are to be laden aboard the vessel; (ii) will call at a port under Far Eastern Communist control within 120 days after the date on which such commodities are laden aboard the vessel; (iii) will carry within the next 120 days any commodities known by the owner, master, or agent to be destined directly or indirectly to these ports, unless the commodities are covered by an export license issued by an agency of the U.S. Government; or (iv) meets the registry restrictions in subparagraph (3) of this paragraph.

(2) *Cuba.* No export of petroleum or petroleum products (including those used as bunker fuel) listed in subparagraph (4) of this paragraph may be made under this general license on any foreign vessel regardless of tonnage, departing from the United States for use on board such vessel, if the vessel (i) will call at a port under Cuban control on its current voyage or (ii) is ineligible to carry U.S. Government financed cargo because it has called at a port under Cuban control at any time since January 1, 1963; or (iii) meets the registry restrictions in subparagraph (3) of this paragraph.

(3) *Registry restrictions.* No export of petroleum or petroleum products listed in subparagraph (4) of this paragraph (including those used as bunker fuel)

³ "Port under Far Eastern Communist control" means a port in any of the following destinations: (1) China, including Inner Mongolia, the provinces of Tsinghai and Sikkang, Sinkiang, Tibet, and Manchuria (including the former Kwantung Leased Territory, the present Port Arthur Naval Base Area and Liaoning Province); but excluding Outer Mongolia and Republic of China (Taiwan) (Formosa); (2) Communist-controlled areas of Vietnam; and (3) North Korea.

¹ See § 371.6(b) (1).

may be made under this general license on a foreign vessel of 500 gross registered tons or more departing from the United States, for use on board such vessel, if the vessel is registered in, owned or controlled by, or under charter or lease to a country including in Country Group W, Y, or Z, or a national of any of these countries. No such export may be made on a foreign vessel, regardless of tonnage, if the vessel is registered in, owned or controlled by, or under charter or lease to a Cuban national.

(4) *Restricted commodities.* Subparagraphs (1), (2), and (3) of this paragraph apply to the following commodities:

Export Control Commodity Number and Commodity Description

331	Petroleum crude (including shale oil).
33210	Gasoline, excluding jet fuel.
33210	Gasoline blending agents, hydrocarbon compounds only, n.e.c.
33230	Jet fuels, all types.
33230	Kerosene.
33230	Distillate fuel oils.
33240	Residual fuel oils.
33250	Cylinder bright stock (including bright stock and industrial lubricating oils which are predominantly bright stock and have a Saybolt Universal Viscosity at 210° F (98.8° C) of 95 seconds or more).
33250	Lubricating oils and greases.
33262	Mineral waxes.
33291	Aliphatic naphtha, in containers over 4 oz.; mineral spirits, solvents, and other finished light aliphatic products, n.e.c.
33291	Insulating or transformer oils, cutting oils, white mineral oils (excluding medicinal grade).
33294	Petroleum coke.
33295	Petroleum bitumen and other petroleum and shale oil residues.
33296	Bituminous mixtures, based on asphalt, petroleum, etc.

§ 371.10 General License Plane Stores.

(a) *Scope.* A general license designated Plane Stores is established, subject to the provisions of this § 371.10, authorizing the export on aircraft of U.S. or foreign registry departing from the United States, of usual and reasonable¹ kinds and quantities of the commodities indicated in subparagraph (1) of this paragraph provided such commodities are not intended for unloading in a foreign country and are not exported under a bill of lading as cargo.²

(1) The following commodities may be exported, subject to the conditions set forth in paragraph (b) of this section, for use or consumption on board an aircraft of any registry, during the outgoing and immediate return flight, except an aircraft registered in, owned or controlled by, or under charter or lease to a Country Group Z country (excluding Cuba) or a national of any of these countries:

- (i) Fuel;
- (ii) Deck, engine, and steward department stores, provisions and supplies for both port and voyage requirements;
- (iii) Medical and surgical supplies;

¹ See § 371.5(b)(1).

² Where a validated license is required, see § 372.4.

- (iv) Food stores;
- (v) Slop chest articles; and
- (vi) Saloon stores or supplies.

(2) Equipment and spare parts for permanent use on an aircraft, when necessary for the proper operation of such aircraft, may be exported on board an aircraft of any registry, except an aircraft registered in, owned or controlled by, or under charter or lease to a country included in Country Group W, Y, or Z (excluding Cuba), or a national of any of these countries.

(b) *Restrictions on petroleum and petroleum products for use on aircraft.* No export of petroleum or petroleum products (including those used as fuel) listed in § 371.9(b)(4) may be made under this general license on a foreign aircraft of 12,000 pounds or more gross load departing from the United States, for use on board such aircraft, if the aircraft (1) has called at any point under Far Eastern Communist control³ during the 30 days immediately preceding the date on which such commodities are to be laden aboard the aircraft, (2) will call at any point under Far Eastern Communist control within 30 days after the date such commodities are laden aboard the aircraft, (3) will carry within this 30-day period commodities, of any origin, known by the owner, aircraft commander, or agent to be destined directly or indirectly to any point under Far Eastern Communist control, unless the commodities so carried are covered by an export license issued by an agency of the U.S. Government, or (4) is registered in, owned or controlled by, or under charter or lease to a country included in Country Group W, Y, or Z (excluding Cuba), or a national of any of these countries.

§ 371.11 General License Crew.

(a) *Scope.* A general license designated Crew is established, authorizing, subject to the provisions of this § 371.11, a member of the crew on an exporting carrier to export among his effects the following classes of commodities:

(1) *Personal effects.* Usual and reasonable¹ kinds and quantities of wearing apparel, articles of personal adornment, toilet articles, medicinal supplies, food, souvenirs, games, and similar personal effects and their containers.

(2) *Household effects.* Usual and reasonable kinds and quantities of furniture, household effects, household furnishings, and their containers.

(b) *Limitation.* The personal and household effects may include only those articles (1) owned by such crew member; (2) intended, necessary, and appropriate for use by him or his immediate family; (3) in his possession at the time of his departure from the United States;

³ "Point under Far Eastern Communist control" means any point in any of the following destinations: (1) China, including Inner Mongolia, the provinces of Tsinghai and Sikang, Sinkiang, Tibet, and Manchuria (including the former Kwantung Leased Territory, the present Port Arthur Naval Base Area and Liaoning Province); but excluding Outer Mongolia and Republic of China (Taiwan) (Formosa); (2) Communist-controlled areas of Vietnam; and (3) North Korea.

(4) not intended for resale; (5) not exported under a bill of lading as cargo; (6) not intended for import into a Country Group Z country; and (7) not exported from the United States on a carrier registered in a Country Group Z country.

§ 371.12 General License RCS; shipments to U.S. or Canadian vessels, planes, and airline installations or agents.

(a) *Scope.* A general license designated RCS is established authorizing, subject to the provisions of this § 371.12, exports to any destination except Country Groups Y and Z (excluding Cuba).

(b) *Exports to vessels or planes of U.S. or Canadian registry.* Export may be made of the commodities set forth in paragraph (d) of this section, for use by or on a specific vessel or plane of United States or Canadian registry located at any seaport or airport outside the United States or Canada except a port in Country Group Y or Z (excluding Cuba), provided that such commodities are:¹

- (1) Ordered by the person in command or the owner or agent of the vessel or plane to which they are consigned;
- (2) Intended to be used or consumed on board such vessel or plane and necessary for its proper operation;
- (3) In usual and reasonable² kinds and quantities; and
- (4) Shipped as cargo for which a Shipper's Export Declaration is filed with a Customs Office.

(c) *Exports to U.S. or Canadian airline's installation or agent.* Export may be made of the commodities set forth in paragraph (d) of this section, to a United States or Canadian airline's² installation or agent in any foreign destination except Country Group Y or Z (excluding Cuba), provided such commodities are:¹

- (1) Ordered by a United States or Canadian airline and consigned to its own installation or agent abroad;
- (2) Intended for maintenance, repair, or operation of aircraft registered in either the United States or Canada, and necessary for the aircraft's proper operation, except where such aircraft is located in, or owned, operated or controlled by, or leased or chartered to, a Country Group Y or Z country (excluding Cuba) or a national of such country;
- (3) In usual and reasonable kinds and quantities; and
- (4) Shipped as cargo for which a Shipper's Export Declaration is filed with a Customs Office.

(d) *Applicable commodities.* This general license applies to the following commodities:

- (1) Fuel;
- (2) Deck, engine, and steward department stores, provisions and supplies;
- (3) Medical and surgical supplies;
- (4) Food stores;

¹ Where a validated license is required, see § 372.4.

² See § 371.6(b)(1).

³ See § 370.2 for definitions of United States and Canadian airlines.

- (5) Slop chest articles;
- (6) Saloon stores or supplies; and
- (7) Equipment and spare parts.

§ 371.13 General License GUS; shipments to personnel and agencies of the U.S. Government.

(a) *Scope.* A general license designated GUS is established, authorizing, subject to the provisions of this § 371.13, exports to any destination as follows:

(1) *Commodities for personal use.* Commodities in quantities sufficient only for the personal use of members of the U.S. Armed Forces or civilian personnel of the U.S. Government (including U.S. representatives to public international organizations), and their immediate families and servants in each case. Commodities for personal use include household effects, food, beverages, and other daily necessities.

(2) *Commodities for official use.* Any commodity consigned to and for the official use of any agency of the U.S. Government.

(b) *Definition of U.S. Government agency.* The term "agency of the U.S. Government" includes all civilian and military departments, branches, missions, Government-owned corporations, and other agencies of the U.S. Government, but does not include such national agencies as the American Red Cross or international organizations in which the United States participates such as the Organization of American States. Therefore, shipments may not be made under this general license to these non-Government national or international agencies.

§ 371.14 General License GLC; exports of commercial vehicles by certain civil airlines and by private or common carriers.

(a) *Scope.* A general license designated GLC is established, authorizing, subject to the provisions of this § 371.14, exports of air and other carriers as follows:

(b) *Air carriers.* Civil aircraft operating under an Air Carrier Operating Certificate, Commercial Operating Certificate, or Air Taxi Operating Certificate issued by the Federal Aviation Agency or operating under specifications approved by the Federal Aviation Agency pursuant to Part 129 of the regulations of the Federal Aviation Agency, may depart from the United States for any destination other than a destination in Country Group S, Y, or Z (excluding Cuba); except that U.S. registered aircraft shall not depart from the purpose of sale, resale, or lease, charter, or any other disposition to a foreign country or any national thereof, and except that the aircraft's U.S. registration shall not be changed while abroad.

(c) *Other carriers.* Trucks, busses, tractors, railroad rolling stock, and other commercial vehicles when operated by private or common carriers between the United States and other countries may be exported to any destination except in Country Group S, Y, or Z, provided that

such vehicles, except those imported into the United States from a foreign country, shall not be exported for resale.

§ 371.15 General License GTF-U.S.; goods imported for display at U.S. exhibitions or trade fairs.

(a) *Scope.* A general license designated GTF-US is established, authorizing, subject to the provisions of this § 371.15, the export of commodities that (1) were imported into the United States for display at an exhibition or trade fair, and (2) were either entered under bond or permitted temporary free importation under bond providing for their export and are being exported in accordance with the terms of such bond.

(b) *Return to country from which imported.* Such commodities may be returned to the country from which imported into the United States except to Country Group S or Z.

(c) *Exports to other destinations.* Such commodities may be exported to any destination other than the country from which imported except:

(1) Commodities imported into the United States pursuant to an International Import Certificate, or

(2) Exports to Country Group S, W, X, Y, or Z destinations.

§ 371.16 General License GTF-F; goods temporarily exported for display at foreign exhibitions or trade fairs.

(a) *Scope.* A general license designated GTF-F is established authorizing, subject to the provisions of this § 371.16, the temporary export of commodities for the purpose of display, exhibition, or demonstration at a foreign exhibition(s) or trade fair(s) in Country Group T or V.¹ The terms "foreign exhibition" and "trade fair" as used in this regulation apply only to foreign exhibitions and trade fairs which are open either to the general public or to a recognized segment of industry. These terms do not relate to private demonstrations in a foreign country.

(b) *Commodity exceptions.* The following commodities are excluded from this general license:

(1) Any commodity related to nuclear weapons, nuclear explosive devices, or nuclear testing, as set forth in § 378.1 of this subchapter;

(2) Maritime (civil) nuclear propulsion plants, their land prototypes, and special facilities for their construction, support, or maintenance, including any machinery, devices, components, or equipment specifically developed or designed for use in such plants or facilities;

(3) Electronic, mechanical, or other devices, as described in § 376.13(a) of this subchapter, primarily useful for surreptitious interception of wire or oral communications; and

(4) The following additional commodities:

¹ Application for validated export license for commodities going to foreign trade fairs or exhibitions, but not qualifying under any general license, should be prepared in accordance with § 372.8(c).

Export Control Commodity Number and Commodity Description

68321	Bars, rods, angles, shapes, and sections of porous nickel having a purity of 99 percent or more.
68322	Plates, sheets, strips, and foil of porous nickel having a purity of 99 percent or more.
68323	Tubes, pipes, blanks, and fittings therefor, and hollow bars of porous nickel having a purity of 99 percent or more.
72970	Neutron generators employing the electrostatic acceleration of ions; and parts.
86140	Streak cameras capable of recording events which are not initiated by the camera mechanism; and parts and accessories.
86140	High-speed cameras, as follows: (a) Recording cameras in which the film does not move, and which are capable of recording at rates exceeding 250,000 frames per second for the full framing height of standard 35 mm. wide film, or proportionately higher rates for lesser frame heights, or proportionately lower rates for greater frame heights; and (b) cameras having shutter speeds of less than one microsecond per operation; and parts and accessories.
86140	Photographic micro-flash equipment capable of giving a flash of 1/100,000 second or shorter duration at a minimum recurrence frequency of 200 flashes per second; and parts and accessories.
86150	High-speed recording cameras (cine), as follows: (a) Cameras in which the film is continuously advanced and which are capable of recording at rates greater than 3,000 frames per second at full framing heights of standard 35 mm. wide film or proportionately higher rates for lesser frame heights, or proportionately lower rates for greater frame heights; and (b) cameras (cine) in which the film is intermittently advanced, being automatically locked in place for each frame, and which are capable of recording at the following rates for full frame heights: (i) greater than 250 frames per second for 16 mm. wide film; (ii) greater than 130 frames per second for 35 mm. wide film; or (iii) greater than 50 frames per second for 70 mm. wide film; and parts and accessories.

(c) *Return of commodities to the United States.* The U.S. exporter shall return all commodities exported under this general license to the United States within sixty (60) days after the close of the exhibition or trade fair, unless:

(1) The commodities will be displayed in additional exhibition(s) or trade fair(s) located in Country Group T or V within 1 year after export from the United States. In this instance, the commodities shall be returned to the United States within 60 days after the end of this final exhibition or trade fair or the 1-year period, whichever is earlier; or

(2) Authorization is received from the Office of Export Control to sell or otherwise dispose of the commodities abroad, in accordance with the procedure described below.

(d) *Request for authorization to dispose of commodities outside the United States.* If the U.S. exporter wishes to

sell or otherwise dispose of the commodities outside the United States, he shall request authorization therefor by letter to the Office of Export Control (Attention: 852), U.S. Department of Commerce, Washington, D.C. 20230, setting forth: the date the commodities were exported from the United States; Export Control Commodity Number(s); description, quantity, value, present location, and proposed disposition of the commodities; and the name, address, and identity of each party to the proposed transaction. Further, such request shall comply with any special provisions of the Export Control Regulations covering exports directly from the United States to the proposed destination, and shall be accompanied by any documents that would be required in support of an application for export license for shipment of the same commodities directly from the United States to the proposed destination. The Office of Export Control will advise the U.S. exporter of its action by letter.

(e) *Additional copy of Shipper's Export Declaration.* When clearing shipments under this general license, the exporter shall submit to the Customs Office or Postmaster an additional copy of the Shipper's Export Declaration entering the notation "854" in the upper right corner.

§ 371.17 General License GLR; return of certain commodities imported into the United States.

A general license designated GLR is established, authorizing, subject to the provisions of this § 371.17, the return of certain commodities to the destination from which imported into the United States. When an export is made under the provisions of paragraphs (a) through (e) of this section, the U.S. Customs Entry Number (if any), the country from which the commodities were imported, and the port of entry shall be shown on the Shipper's Export Declaration.

(a) *Commodities sent to the United States for inspection, testing, calibration or repair.* (1) Any commodity sent to the United States for inspection, testing, calibration or repair may be exported under this general license to the country from which it was sent, except as indicated in subparagraph (2) of this paragraph. The commodity returned may include any replacement or rebuilt parts necessary to its repair and may be accompanied by any spare part, tool, accessory, or other item sent to the United States for use in connection with the inspection, testing, calibration, or repair.

(2) The provisions of this paragraph do not apply to:

(i) Exports to Country Group S, W, Y, or Z;

(ii) Commodities disposed of by U.S. Government agencies under foreign excess property disposal programs;

(iii) Commodities related to nuclear weapons, nuclear explosive devices or nuclear testing, as described in § 378.1 of this subchapter; and

(iv) Electronic, mechanical, or other devices, as described in § 376.13(a) of this

subchapter, primarily useful for surreptitious interception of wire or oral communications.

(b) *Containers.* General License GLR may be used for export of metal drums, gas cylinders, bags and other containers (whether manufactured in the United States or a foreign country) that are imported to transport contained commodities between (to or from) the United States and any destination other than Country Group S or Z, whether such container is exported (1) empty, (2) filled with a commodity being exported under a general license, or (3) filled with a commodity being exported under a validated license.

(c) *Commodities failing to conform to specifications or shipped without consent of consignee.* A commodity which does not conform to sample or other specifications, or was shipped without the consent of the consignee and is in the same condition it was in when imported into the United States, may be returned under this general license to the country from which it was imported with the exception of Country Group S or Z.

(d) *Return of shipments refused entry.* Shipments of commodities refused entry by the Bureau of Customs, the Food and Drug Administration, or other U.S. Government agency may be returned under this general license to the country of origin, except (1) a destination in Country Group S or Z, or (2) a destination from which the shipment has been refused entry because of the Foreign Assets Control Regulations of the Treasury Department unless such return is licensed or otherwise authorized by the Treasury Department, Foreign Assets Control.

(e) *Commodities exported for inspection, testing, calibration, repair, overhaul, and return to United States.* Any foreign manufactured commodity may be exported under this general license to the country from which originally imported into the United States or to the country in which manufactured (except to Country Group S, Y, or Z), for the purpose of being inspected, tested, calibrated, repaired or overhauled and returned to the United States. Such commodity shall be returned to the United States as soon as the repair or overhaul is completed. Where a commodity is returned to the country of manufacture and this is not the same country as the one from which the commodity was imported into the United States, the name and address of the manufacturer shall be shown on the Shipper's Export Declaration in addition to the information required by the first paragraph of this § 371.17.

(f) *Replacements for defective or unacceptable U.S.-origin parts or equipment.* (1) Any commodity may be exported under the provisions of this general license to replace a defective or unacceptable U.S.-origin part or equipment subject to the following conditions:

(i) No commodity may be exported to Country Group S, W, Y, or Z;

(ii) No commodity shall be exported to replace a defective part or equipment

owned or controlled by, or leased or chartered to a country included in Country Group S, W, Y, or Z, or a national of any of these countries;

(iii) No commodity shall be exported to replace any part or equipment that is worn out from normal use;

(iv) The replacement commodity shall not be technologically advanced over that replaced;

(v) The commodity replaced shall have been previously exported under a validated export license;

(vi) The commodity replaced shall either be destroyed abroad or returned to the United States prior to or promptly after, the replacement is exported from the United States;

(vii) The defective commodity shall be replaced free of charge, except for transportation and labor charges;

(viii) No replacement part or equipment may be exported under this general license if it is to be incorporated into or used in nuclear weapons, nuclear explosive devices, or nuclear testing, as described in § 378.1 of this subchapter; and

(ix) No replacement of any defective part or equipment may be exported under this general license if the replacement is to be incorporated into or used in any electronic, mechanical, or other device, as described in § 376.13(a) of this subchapter that is primarily useful for surreptitious interception of wire or oral communications.

(2) Any export made under this paragraph (f) shall be cleared with the customs officer in accordance with Part 387 of this subchapter except that the exporter or his duly authorized agent shall:

(i) Present to the customs officer an additional copy of the Shipper's Export Declaration in accordance with the provisions of Part 386 of this subchapter; and

(ii) Place the following certification, substituting the appropriate parenthetical phrases if applicable, on the Shipper's Export Declaration:

I (We) certify that the commodity(ies) described on this Declaration is (are) being exported under the provisions of General License GLR to replace a defective or unacceptable U.S. origin part or equipment previously exported from the United States under validated export license number _____ I (We) further certify that the defective or unacceptable part or equipment has been (shall be promptly) returned to the United States (destroyed abroad).

§ 371.18 General License Gift; shipments of gift parcels.

(a) *Scope.* (1) A general license designated Gift is established, authorizing, subject to the provisions of this section, the export of gift parcels free of charge by an individual in the United States (donor) addressed to an individual, or a religious, charitable, or educational organization (donee) located in any destination, except Country Group Z (excluding Cuba), for the use of the donee or the donee's immediate family. The payment by the donee of any handling charges, or of any fees levied by the importing country (e.g. import duties, taxes, etc.) are not considered to be a

cost to the donee for purposes of this definition of "gift parcel."¹

(2) A gift parcel, within the context of this general license, does not include multiple parcels exported in a single shipment for delivery to individuals residing in a foreign country. Such multiple gift parcels, unless authorized by one of the other general licenses set forth in this part, must meet the requirements of a validated license, including the submission of an application for validated export license.

(3) An individual gift parcel may also be exported under any other applicable general license, such as GLV or G-DEST, or any other procedure of the Office of Export Control that authorize the export of the commodities.

(b) *Commodity, value, and other limitations—(1) Commodity limitations.* Only those commodities which are (i) identified by the symbol "B" in the last column of the Commodity Control List, and (ii) normally sent as gifts, such as food, clothing, toilet articles, and medicinals and pharmaceutical preparations in dosage form, may be included in a gift parcel. The export of military wearing apparel to Country Group X, Y, or Z under this general license is specifically prohibited, regardless of whether all distinctive U.S. military insignia buttons and other markings, are removed.

(2) *Dollar-value limitations.* The combined total domestic retail value of all commodities included in a gift parcel shall not exceed \$100.

(3) *Frequency of shipment.* Not more than one gift parcel may be sent by the same donor to the same donee in any one calendar week.

(4) *How to export.* (i) A gift parcel must be sent directly to the donee by the individual donor, or for such donor by a commercial or other gift-forwarding service or organization. Each gift parcel must show, on the outside wrapper, the name and address of the donor, as well as the name and address of the donee, regardless of whether sent by the donor or by a forwarding service.

(ii) Each parcel must have the notation "GIFT-Export License Not Required" written on the addressee side of the package and the word "Gift" written on any required customs declaration.

(iii) A gift parcel sent via parcel post shall conform with applicable post office regulations as to size, weight, and permissible contents. A gift parcel sent via air express, air cargo, or air freight, is not limited as to size or weight by the provisions of this general license.

¹ Senders of gift parcels who wish information regarding the import duties and other regulations of a foreign country should consult their local post offices. Many foreign countries permit the entry, duty-free, of gift parcels which conform to regulations regarding contents and marking. To secure this advantage, the sender should show the words "U.S.A. Gift Parcel" on the addressee side of the package and on any required customs declarations.

§ 371.19 General License GATS; aircraft on temporary sojourn.¹

A general license designated GATS is established authorizing, subject to the provisions of this § 371.19, the departure from the United States, of foreign registry civil aircraft on temporary sojourn in the United States and of U.S. civil aircraft for temporary sojourn abroad.

(a) *Foreign registered aircraft.* An operating civil aircraft of foreign registry which has been in the United States on a temporary sojourn may depart from the United States under its own power for any destination except Country Group S, W, Y, or Z (excluding Cuba), provided that the aircraft has not been sold or disposed of while in the United States, and provided it does not carry from the United States any commodity for which export authorization has not been granted by the appropriate U.S. Government agency.

(b) *U.S. registered aircraft.* An operating civil aircraft of U.S. registry may depart from the United States under its own power for a temporary sojourn abroad under the conditions in subparagraphs (1) and (2) of this paragraph:

(1) A U.S. operating civil aircraft may depart from the United States under its own power for any destination except Country Group S, W, Y, or Z, provided that:

(i) The aircraft does not carry any commodity from the United States for which export authorization has not been granted by the appropriate U.S. Government agency;

(ii) The aircraft is not to be used in any military activity while abroad;

(iii) The aircraft is to be operated only by a U.S.-licensed pilot while abroad (except on demonstration flights);

(iv) The aircraft, or its equipment, parts, accessories, or components will not be disposed of in any foreign country without prior authorization from the Office of Export Control; and

(v) The aircraft's U.S. registration will not be changed while abroad.

(2) Where it is decided that the aircraft or any of its equipment, parts, accessories or components will be sold or leased abroad, or will not be returned to the United States for any other reason, request shall be made to the Office of Export Control (Attention: 852), U.S. Department of Commerce, Washington, D.C. 20230, for authorization of such disposition. The request shall be by letter, in original and one copy, setting forth, where applicable, the date on which the aircraft last departed from the United States, the reason for nonreturn to the United States, the country in which the aircraft will be registered, the commodity description, export control commodity number, value and quantity, as well as the name and address and identity of each party to the proposed transaction. In addition, the request shall be accompanied by all documents which would be required in support of an ap-

¹ Also see § 371.14, General License GLC.

plication for export license for shipment of the same commodity directly from the United States to the proposed destination.

If the request for authorization of nonreturn of the aircraft is approved, the Office of Export Control will stamp the letter of request with the validation stamp of the U.S. Department of Commerce and return one validated copy to the applicant. If the request is not approved, the applicant will be advised by letter.

§ 371.20 General License GMS; shipments under the Mutual Security Act.

A general license designated GMS is established, authorizing subject to the provisions of this § 371.20, the export of commodities sold by the U.S. Department of Defense to a foreign government, other than the government of a country included in Country Group S, W, Y, or Z, under the provisions of the Mutual Security Act of 1954, Public Law 665, 83d Congress, approved August 26, 1954 (68 Stat. 832), as amended. In addition to entering the symbol GMS on the Shipper's Export Declaration (see § 371.2 (b)), the MSMS (Mutual Security Military Sales) case number assigned by the Department of Defense to the transaction shall be entered on the Declaration. The following completed destination control statement is required on each copy of the shipper's export declaration, bill of lading, and invoice covering a shipment under this general license GMS:

These commodities licensed by the United States for ultimate destination (name of country). Diversion contrary to United States law prohibited.

The alternative forms of the destination control statement set forth in § 386.6(d) (2) and (3) of this subchapter are not applicable to such shipments and will not be accepted.

§ 371.21 General License GTDA and GTDR; technical data.

(See §§ 379.3 and 379.4 of this subchapter.)

§§ 371.22-371.50 [Reserved]

§ 371.51 Supplement 1; exceptions to Country Group W validated license requirement; incorporation by reference.

(a) The text of the current edition of Supplement 1 as published in the U.S. Department of Commerce Export Control Regulations which is referred to and invoked by provisions in this subchapter B, is hereby incorporated by reference pursuant to 4 U.S.C. 522(a) (1) and 1 CFR Part 20.

(b) Supplement 1 is available at the following places:

Superintendent of Documents, Government Printing Office, Washington, D.C. 20402. Exporters Service Section, Office of Export Control, Bureau of International Commerce, Department of Commerce, Washington, D.C. 20230. Field Offices of the Bureau of International Commerce, Department of Commerce.

(c) Revisions, amendments, revocations, deletions, recodifications, redesignations, and corrections will be issued from time to time in export control bulletins by the Office of Export Control, Bureau of International Commerce, Department of Commerce, Washington, D.C. 20230, in the form of replacement pages or insert sheets, and an official historic file will be maintained by the Office of Export Control.

PART 372—INDIVIDUAL VALIDATED LICENSES AND AMENDMENTS

- Sec.
- 372.1 General provisions.
- 372.2 Types of validated licenses.
- 372.3 Parties to the transaction.
- 372.4 How to apply for a validated license.
- 372.5 Additional information.
- 372.6 Substantiation of facts on application.
- 372.7 Disclosure of prior action on the shipment.
- 372.8 Special types of individual license applications.
- 372.9 Issuance of validated licenses.
- 372.10 Duplicate license.
- 372.11 Amending export licenses.
- 372.12 Special provisions for an amendment to extend the validity of a license.
- 372.13 Special provisions for transfer of licenses to another party.
- Supplement No. 1—Instructions for Preparing an Application for a Validated License.

AUTHORITY: The provisions of this Part 372 issued under sec. 3, 63 Stat. 7; 50 U.S.C. App. 2023; E.O. 10945, 26 F.R. 4487, 3 CFR 1959-1963 Comp.; E.O. 11038, 27 F.R. 7003, 3 CFR 1959-1963 Comp.

§ 372.1 General provisions.

(a) *Scope.* The provisions of this part and all of the other provisions of the Export Control Regulations (insofar as consistent with the provisions of this part) shall apply to individual export licenses issued by the Office of Export Control and applications therefor. The provisions of this part shall also apply to other types of validated licenses and applications therefor, consistent with the provisions of Parts 373 through 399 of this subchapter, inclusive. The Office of Export Control does not issue export licenses for commodities subject to the export licensing jurisdiction of other Government agencies as listed in § 370.10 of this subchapter.

(b) *Exports requiring validated licenses.* No commodity or technical data subject to the Export Control Regulations may be exported to any destination without a validated license issued by the Office of Export Control, except where the export is authorized by a general license or other authorization by the Office of Export Control.

(c) *Responsibility of licensee.* Any applicant to whom an export license is issued becomes the licensee. He will be held strictly accountable for the use of the license, whether as a principal exporting for his own account or as an agent, including an agent acting for the account of a foreign principal who is not subject to the jurisdiction of the United States. The licensee assumes responsibility for

actually effecting the export, for proper use of the license, and for due performance of all its terms and conditions.

(d) *Legal liability for violations.* Insofar as legal liability for any violation of the Export Administration Act and Export Control Regulations is concerned, every person who, in any capacity, participates in fact in an export knowing it to be unauthorized may be held to account, whether or not he appears as the party on the application for the export license. (See Part 387 of this subchapter.)

§ 372.2 Types of validated licenses.

(a) *Definition.* A "validated license" is a document issued by, or under the authority of, the Office of Export Control, authorizing a specific export. Wherever reference is made in this part to a license application or to a license issued upon application, the reference is to a validated license, as distinguished from the general licenses established in Part 371 of this subchapter, for which no applications are required and no license documents are issued.

(b) *Types.* The types of validated licenses are:

(1) An "individual license" is any validated license, other than those named in subparagraphs (2) through (5) of this paragraph, authorizing the export of technical data or a specified quantity of commodities during a specified period to a designated consignee.

(2) A "Project License" (§ 373.2 of this subchapter) authorizes the export of commodities (and technical data where specifically authorized) required for a specified activity for a period of approximately one year from the issuance of the license.

(3) A "Distribution License" (§ 373.3 of this subchapter) authorizes the export of certain commodities to approved consignees in Country Group T and certain specified countries in Country Group V during a period of 1 year. The consignees must be foreign distributors or users of the licensed commodity.

(4) A "Periodic Requirements License" (§ 373.5 of this subchapter) authorizes the export during a 1-year period of one or more commodities identified by the symbol "E" in the last column of the Commodity Control List (§ 399.1 of this subchapter) to one or more named ultimate consignees in a named ultimate destination.

(5) A "Time Limit License" (§ 373.6 of this subchapter) authorizes the export of an unlimited quantity of commodities for a period of 1 year to one or more ultimate consignees located in Country Group T.

(6) A "Service Supply (SL) License" (§ 373.7(d)(1) of this subchapter) authorizes a U.S. exporter or manufacturer to export spare and replacement parts to Country Group T, V, or X (and, in a more limited degree, only replacement parts to Country Group W or Y) to service equipment made or exported by the licensee or made by his foreign subsidiary.

§ 372.3 Parties to the transaction.

(a) *Disclosure requirement—(1) Full disclosure.* The applicant for a validated export license is required to make the fullest disclosure of all parties in interest to the transaction so that a decision on the application may be made with the fullest knowledge of all relevant facts and so that the identity and location of the persons who know the most about the transactions may be easily ascertained in the event of inquiry.

(2) *Parties.* The applicant must disclose fully on the license application the names of all the parties who are concerned with or interested in the proposed export. This includes all parties participating on their own account; the applicant as exporter, the ultimate consignee, the intermediate consignee, and the purchaser, all as defined in paragraph (b) of this section. If the application is filed for an account other than that of the applicant, the agent, as applicant, must disclose the name of his foreign principal.

(3) *Identification of principal.* Where more than one person in a transaction can fairly be described as being a principal, the application should be accompanied by a statement giving the names and addresses of such persons and their roles in the transaction. Where there is any doubt as to which of several persons should be named as the party to the license, the applicant must disclose the names of all such persons and the functions to be performed by each. For this purpose a separate statement attached to the application will be acceptable.

(b) *Definitions of parties in interest—(1) Applicant.* (i) The applicant should be that person who, as the principal party in interest in the export transaction, has the power and responsibility for determining and controlling the sending of the commodities or technical data out of the country and is thus in reality the exporter. For this purpose, it is the identity of the applicant and his role in the transaction, and not the terms of sale, with which the Office of Export Control is primarily concerned.

(ii) A license application may be made only by a person subject to the jurisdiction of the United States who is in fact the exporter, or by his duly authorized agent. An application may be made on behalf of a person not subject to the jurisdiction of the United States by an authorized agent in the United States, who then becomes the applicant.

(iii) Ordinarily, a seller who delivers commodities in this country to a foreign buyer, or to the latter's forwarder or other agent, would not be in a position to assume responsibility for the export and would not be a proper applicant. This would normally be the situation where sale is made f.o.b. factory, although such terms of sale may relate only to price and are not necessarily inconsistent with the assumption by the seller of full responsibility for effecting the export.

(iv) If the seller intends to leave the responsibility for effecting export in the

hands of the foreign importer or the latter's forwarding or purchasing agent in the United States, the foreign importer should apply for the license in his own name if he is subject to the jurisdiction of the United States at the time of export. Otherwise, the importer's forwarding or purchasing agent shall appear as applicant and exporter and shall disclose his role as agent and the name of his principal.

(2) *Ultimate consignee.* The ultimate consignee is the person located abroad who is the true party in interest in actually receiving the export for the designated end use. A bank, freight forwarder, forwarding agent, or other party, when acting as an intermediary, is not acceptable as the ultimate consignee.

(3) *Intermediate consignee.* The intermediate consignee is the bank, forwarding agent, or other intermediary (if any) who acts in a foreign country as an agent for the exporter, the purchaser, or the ultimate consignee, for the purpose of effecting delivery of the export to the ultimate consignee. If the intermediate consignee is unknown at the time of application or none is to be used, this must be stated on the application. If, at the time of filing his application, an exporter is unable to determine at which port the commodities will be unloaded from the exporting carrier, optional intermediate consignees may be shown. Before any shipment will be cleared for export, the name and address of any intermediate consignee must be ascertained and set forth on the Shipper's Export Declaration, whether or not named on the license application or validated license. However, the intermediate consignee need not be named on the commercial invoice. (See § 372.11(e)(3) regarding amendment of license to add or change intermediate consignees.)

(4) *Purchaser.* The purchaser is that person abroad who has entered into the export transaction with the applicant to purchase the commodities or technical data for delivery to the ultimate consignee. A bank, freight forwarder, forwarding agent, or other intermediary is not acceptable as the purchaser.

(5) *Order party.* The order party is that person in the United States who conducted the direct negotiations or correspondence with the foreign purchaser or ultimate consignee and who, as a result of these negotiations, received the order from the foreign purchaser or ultimate consignee.

§ 372.4 How to apply for a validated license.

(a) *Form and manner of filing—(1) Application form and processing card.* An application for a validated license must be submitted on Form FC-419, Application for Export License, revised January 1966 or later, accompanied by Form FC-420, Application Processing Card (see Supplements S-1 and S-2 for facsimiles). An application which omits essential information, or is otherwise incomplete, or is not accompanied by Form FC-420 completely and correctly filled in, will be returned without action to the applicant. Copies of these forms may be

obtained at all U.S. Department of Commerce Field Offices (see list on page 1 under Field Office Addresses) and from the Office of Export Control (Attention: 852), U.S. Department of Commerce, Washington, D.C. 20230.

(2) *Requirements set forth on forms.* All terms, conditions, provisions, and instructions, including the applicant's certification, contained in such form(s) are hereby incorporated as a part of the Export Control Regulations.

(3) *Facsimiles of Form FC-419.* Exporters may print facsimiles of Form FC-419 (Revised July 15, 1969) with printed answers to many of the questions, provided the facsimiles are identical with the official form in size, color, ink, and typographic arrangement.

(4) *Preparation of Form FC-419.* The instructions set forth in Supplement 1 to Part 372 apply to the preparation of applications submitted on Form FC-419 for all types of validated export licenses issued by the Office of Export Control, unless modified by special licensing procedures and provisions contained in the Export Control Regulations.

(5) *Preparation of Form FC-420.* A Form FC-420, Application Processing Card, completely and correctly filled in must accompany each license application. (See Supplement S-1 for facsimile.) The applicant's name, date of application, applicant's reference number (if any), country of ultimate destination, Export Control Commodity Number and Processing Number must be the same as the corresponding entries on Form FC-419. Only a brief commodity description is required to be shown on the Form FC-420.

NOTE: Voluntary acknowledgment receipt postal card. The Office of Export Control does not acknowledge receipt of applications for licenses to export since almost all applications are processed within a matter of days after receipt. However, exporters who desire acknowledgment of an application's receipt, may submit with an application, a self-addressed stamped postal card. This postal card should be attached to the application and accompanying documents, with a paper clip (not stapled), and should be visible on top of all the submitted material. The Office of Export Control will place the receipt date and the case number on the postal card and send it to the applicant by return mail. No other acknowledgment of receipt will be made.

(b) *Assembly and submission of applications.* All documents or correspondence accompanying the application should bear the applicant's reference number, if any, and be firmly stapled together in the upper left corner of the application. Form FC-420, typed side up, should be attached with a paper clip (not stapled) to the upper left corner of Form FC-419. Applications should be submitted (preferably by mail) to the Office of Export Control (Attention: 854), U.S. Department of Commerce, Washington, D.C. 20230. Applications which omit essential information will be returned without action.

(c) *Separate application for each ultimate consignee.* Only one ultimate consignee may be shown on an individual license application.

(d) *Inclusion of related commodities on a Single Application.* For each entry on the Commodity Control List (§ 399.1 of this subchapter) there is a three-digit number in the column headed "Processing Number." Entries on the Commodity Control List having the same processing number may be included on a single license application. (See §§ 373.4 and 376.8 of this subchapter for exceptions.) Regardless of the processing number, shipments of commodities for relief or charity may be included on a single license application.

(e) *Partial approval.* An application may be approved in whole or in part. However, if specifically requested on the form, the application will be considered as a whole and either approved or rejected in its entirety.

(f) *Partial or periodic shipments—(1) General.* Where partial or periodic shipments of technical data or of an identical commodity are to be made by the applicant to the same consignee in a foreign country, a single application may be filed covering the entire quantity.

(2) *Shipments by mail.* Only one shipment by mail may be made against a validated license, except as specified in § 386.1(c) of this subchapter. If, at the time of applying for an export license, an exporter expects to make several shipments by parcel post against one order, he may submit one application and request a separate license for each anticipated partial shipment. The applicant shall indicate in the commodity description column of the application the quantity of each partial shipment and enter across the bottom of that column: "Anticipated Partial Shipments by Mail Against One Order."

(g) *Second applications—(1) Pending action.* A second application covering the same proposed export shall not be submitted pending action on the first application. When an application has been returned without action to the applicant and is being resubmitted, a new application ordinarily should not be filed. However, a new application may be submitted if the necessary alterations on the old application would be illegible or too difficult to make. When a new form is submitted, the original application must be attached to the new one.

(2) *Resubmission.* When a license application has been returned without action with instructions that it is not to be resubmitted until a later date, the resubmission of the application must be in accordance with the requirements existing at the time of resubmission.

(h) *Emergency clearance.* In case of emergency, the Office of Export Control will authorize clearance of an export license by telephone or telegraph to the appropriate customs office. The cost of the telephonic or telegraphic message will be charged to the applicant. In such cases, the license is not sent to the licensee but to the customs office with which the clearance has been authorized. The validity period of a license issued under this emergency procedure ends no later than the last day of the first month following the month during which the

license is validated. No extension of the validity period will be granted.

§ 372.5 Additional information.

(a) *Requirements in export control regulations and related forms.* Any person applying for an individual or other type of validated export license shall furnish such information with respect to the application as may be required by the Office of Export Control, in addition to the information required by the Export Control Regulations or by the form on which the application is made.

(b) *Identification of information.* Any additional information submitted by an applicant in connection with a license application must be clearly identified as part of such application.

(c) *Supporting information.* A supporting letter should give additional information for only the application to which it is attached.

§ 372.6 Substantiation of facts on application.

(a) *Orders and other material facts.* Except as provided in paragraph (d) of this section, no application for an export license shall be made unless the applicant or order party has documentary evidence in his possession of:

(1) An order for export of the commodities or technical data covered by the application (see paragraph (b)(1) of this section for definition of order and paragraph (d)(1) of this section for exceptions to order requirement);

(2) Substantiation of the following facts relating to the purchase transaction which the applicant must disclose on the application:

(i) Country of ultimate destination;

and
(ii) Names and addresses of the ultimate consignee, intermediate consignee (if any), purchaser (if other than ultimate consignee), and any other party to the purchase transaction, whether principal or agent, including but not limited to brokers, representatives, or other agents through whom the order was received;

(3) Quantity and description of the commodities to be exported;

(4) End use of the export.

(b) *Definitions—(1) Order.* "Order" means a communication from a person in a foreign country or his representative expressing an intent to import commodities or technical data from the proposed U.S. exporter or order party as defined in § 372.3(b)(5). While an order must, in any case, be more than a mere business inquiry relating to a possible export, it need not be an agreement that can presently be executed or that would become a binding contract upon acceptance. Furthermore, an order need not be an unconditional offer to buy. An order, for instance, may be contingent upon certain variable conditions such as market price, time of delivery, availability of the commodities in kinds and quantities desired, and other undetermined factors. Such a contingent offer still constitutes an order within the meaning of these provisions. Similarly, a continuing or "open" order that remains at all times

flexible in some respects may be acceptable. If, however, all of the terms of the order are not finally determined before an application is submitted, all negotiations toward the settlement of the terms must have been advanced sufficiently to establish the intent of the person placing the order to consummate the proposed transaction.

(2) *Evidence of an order.* Evidence of an order as used herein means any document(s) emanating from the foreign purchaser which sets forth the terms and conditions of his offer to buy the commodities for which the export license is requested. Such evidence may take the form of a contract signed by both parties, or of letters, telegrams, cables, confirmations, or other documents which set forth in definite terms the offer of the foreign purchaser to buy or the acceptance by the foreign purchaser of the exporter's offer to sell.

(3) *Evidence of facts relating to the purchase transaction.* Evidence of the facts relating to the purchase transaction means any documents emanating from the purchaser or ultimate consignee that relate to statements in the application enumerated in paragraph (a) of this section. Such evidence may be contained in the document(s) constituting evidence of the order, or in additional documents emanating from the purchaser or ultimate consignee. The printed name, address, or nature of business of the ultimate consignee or purchaser appearing on his letterhead or order form shall not constitute evidence of either his identity, the country of ultimate destination, or end use of the commodities described in the application.

(4) *Order from foreign agent.* An order from the foreign agent of the U.S. exporter does not qualify as a proper order under this requirement where it is based on an order in the agent's hands from a specific purchaser. The Export Control Regulations require that, in such cases, the purchaser's order must be transmitted to the U.S. exporter. However, an order from the foreign agent of the exporter would be acceptable if the commodities are intended for general resale to presently unknown end users.

(c) *Signature of order party—(1) Where to be shown.* The application must be signed by the order party as well as by the applicant if they are different. The order party should be shown in the "Order Party's Certification" item on the application, not as applicant. The license, when issued, will show as licensee only the party shown as applicant on the application.

(2) *When not required.* The signature of the order party is not required in cases where maintenance, repair, or operating supplies are to be exported for use and consumption by the ultimate consignee and not for resale, and where the applicant has complete records and information concerning the transaction(s), including all correspondence between the foreign consignee and the person in the United States who originally received the order, provided the

application is supported by one of the following certifications, as appropriate, from the ultimate consignee:

(i) *Single order.*

I (We) certify that (Applicant) has received and will continue to receive all records and information, including correspondence, regarding the negotiations between (Order Party) and (Ultimate Consignee) relating to the export order for maintenance, repair and operating supplies to be used and consumed, but not resold, by the undersigned and upon which the application for an export license dated _____ is based. Any material changes in the information transmitted to the applicant will be promptly communicated to him.

(Date of signing) (Ultimate Consignee)

An application supported by a single order certification covering a purchase order for commodities which require more than one applicant shall contain the following certification:

Instead of an order party signature, this application is supported by a single order certification dated _____ from the named consignee to the applicant and submitted in support of Application Number (Case Number). The shipment set forth on this application is covered by that certification.

(ii) *Multiple orders.* If the consignee prefers, he may submit the following multiple certification, in original and one copy, covering all such orders placed by him with the applicant within a period ending on June 30 of the year following the year in which the certification is executed unless an earlier termination date is specified:

I (We) certify that (Applicant) has received and will continue to receive, all records and information, including correspondence, regarding the negotiations between (Order Party) and (Ultimate Consignee) relating to the export orders for maintenance, repair, and operating supplies to be used and consumed, but not resold, by the undersigned and which are the basis for all applications for export licenses placed by the applicant on or before (enter date not later than June 30 of next year). Any material changes in the information transmitted to the applicant will also be promptly communicated to him.

(Date of Signing) (Ultimate Consignee)

An application supported by a multiple order certification need not be signed by the order party but must contain the following certification:

Instead of an order party signature, this application is supported by a multiple order certification dated _____ from the named consignee to this applicant and submitted in support of Application No. (Case No.).

(d) *Export transactions where no order has been received—(1) Exceptions to the order requirement.* If no order has been received, or if an inquiry has been received that does not clearly meet the requirements of an order as defined in paragraph (b)(1) of this section, the Office of Export Control will consider granting an exception to, or a waiver of, the order requirement where the applicant is able to show that an exception is warranted. Some examples of reasons

which, if fully substantiated, might warrant an exception are:

(i) An unusual expenditure of time, money, or technical skill, in excess of ordinary sales expenses, is necessary before negotiations for an order may be pursued and before a bid can be submitted or an order obtained.

(ii) The applicant is under an unusual obligation to export immediately the commodities or technical data covered because of a special trade or industry practice.

(iii) The export involves a sample, gift, relief, or charitable shipment, or other shipment where an order is not normally an element of the export transaction.

An applicant requesting such exception should submit with his application all required supporting documentation whenever possible; a statement explaining in full the reason(s) for the requested exception; and a certification that the transaction does not meet the requirements of either a Periodic Requirements License (PRL) or a Time Limit License (TL). If it is not possible to obtain the required documentation at the time the waiver request is submitted, these supporting documents shall, nevertheless, be submitted as soon as they are obtainable. If the exception request is granted, the license if issued, may include certain conditions or limitations to the export.

(2) *Inquiry regarding prospects of obtaining license or other authorization.* The Office of Export Control gives a formal licensing decision only through the issuance of a license or other appropriate document. Such decisions are based upon the actual submission of a formal application or other formal request setting forth all of the facts relevant to the export transaction and supported by all required documentation. Upon request, however, the Office of Export Control will, if practicable, provide a preliminary opinion on the outlook for approval of a prospective transaction with respect to particular commodities and destinations. If the negotiations of the terms of an export order depend upon an indication of the prospects of obtaining an export license covering the transaction, the person proposing to export may submit an inquiry, before filing a license application. The inquiry shall describe the proposed transaction in full detail and explain why an advisory opinion is needed in advance from the Office of Export Control.

(e) *Retention of records.* The documents constituting evidence of any of the following shall be kept and made available for inspection in accordance with the provisions of § 387.11 of this subchapter:

(1) An order;

(2) The facts relating to the purchase transaction as defined in paragraph (b) (3) of this section; or

(3) Other transactions referred to in paragraph (d) of this section.

(f) *Copies of documents.* The Office of Export Control may request either the originals or copies of the documents con-

stituting evidence of an order. The time and manner of submission will be made known to the applicant at the time the request for submission is made. In accordance with § 375.5 of this subchapter, all documents submitted in connection with a license application must be identified clearly as a part of that application. All terms and abbreviations must be explained, and an English translation of documents in a foreign language must be attached.

(g) *Changes in facts.* Answers to all items on the application shall be deemed to be continuing representations of the existing facts or circumstances. Any material or substantive change in the terms of the order, or in the facts relating to the purchase transaction of other transaction, shall be promptly reported to the Office of Export Control, whether a license has been granted or the application is still under consideration. If a license has been granted, such changes shall be reported immediately to the Office of Export Control, in accordance with the provisions of § 372.7(b), even though shipments against the license may be partially or wholly completed. Change in intermediate consignee must be reported on the Shipper's Export Declaration, and in certain cases an amendment to the export license is required. (See §§ 372.3(b)(3) and 372.11 (e).)

§ 372.7 Disclosure of prior action on the shipment.

Any license or amendment obtained without disclosure of the facts set forth in paragraphs (a) and (b) of this section, where applicable, shall be deemed to have been obtained without disclosure of all facts material to the granting of the license or amendment, and the license and amendment so obtained shall be void.

(a) *Detention of commodities or technical data by customs.* Any person applying for an export license or requesting an amendment¹ to a license, who has reason to believe that a customs office has detained the commodities or technical data covered by such license or amendment, shall disclose this fact to the Office of Export Control at the time of application.

(b) *Export without a license.* No license application or amendment request shall be submitted to the Office of Export Control covering a shipment that is already laden aboard the exporting carrier or exported. If such export should not have been made without first securing a validated license authorizing the shipment, the exporter shall send an explanatory letter or telegram to the Investigations Division, Office of Export Control (Attention: 848), U.S. Department of Commerce, Washington, D.C. 20230. The explanation shall show why a validated license was not obtained and disclose all facts concerning the shipment that would normally have been disclosed on the license application or amendment re-

¹ See § 372.11 with respect to amendments to licenses and extensions of their validity periods.

quest. The Office of Export Control will inform the exporter of its action and furnish instructions to him by letter.

§ 372.8 Special types of individual license applications.

(a) *Intransit shipments—(1) Information required on application.* A license application for commodities moving intransit through the United States which may not be exported under the provisions of General License GIT² shall include the following information in the "Additional Information" item of the application or on an attachment:

(i) The name and address of the foreign consignor who shipped the goods to the United States;

(ii) A statement that the shipment is wholly of foreign origin; and

(iii) The notation "INTRANSIT SHIPMENT"

(2) *Evidence of foreign government approval.* The applicant should submit any available evidence showing the approval or acquiescence of the exporting country (or the country of which the exporter is a resident) with respect to the proposed ultimate destination of the shipment. Such evidence may be in the form of a Transit Authorization Certificate or other document.

(3) *Applicability of special provisions.* Except for a shipment originating in Canada, the application must be accompanied by the document applicable to the country of ultimate destination; e.g., an Import Certificate, a Consignee/Purchaser Statement, a Swiss Blue Import Certificate, or a Yugoslav End-Use Certificate, as appropriate (see Part 375 for details on these documents).

(4) *Limitation on use of License.* A license issued under this section will be valid only for the export of an intransit shipment wholly of foreign origin and for which a Transportation and Exportation (T. & E.) customs entry or an Immediate Exportation (I. E.) customs entry is outstanding. In clearing an intransit shipment under a validated license, the customs officer may, at his discretion, require the licensee to submit a copy of the Transportation and Exportation customs entry or an Immediate Exportation customs entry covering such shipment.

(5) *Destination control statement.* A shipment of foreign-origin commodities moving intransit through the United States under a validated license must comply with the destination control provisions of § 386.5 of this subchapter. Under these provisions all copies of the intransit Shipper's Export Declaration presented to the customs office at the port of export must contain the destination control statement. In addition, the destination control statement must be shown on all bills of lading and commercial invoices in the possession of, or sent to the ultimate consignee or purchaser by, the shipper, exporter, carrier, and agent in the United States.

² For intransit shipments under General License GIT, see § 371.4; and for special clearance procedures applicable to intransit shipments, see § 386.3(t).

(b) *Commodities transiting Country Group Y or Z en route to any other destination*—(1) *Information required on applications.* A license application to export any commodity that will be unladen from a vessel or aircraft in Country Group Y or Z (or which will move in transit through Country Group Y or Z en route to Canada or a destination in Country Group T, V, W, or X) shall be submitted on Form FC-419. The application shall be prepared in accordance with the instructions contained in Supplement No. 1 to this Part 372, except that where the intermediate consignee in the Group Y or Z country of unloading or transit is unknown at the time of filing the license application, the Group Y or Z country of unloading or transit shall be shown in the "Additional Information" item of the application or on an attachment by a statement such as:

To be transhipped at (name of transshipment point) and destined to (name of country); or, To be shipped to (name of country of destination) via (name of country).

(2) *Designation of intermediate consignee.* Except as set forth below, a validated license issued under the provisions of this § 372.8(b) will name the intermediate consignee in the Group Y or Z country of unloading or transit approved by the Office of Export Control. (Transshipment authority does not relieve any person from complying with foreign laws. See § 374.9 of this subchapter.)

(3) *Intermediate consignee unknown.* Where the license application indicates that the intermediate consignee in the Group Y or Z country of unloading or transit is unknown, the license will name the Group Y or Z country of unloading or transit approved by the Office of Export Control. However, the exporter is obliged to obtain an amendment of the export license before shipment is made in those instances where the license does not include the name of the intermediate consignee in the Group Y or Z country of unloading or transit.

(c) *Commodities exported for exhibition, demonstration, or testing purposes*—(1) *Applicability.* General License GTF-F (see § 371.16 of this subchapter) authorizes, under certain conditions, the temporary export of commodities for display at foreign exhibitions or trade fairs. The provisions of this § 372.8(c) apply to the export of a commodity not eligible for a general license. Therefore, a validated license is required when exporting for display at a trade fair or other exhibition, or for demonstration, or testing purposes, if the exporter retains title to the commodity and intends to return it to the United States, forward it to another trade fair, exhibition, demonstration or testing site, or sell it abroad to a yet undetermined purchaser. The term "testing," as used in this § 372.8(c), includes the testing of the commodity being exported from the United States as well as its use in testing other commodities (e.g., instruments and/or equipment exported for testing aircraft engines).

(2) *Submission of application.* An application for an export license covering

an export described in subparagraph (1) of this paragraph does not require the usual supporting documentation issued by either the consignee or the country of ultimate destination. Instead, the application shall include the following statement in the item entitled "Additional Information" or on an attachment:

The commodities described on this application are to be exported for display at (official name of trade fair or exhibition) or for (demonstration or testing) to be held at (street address, city, and country) and returned to the United States at the conclusion of such (display, demonstration or testing). If these commodities are not returned to the United States at the end of the (trade fair) (exhibition) (demonstration) (test) they will not be (displayed, demonstrated, tested) or otherwise disposed of without prior written authorization from the Office of Export Control.

In addition, since the applicant retains title to the commodities, he shall be shown on the application as the ultimate consignee, in care of the person who will have custody of the commodities abroad.

(3) *Return of commodities to the United States.* Where commodities are returned to the United States after display at a trade fair, exhibition, demonstration, or test in Country Group S, W, Y, or Z, the applicant shall notify the Office of Export Control, in writing. The notice shall include the case number shown on the related U.S. validated export license, the customs import entry number (if any) of the returned shipment, the date of return, and the port of entry at which all or any part of the commodities were returned to the United States. If only a part of the commodities are covered by the notification, a full explanation shall be included, and an additional written notification sent to the Office of Export Control for each partial return until the entire shipment described on the related export license is returned.

(4) *Commodities not returned to the United States.* If it is decided that the commodities are not to be returned to the United States, a letter shall be sent to the Office of Export Control (Attention: 854) requesting authorization to dispose of the commodities. The letter request shall include the license number, case number, ultimate destination, commodity description, Export Control Commodity Number, quantity, and value, as well as the proposed disposition of the commodities and the name, address, and identity of each party to the transaction. In addition, except where the commodities are to be displayed at another trade fair or exhibition, or transferred to another destination for demonstration or testing, the letter shall be accompanied by all documents required in support of an application for an export license to the proposed destination.

(5) *Action by Office of Export Control.* If the request is approved, the Office of Export Control will validate and issue Form IA-L-196, Authorization to Dispose of Commodities Exported for Ex-

hibition, Demonstration, or Testing Purposes (see Supplement S-11 for facsimile). If the request is not approved, the Office of Export Control will advise the applicant by letter. If it is subsequently desired to make any other use or disposition of the commodities not authorized by the validated Form IA-L-196, a properly documented written request for amendment of the form shall be submitted. (Reexport or distribution authority does not relieve any person from complying with foreign laws. See § 374.9 of this subchapter.)

§ 372.9 Issuance of validated licenses.

(a) *General.* When a license application is approved by the Office of Export Control, a license is issued on Form FC-628, Export License. An export license may not set forth all the facts relating to the transaction as they appeared in the license application and supporting documents. Nevertheless, any validated license issued authorizes only the specific export transaction described in the application and supporting documents, unless otherwise specifically provided by the license or the Export Control Regulations.

(b) *Issuance of license document.* When a license application is received in the Office of Export Control it is assigned a case number for identification purposes. This number is not the license number. After an application is approved, the covering license is issued on Form FC-628 (with continuation sheets, where necessary). This document is then validated and identified by a license number comprised of a letter and a series of digits which appear in the upper right hand corner of the license, representing the last digit of the year, the month, and day, plus a serial number for the use of the Office of Export Control (e.g., C0-611-60161 represents the validation date of June 11, 1970, plus the serial number 60161). Where necessary, license continuation sheets and other attachments to a license will also be validated, using a number beginning with D and followed by the date of validation. Exporters are cautioned to use the complete license number when preparing Shipper's Export Declarations or other export documents or when requesting services from the Office of Export Control.

(c) *Units of quantity.* Where no unit of quantity is shown in the "Unit" column of the Commodity Control List (§ 399.1 of this subchapter), commodities are licensed in terms of the total dollar value as shown on the license. To consider a license application for such commodities, the Office of Export Control requires that the unit of quantity commonly used in the trade must be shown on the application. Although the same terminology may appear on the license, the quantity of the commodities authorized for export in such instances is, nevertheless, limited entirely by the total dollar value shown on the license.

(d) *Validity of license*—(1) *Six-month validity period.* Unless otherwise stated on the face of the license, export

licenses will be issued for a validity period ending on the last day of the sixth month following the month during which the license is validated; e.g., a license issued on January 12 would expire on July 31. If the validity period expires on a day when the customs office is not open for business, the validity period shall automatically be extended to midnight of the first day of business following the expiration date.

(2) *Special provisions.* If special provisions for any commodity include terms regarding the validity period of an individual export license, these will be found in Part 376 of this subchapter.

(3) *Revocations, suspensions, or revisions.* Outstanding licenses may be revised, suspended, or revoked, or the validity periods thereof may be extended or reduced, by appropriate orders or regulations.

(e) *Reports.* Any person to whom a validated license has been issued shall file with the Office of Export Control such reports as the Office of Export Control shall, from time to time, require.

(f) *Return of revoked, expired, or unused license.* If a license is revoked or expires or if shipment is not to be made, the license shall be returned immediately to the Office of Export Control with a notation explaining the reason for such return. If the license is not in his possession at that time, the licensee shall so notify the Office of Export Control.

§ 372.10 Duplicate license.

Where a license is lost or destroyed, the licensee may obtain a duplicate of such license by submitting a letter to the Office of Export Control (Attention: 854), containing the following information:

(a) That the original license assigned case number ----- and Export License number ----- (if known) issued to (Name and address of licensee) has been lost or destroyed;

(b) The circumstances under which it was lost or destroyed;

(c) The quantity and value of commodities, if any, that have been shipped under the original license and at what port the license was filed; and

(d) If the original license is found, the licensee agrees to return either the original or duplicate license to the Office of Export Control.

Where partial shipment has been made, the duplicate license will cover the unshipped balance and will be mailed directly to the customs office at the port where the license was filed.

§ 372.11 Amending export licenses.

(a) *Persons authorized to amend licenses.* No amendments or alterations of outstanding export licenses may be made except by the U.S. Department of Commerce or by customs officers or postmasters acting under specific instructions from the U.S. Department of Commerce.

(b) *General provisions.* The Office of Export Control will consider for approval a request to amend an outstanding ex-

port license for the purpose of conforming it to changes which have taken place in the original transaction, provided that the change is not of such significance as to constitute a new transaction.

(c) *Amendments of pending license applications.* A request to amend a pending license application may be submitted at any time. The amendment procedure set forth in this § 372.11 shall be followed with respect to these requests. The request shall include the applicant's reference number, date of application, commodity, country of destination, case number if known for the purpose of identifying the application, and reasons for the request.

(d) *Changes requiring a new license application.* Except for changes to a Project License, the following types of changes are considered to be of such significance as to constitute an essentially new transaction and therefore require a new license application:

(1) Country of ultimate destination;

(2) Ultimate consignee (except as indicated in paragraph (e)(2) of this section); and

(3) Commodity.

(e) *Changes that may be made by amendment.* The changes that may be made by amending an outstanding license include, but are not limited to, the following:

(1) Purchaser, if the change in purchaser does not also effect a change in ultimate consignee.

(2) Ultimate consignee, if the change is made (i) to identify correctly the same ultimate consignee named in the license; or (ii) to add one or more new consignees to an outstanding Project License, Periodic Requirements (PRL) License, Time Limit (TL) License, or Distribution License; or (iii) to designate a new consignee when the purchaser instructs that shipment be made directly to the ultimate user, provided that all documents required from the ultimate user, such as a consignee/purchaser statement, are submitted to the Office of Export Control either with the original application or with the amendment request.

(3) Intermediate consignee, if the new intermediate consignee (i) is either located in a country other than the country of ultimate destination shown on the license or is located in the country of ultimate destination and an amendment request is submitted in accordance with the provisions of § 386.4 of this subchapter, or (ii) if, pursuant to notice from the Office of Export Control, the customs officer requires the submission of an amended license showing the new intermediate consignee.

(4) Increase in quantity of price (see also § 386.7 of this subchapter for allowable shipping tolerances).

(5) Extension of the validity period of the license, except a Distribution License (see § 373.3 of this subchapter), Periodic Requirements License (see § 373.5 of this subchapter), Time Limit License (see § 373.6 of this subchapter), or a Service Supply License (see § 373.7 of this subchapter).

(6) Correction of a clerical error on the part of the Office of Export Control.

(7) Correction of a clerical error on the part of the applicant and not covered by paragraph (f) of this section.

(8) Change of licensee (in accordance with the provisions relative to transfer of licenses set forth in § 372.13).

(f) *Changes which require neither amendment nor new license.* The following changes do not require a new license, an approved amendment, or any other notification to the Office of Export Control:

(1) Change in applicant's reference number.

(2) Decrease in unit price or total value.

(3) Other changes in price (see paragraph (j) of this section).

(4) Change in intermediate consignee if the new intermediate consignee is located in the country of ultimate destination as shown on the export license, except (i) a change in or addition of an intermediate consignee involving a consolidated shipment (see § 386.4 of this subchapter) or (ii) in any case where, pursuant to a notice from the Office of Export Control, the customs office requires an amendment.

(5) Change in address of purchaser or ultimate consignee if the new address is located within the same country shown on the license.

(6) Change in Export Control Commodity Number, unit of quantity, or wording of the commodity description (where necessary only for the purpose of conforming to an official revision in the Commodity Control List). This does not cover an actual change in the commodity to be shipped or the quantity licensed, for which amendments are required.

(g) *Where to file—(1) General.* All requests for amendments to licenses may be filed with the Office of Export Control (Attention: 852), U.S. Department of Commerce, Washington, D.C. 20230. However, certain types of amendments described in subparagraph (2) of this paragraph may be requested from the following named field offices of the U.S. Department of Commerce:

Boston.	New Orleans.
Chicago.	New York.
Cleveland.	Philadelphia.
Dallas.	Phoenix.
Detroit.	Portland, Ore.
Houston.	San Francisco.
Jacksonville.	Savannah.
Los Angeles.	Seattle.
Miami.	

(2) *Amendments on which field offices may take action.* With the exceptions set forth in subparagraphs (3) and (4) of this paragraph, the U.S. Department of Commerce field offices listed above are authorized to take action on requests to amend licenses on the following types only:

(i) Extension of validity period.

(ii) Correction of certain types of obvious errors due to mistakes in typing licenses, such as misspelled words, errors in price extension or computation, and errors in unit of quantity if the correction does not change the total quantity.

(iii) Change in quantity or dollar value, within the limits of specified small percentages of the licensed quantity or value, where required as a result of factors beyond the control of the licensee, such as unforeseen overruns of the mill.

(iv) Change of licensee's address.

(v) Change in or addition of intermediate consignee (see paragraph (e) (3) of this section and § 386.4 of this subchapter).

(vi) Amendment or extension of a license to export any commodity listed in Supplement No. 1 to Part 377 of this subchapter for which an application may be submitted at any time.

(3) *Amendments or extensions of licenses on which field offices may not take action.* U.S. Department of Commerce field offices are not authorized to take action on requests for amendments under the following conditions:

(i) Amendment or extension of a license covering an export to Country Group S, Y, or Z other than changes involving no more than a correction of obvious error(s) in the license, such as a mistake in typing.

(ii) Amendment of a license where the intended port of export is not known to the licensee.

(iii) Amendment or extension of a license for a shipment which has already been laden aboard the exporting carrier or exported (see § 372.7(a)).

(iv) Amendment or extension of a Project License, Distribution License, Periodic Requirements License, Time Limit License, or Service Supply License.

(v) Amendment or extension of a license to export any commodity for which a specific submission date is shown in Supplement No. 1 to Part 377 of this subchapter.

(vi) Amendment or extension of a Technical Data License.

(viii) Amendment or extension of a license to export commodities related to nuclear weapons, nuclear explosive devices, or nuclear testing, as described in Part 378 of this subchapter.

(4) *Duplicate request covering same license.* A request for amendment shall not be submitted to or acted upon by any U.S. Department of Commerce field office if a request to amend the same license is pending with or has been denied by the Office of Export Control or by any other field office.

(h) *Procedure for submitting amendment requests—(1) Number of copies.* An amendment request shall be submitted in triplicate on Form IA-763, Request for and Notice of Amendment Action. (See Supplement S-4 for facsimile.)¹ However, when such request is filed with one of the field offices listed in paragraph (g) (1) of this section, a fourth copy is required, which may be made on plain,

thin, white paper. A request for amendment by letter will not be accepted. (See subparagraph (4) of this paragraph with regard to emergency situations.)

(2) *Information required.* All numbered items shown on Form IA-763 must be completely filled in on all copies, unless otherwise stated on the form.

(i) The reasons for requesting the amendment must be clearly stated in the item entitled "Facts Necessitating Amendment." (For amendments to a license covered by an Import Certificate, Swish Blue Import Certificate, Yugoslav End-Use Certificate, or consignee/purchaser statement, see paragraphs (k) and (l) of this section.)

(ii) The licensee shall not retain the license when submitting an amendment request except requests related to a Project License or Distribution License. Where shipment is to be made through customs, the address of the customs office with which the license has been deposited shall be entered in the item entitled "License Has Been Deposited With." If the exporter does not know the intended port of export, he shall enter the word "Unknown" and return the license to the Office of Export Control with his request for amendment. Where shipment is to be made by mail, the license shall accompany the request for amendment. A postmaster or post office address is not acceptable.

(iii) In completing the item entitled "Amend License To Read As Follows," the applicant shall identify that portion of the license upon which amendment is requested and insert the proposed change.

(iv) Any person making application for an amendment to an export license (including extension of validity period) shall disclose to the Office of Export Control at the time of the request any information regarding prior action on the shipment as explained in § 372.7.

(3) *Signature.* The signature of the licensee, or an officer or duly authorized agent of the licensee, shall be placed on the original of Form IA-763 in the item entitled "Signature." When such request is submitted by an officer or an agent authorized by the licensee, who may be a freight forwarder, attorney, or any other authorized individual, the licensee's name shall be shown, followed by the word "By" and the signature and title of the authorized officer or agent.

For example: Joseph Aloysius Jones
By: Hamilton Newbold,
Agent.

(4) *Telegraph and telephone requests and clearances.* Under emergency conditions, an amendment request may be made by telegram or telephone, and the licensee may ask that the amendment, if approved, be forwarded to the customs office by telegram or telephone, the cost of the telegraphic or telephonic message being charged to the licensee. In such instances, the telegram or telephone call shall include the same information as required to complete a Form IA-763, and, in addition, full information as to the necessity for such type of service, includ-

ing deadline dates. If the request is submitted by mail on Form IA-763 but emergency clearance is requested, a letter setting forth the required details shall accompany the amendment request. If the amendment is approved, the Office of Export Control will so advise the applicant and the customs office. However, before the customs office will release the shipment under the amended license, the applicant must file a completed and signed Form IA-763 with the customs office.

(i) *Action on amendment request—(1) By Office of Export Control—(1) Approved.* The Office of Export Control will validate all copies of an approved Form IA-763 by imprinting, in the space entitled "Validation," a facsimile of the U.S. Department of Commerce seal followed by the letter "D" and a series of numbers indicating the year, month, and day of validation. If the license is on file with a customs office, the duplicate copy will be forwarded as the official notice of amendment to the office designated in the item entitled "License Has Been Deposited With." The triplicate copy will be forwarded to the individual named in the item entitled "Return Copy of Amendment Notice To." If the license accompanies an amendment request and the amendment is approved, the Office of Export Control will either amend the original license or issue a new license and will forward same to the individual named in the item entitled "Return Copy of Amendment Notice To."

(ii) *Returned without action.* When Form IA-763, Request for and Notice of Amendment Action, is returned without action, the reason(s) therefor will be indicated on Form IA-763A, Advice on Amendment Request Returned Without Action. All copies of Form IA-763 with original of Form IA-763A, plus any attachments will be returned to the individual named in the item of Form IA-763 entitled "Return Copy of Amendment Notice To." The license (if submitted with the amendment request) will also be returned unless it has expired or the return without action requires that it be canceled. An amendment request may be re-submitted on the same set of Form IA-763 where corrections or documents are required. If the changes are extensive, a complete new set of Form IA-763 must be submitted.

(iii) *Rejected.* When a request is rejected, the reason(s) therefor will be indicated on the triplicate copy of Form IA-763, and such copy, plus any attachments, will be returned to the individual named in the item entitled "Return Copy of Amendment Notice To." The license (if submitted with the request) will also be returned unless it has expired or the rejection required that it be canceled.

(2) *By Field Office—(1) Approved.* Amendment requests approved by a U.S. Department of Commerce field office will be validated in a different manner than those approved by the Office of Export Control. The facsimile of the U.S. Department of Commerce seal and the name of the field office will be inserted in the space entitled "Validation" by

¹ Form IA-763 is printed in quadruplicate sets to provide a copy for the applicant's file. These forms may be obtained at all U.S. Department of Commerce field offices (see list on page 1 under Field Office Addresses) and from the Office of Export Control (Attention: 852), U.S. Department of Commerce, Washington, D.C. 20230.

means of a validating machine and plate, and the amending officer will sign and date Form IA-763. The duplicate of the approved form will be sent to the appropriate customs office (together with the export license if submitted with the request) as the official notice of amendment. The triplicate will be sent to the party named in the item entitled "Return Copy of Amendment Notice To."

(ii) *Returned without action.* When Form IA-763, Request for and Notice of Amendment Action, is returned without action, the amending officer will indicate the reason(s) therefor on Form IA-763A, Advice on Amendment Request Returned Without Action. All copies of Form IA-763 with original of Form IA-763A, plus any attachments, will be returned to the individual named in the item of Form IA-763 entitled "Return Copy of Amendment Notice To." An amendment request may be resubmitted on the same set of Form IA-763 where corrections or documents are required. If the changes are extensive, a complete new set of Form IA-763 must be submitted.

(iii) *Rejected.* When a request is rejected, the amending officer will indicate the reason(s) therefor in the item entitled "For Official Use Only," sign, date, and identify the field office. The triplicate, plus any attachments, will be sent to the individual named in the item entitled "Return Copy of Amendment Notice To."

(j) *Price amendments.* An export license shall be amended for (1) any upward change in unit price or total value shown on the license, if the commodity is licensed by dollar value (those commodities on the Commodity Control List (§ 399.1 of this subchapter) which do not show a specific unit of quantity are licensed by dollar value); or (2) an upward change in unit price or total value in excess of 25 percent beyond that shown on the license, if the commodity is licensed in units other than dollar value, except the following, which do not require approval from the Office of Export Control:

(i) Where the licensee uses the permissible shipping tolerances (see § 386.7 of this subchapter). In such cases, the total value for the commodity shown on the Shipper's Export Declaration may exceed the total value shown on the license to the extent set forth in § 386.7 of this subchapter. However, the unit value shown on the license may not be increased, except in accordance with subparagraph (1) of this paragraph.

(ii) Where a price increase can be justified to the customs officer on the basis of changes in point of delivery, port of export, or as a result of transportation cost, drayage, port charges, warehousing, etc.

(iii) Where unit or total price is not shown on the license but is based upon the market price at a specified date plus an exporter's markup, or like basis. In such cases, the unit or total price need only conform with the price statement on the license; or

(iv) Where a change involves a reduction in price and the commodities are (a) licensed by units of quantity, or (b) licensed by dollar value, provided in the latter case that the value shown on the declaration shall not exceed the total value shown on the license, except as described in subparagraph (1) of this paragraph.

(k) *License covered by an International Import Certificate, a Swiss Blue Import Certificate, or a Yugoslav End-Use Certificate.*—(1) *Import certificates.* A request to amend an export license covering a commodity subject to an International Import Certificate (§ 375.1 of this subchapter), Swiss Blue Import Certificate (§ 375.3 of this subchapter), or Yugoslav End-Use Certificate (§ 375.4 of this subchapter) that changes any party to the transaction named on the license or increases the net quantity set forth on the license, shall be accompanied by a new or appropriately amended document if the proposal is not in accordance with the document previously submitted. If a proposed quantitative amendment is in accordance with the previously submitted document, the request shall include the following certification:

I (We) certify that this request for amendment of export license number _____, if granted, will not exceed the total quantity authorized under the (Name of country) (Import Certificate) (End-Use Certificate) (Import License) number _____

(l) *Licenses covered by consignee/purchaser statements.* A new Form FC-842, Single Transaction Statement by Consignee and Purchaser, or a new Form FC-843, Multiple Transactions Statement by Consignee and Purchaser, shall accompany a request for an amendment of an export license which proposes a change in the consignee or purchaser in the transaction named in the export license if the proposed amendment is not in accordance with the consignee and purchaser statement previously submitted. A new Form FC-842, or a letter, wire or cable from the ultimate consignee and purchaser, if applicable, confirming the change, shall accompany a request for an amendment of an export license which proposes any increase in the quantity set forth in the export license if the proposed amendment is not in accordance with the Form FC-842 previously submitted. If a proposed quantitative amendment is in accordance with the previously submitted Form FC-842, the amendment request shall include the following certification:

I (We) certify that this request for amendment of export license number _____, if granted, will not exceed the total covered by the Single Transaction Statement by Consignee and Purchaser against which this export license was issued.

Where the export license is based on a Form FC-843, Multiple Transactions Statement by Consignee and Purchaser, an additional Form FC-843 is not required from the consignee or purchaser to support a proposed license amendment for an increase in quantity. In lieu

thereof, the following certification shall be entered on Form IA-763, Request for and Notice of Amendment Action:

I (We) certify that the license(s) described in Item 2a (is) (are) supported by a Multiple Transactions Statement.

§ 372.12 Special provisions for an amendment to extend the validity of a license.

A request to extend the validity of a license must be made on Form IA-763 in the same manner as any other amendment request.

(a) *Time for submitting requests.* Except for a license issued under the emergency clearance procedure (see § 372.4 (h)), a request may be made to extend the validity of a license that will expire before complete shipment is made against it. An extension request shall be submitted sufficiently in advance of the license's expiration date to permit the Office of Export Control to use regular mail in notifying the licensee and the customs office holding the license before the license would otherwise expire. However, where unusual circumstances make it impossible for the licensee to request an extension before the normal expiration date, such a request will be considered if received within 1 month after the license has expired. If a license does not meet the above qualifications, a new license application shall be submitted in accordance with paragraph (d) of this section.

(b) *Procedure and justification for requesting extension.* The request shall be accompanied by the expiring license unless it has been filed with a customs office. In the latter case, notification of approval shall be given to the customs office. If the expiring license does not accompany the extension request, the applicant shall include the following information on Form IA-763:

(1) In the item entitled "Facts Necessitating Amendment," state why shipment was not or will not be made before the expiration of the license and all circumstances which will assure that shipment can be effected during the extended validity period requested. If partial shipment has been made, indicate quantity and value.

(2) In the item entitled "Amend License to Read as Follows," state whether the license has been previously extended. If so, give date(s) and duration of such extension(s) and office (Office of Export Control or field office) which approved the extension(s). The above information shall also be included when, in emergency situations, an extension request is submitted by telegram or telephone (see § 372.11(h)(4)).

(c) *Length of extension.* Generally, the length of an extension is limited as follows:

(1) *One extension.* No single extension will be granted for a length of time greater than the original validity period set forth on the license.

(2) *Two or more extensions.* The total length of time of all extensions granted for any one license will not be more than 1 year beyond the expiration date

shown on the license. For example, if a license is originally valid for 6 months, extensions may be granted which total up to 12 months beyond the original expiration date, but no one extension will be for more than 6 months. A license originally valid for 1 year may be extended for 1 year in total, either in a single extension action or in two or more extension actions.

(d) *New license application to replace expiring or expired license.* Where an application is submitted for a new license to replace an expiring or expired license, the applicant shall (1) indicate on the new application that it is being submitted to replace (expiring) (expired) export license bearing case number (insert number), and (2) submit new documentation in the following circumstances:

(i) If current Export Control Regulations require the application to be supported by a consignee/purchaser statement, a new consignee/purchaser statement must be furnished unless a current Form FC-843, Multiple Transactions Statement by Consignee and Purchaser is already on file in the Office of Export Control;

(ii) If current Export Control Regulations require the application to be supported by any document which was not submitted with the application upon which the license was based, this document must be furnished; and

(iii) If the Office of Export Control requests the applicant to furnish a specific document.

(e) *Action on extension request—(1) Method of extension.* If granted, an extension will be made in the same manner as other amendments. (See § 372.11(i).)

(2) *Notice of extension request.* When a customs office holding an expiring or expired license is notified that a request for extension of the license has been filed in accordance with the foregoing provisions, the customs office will hold the license for an additional 30 days after the original expiration date. If the approved extension is not received within 30 days, the customs office will return the license to the Office of Export Control.

§ 372.13 Special provisions for transfer of licenses to another party.

(a) *Authorization.* An export license shall not be transferred from one licensee to any other party except by prior written authorization of the Office of Export Control. Upon request of the original licensee, a transfer may be effected by amending the original license, except as provided below.

(b) *When transfer may be authorized.* A transfer of a license may be authorized to a transferee who is subject to the jurisdiction of the United States, is a principal party in interest, and will assume all powers and responsibilities under the license for the control of the shipment of the commodities or technical data out of the United States. Only one transfer of the same license will be approved.

(c) *Information from transferor and form of request—(1) Less than 15 licenses.* (i) When requesting the transfer

of less than 15 outstanding licenses, the original licensee shall submit:

(a) A completed Form IA-763, Request for and Notice of Amendment Action (see Supplement S-4 for facsimile),¹ in triplicate, for each license(s);

(b) The original license(s) if held by the licensee;

(c) A signed letter from the person or firm to whom the license(s) is (are) to be transferred as required by paragraph (d) of this section; and

(d) The following certification:

The undersigned hereby certifies that, if license number(s) ----- is (are) transferred in accordance with my (our) request, any and all documents evidencing the order covered by this (these) license(s) will be made available upon demand and will be retained by me (us) for a period of 3 years from the time of the export from the United States, or any known reexport, transshipment, or diversion, or any other termination of the transaction whether formally in writing or by any other means, whichever is later. The undersigned will promptly report to the Office of Export Control any material or substantive changes in the terms of the order and any other facts of the export transaction known or reported to the undersigned at any future time by any party to the export transaction.

(Signature of transferor)

(By)

(Title)

(Date)

(ii) In the item entitled "Facts Necessitating Amendment" of Form IA-763, give the reasons for the requested transfer and state whether or not any consideration has been or will be paid for the transfer. Show the name and address of the proposed transferee in the item entitled "Amend License to Read as Follows."

(iii) If the original license(s) is (are) being held by a customs office at the time the request for transfer is submitted, show the address of that customs office in the item of Form IA-763 entitled "License Has Been Deposited With." The licensee must also submit an additional triplicate (yellow) copy, showing under "Return Copy of Amendment Notice To," the name and address of the original licensee and the name and address of the person to whom the license is to be transferred. This additional copy will be used to notify the transferee of the action taken.

(2) *Fifteen or more licenses.* Where a transfer affects 15 or more outstanding licenses, the original licensee shall submit a written request for such transfer containing the following information:

(i) Either a list of the case numbers and outstanding license numbers or a statement that all outstanding licenses in the name of the licensee are to be transferred, and the total number of such outstanding licenses;

¹ Form IA-763 may be obtained at all U.S. Department of Commerce field offices (see list on page i under Field Office Addresses) and from the Office of Export Control (Attention: 852), U.S. Department of Commerce, Washington, D.C. 20230.

(ii) A list showing the case numbers (if known), the applicant's reference numbers, and other information identifying applications pending in the Office of Export Control which are to be transferred;

(iii) Name and address of the proposed transferee;

(iv) Facts necessitating transfer;

(v) A statement as to whether any consideration has been or will be paid for the transfer; and

(vi) The certification set forth in subparagraph (1)(d) of this paragraph.

(3) *Additional proof.* In addition to the information required under subparagraphs (1) and (2) of this paragraph, the original licensee must identify by name the legal document (certificate, agreement, etc.) or other authority by which the new firm name is legally established, the new corporation or firm created, or the assets transferred, showing the effective date of such document and the state where filed or recorded.

(d) *Information from transferee.* The request for transfer from the original licensee must be accompanied by a signed letter from the person to whom the license is being transferred, stating:

(1) That the transferee is a principal party in interest in the transaction covered by the license, or is acting as agent for a principal party in interest;

(2) That the transferee is subject to the jurisdiction of the United States;

(3) That the transferee assumes all powers and responsibilities under the license for the control of the shipment of the commodities or technical data out of the United States;

(4) Whether any consideration has or has not been or will be paid for the transfer;

(5) The name and address of the foreign principal in instances where the transferee will make the export as agent on behalf of a foreign principal; and

(6) If the license is to be used by the licensee's subsidiary or firm, or if the licensee transfers to the new exporter all, or a substantial portion, of his assets or business, the transferee must certify that the legal authority changing the exporter imposes on the transferee the responsibility to accept and fulfill the obligations of the transferor under the transactions covered by the license.

(e) *Notification of transfer—(1) Less than 15 licenses.* When a request for the transfer of less than 15 outstanding licenses is approved, the Office of Export Control validates all copies of Form IA-763 by imprinting, in the space entitled "Validation," a facsimile of the U.S. Department of Commerce seal followed by a five-digit number representing the date of validation. The duplicate is forwarded as the official notice of amendment to the customs office designated in the item entitled "License Has Been Deposited With." The triplicate is forwarded to the individual named in the item entitled "Return Copy of Amendment Notice To." If the request is rejected or returned without action, the reason(s) therefor is indicated on the triplicate copy, which is then returned to the applicant.

(2) *Fifteen or more licenses.* When a request to transfer 15 or more outstanding licenses is approved, the Office of Export Control issues a blanket authorization notifying customs offices that shipments may be cleared for export against such licenses on presentation by the transferee. The transferor and transferee are notified by letter.

Supplement No. 1—Instructions for Preparing an Application for a Validated License

Enter the date the application is completed in the box titled "Date of Application."

Item 1. The name and address of the applicant must be entered. The Postal Zip Code must be included as it is an integral part of the address. Failure to include ZIP Code on an application may result in delay in mailing of the export license.

Item 2. The person named as purchaser should be the person abroad who has entered into the export transaction with the applicant or order party. If such person is the same as the ultimate consignee, applicant should state "Same as Item 3"; if such person is the same as the intermediate consignee, applicant should state "Same as Item 4." If no entry is made in this item, the applicant represents that the ultimate consignee is the foreign purchaser.

Item 3. The person named as ultimate consignee shall be the person abroad who is actually to receive the material for the end use designated in Item 10. A bank, freight forwarder, forwarding agent, or other intermediary is not acceptable as an ultimate consignee, but should be disclosed as an intermediate consignee, where appropriate.

Item 4. An intermediate consignee may be a bank, forwarding agent or other intermediary in a foreign country who participates as an agent for the exporter or for the purchaser or ultimate consignee for the purpose of effecting delivery of the export to the purchaser or ultimate consignee. All known intermediate consignees must be named. If no intermediary is to be used, state "None"; if unknown, state "Unknown." If no entry is made in this item, the applicant represents that there is no intermediate consignee.

Item 5. The country of final (ultimate) destination is to be entered, not a country through which the export may travel in transit to its final destination. The name of the country shall be stated in accordance with the country designation listed in "Schedule C, Classification of Country Designations used in Compiling the U.S. Foreign Trade Statistics," issued by the Bureau of the Census, unless otherwise specified in the Export Control Regulations. The country designation may be a destination shown in a heading alongside of a Schedule C code number, or a destination listed in a further breakdown under such heading. For example, when an export is made to Crete, the name of the country shown in Item 5 of the application may be Greece, which appears alongside of Schedule C code number 484, or it may be Crete, which is listed as a destination in the breakdown under Greece.

Exporters are responsible for placing a statement of ultimate destination and prohibition against diversion on shipper's export declaration, bill of lading, and commercial invoice for various export shipments. Omission of the statement, or unauthorized diversion of commodities from country of final (ultimate) destination, not in accordance with the statement, are violations of the Export Control Regulations subject to denial of export privileges and to civil and criminal penalties.

Item 6. The applicant's reference number may be used for applicant's convenience.

Item 7. (a). Give the quantity to be shipped, using units specified in the Commodity Control List. If dots (. .) are set forth in the unit column the application should show the unit of quantity commonly used in the trade (§ 399.1).

Item 7. (b). Commodities must be described in terms which correspond with the commodity descriptions in the Commodity Control List (Part 399). Additional details as prescribed by the Export Control Regulations must be furnished to the extent necessary for identification of the specific items so classified. Include characteristics shown on the Commodity Control List such as basic ingredients, composition, type, size, gauge, grade, horsepower, etc. Where the Commodity Control List entry states "specify by name," all of the commodities to be included in the shipment must be listed by name on the application.

Item 7. (c). The Export Control Commodity Number and Processing Number must be shown in this column. All commodities on a single application must have the same Processing Number, unless otherwise provided in the Export Control Regulations.

Item 7. (d). Unit price should be shown except where a large variety of products within a single Export Control Commodity Number makes such a breakdown extremely difficult. In such cases only total price need be shown. The applicant must show total price in the customary form of quotation such as f.o.b. (factory), f.a.s. (named port), c.i.f., or other form. The particular form of price quotation must be specified. The amounts entered in the total price column on the application shall be rounded to the nearest whole dollar, except where the actual total value is less than \$0.50. For example: If the total price of a commodity listed on the application is \$2,375.49, it should be listed as \$2,375; \$2,375.50 should be listed as \$2,376; \$0.78 should be listed as \$1; and \$0.38 should be listed, unchanged, as \$0.38. Where the normal trade practice in a given commodity makes it impracticable to establish a firm contract price, the precise terms upon which the price is to be ascertained and from which the contract price may be objectively determined must be stated on the application. A mere statement by the exporter of "market price at the time of delivery of shipment" or other such general statement of price will not be acceptable.

Item 8. The name and address of the person, other than applicant, authorized by the applicant to receive the license, if issued, should be entered. The Postal ZIP Code must be included as it is an integral part of the address. Failure to include ZIP Code on an application may result in delay in mailing of the export license. The license will be transmitted only to the applicant or to the person designated on the license application as the person entitled to receive the license on behalf of the licensee. The license will not be transmitted directly to the customs office at the port of export, except for an emergency clearance, as set forth in §§ 372.4(h) and 372.10 of the Export Control Regulations.

Item 9. Leave blank if applicant is the producer of the commodities to be exported. Applicant so represents where item is blank. If applicant is not the producer, give supplier's name and address, or state "Unknown," if unknown.

Item 10. End use of commodities or technical data covered by this application will be an important factor in determining issuance of license. Statement by ultimate consignee (and purchaser, if not same) as to ultimate destination and end use must be submitted for certain exports as required by

the Export Control Regulations. (Applicant's reference to such statement does not relieve him of responsibility to fully disclose any additional or different information he may know.) Applicant must indicate clearly the end use intended by the ultimate consignee, stating what will be produced or manufactured, or what services will be rendered, and give the country or countries where this will take place. A complete and detailed description is required.

Item 11. If applicant is exporting for the account of a foreign principal, the name and address of the foreign principal must be shown and an explanation of the transaction given in full. If no entry is made in this item, the applicant represents that he is exporting for his own account.

Item 12. Enter additional information pertinent to the transaction or required by the Export Control Regulations, such as special certifications, names of parties in interest not disclosed elsewhere, explanation of documents attached, etc. If this application represents a transaction previously considered by the Office of Export Control and returned without action or rejected, give prior case number (application number) and indicate prior action by the Office of Export Control.

Item 13. "Application Must Be Manually Signed" by applicant, or by an officer or duly authorized agent of the applicant. If signed by agent of the applicant, title and firm name of agent must be shown. (Rubber-stamped and other facsimile signatures are not acceptable.)

Item 14. Where the applicant did not receive the order directly from the foreign purchaser or ultimate consignee named in the application, or through his or their agents abroad, the person in the United States who conducted the direct negotiations with the foreign party and originally received the order (the order party) must sign the application and complete this item.

PART 373—SPECIAL LICENSING PROCEDURES

Sec.	
373.1	Introduction.
373.2	Project license.
373.3	Distribution license.
373.4	Foreign-based warehouse procedure.
373.5	Periodic requirements (PRL) license.
373.6	Time limit (TL) license.
373.7	Service supply (SL) procedure.
373.8	Aircraft and vessel repair station procedure.

Supplement No. 1—Commodities excluded from distribution license procedure.

AUTHORITY: The provisions of this Part 373 issued under sec. 3, 63 Stat. 7; 50 U.S.C. App. 2023; E.O. 10945, 26 F.R. 4487, 3 CFR 1959-1963 Comp.; E.O. 11038, 27 F.R. 7003, 3 CFR 1959-1963 Comp.

§ 373.1 Introduction.

In order to facilitate the export of commodities requiring a validated license, a series of special licensing procedures is established that may be used, when appropriate, in lieu of the individual export license, as set forth in Part 372 of this subchapter.

(a) *Relationship to foreign laws.* No authority granted under the provisions of this part to reexport, resell, distribute, transfer, divert, or transship a commodity shall in any way relieve any person from his responsibility to comply fully with the laws, rules, and regulations of the country from which the commodity is to be reexported or of any other country having authority over any

phase of the transaction. Conversely, no foreign law, rule, regulation, or authorization in any way relieves any person from his responsibility to obtain such authorization from the Office of Export Control as may be required by the Export Control Regulations.

(b) *Effect of other regulations.* Insofar as consistent with the provisions of this part, all of the provisions of the Export Control Regulations shall apply equally to applications for licenses and licenses issued under this part.

§ 373.2 Project license.

A Project License Procedure is established that authorizes exports for a period of 1 year for use in specified activities.

(a) *Commodities, technical data, and activities eligible for project license.* The Project License Procedure is applicable if:

(1) The total value of validated license shipments is expected to be \$100,000 or more annually;

(2) The commodities to be exported are covered by entries in the Commodity Control List under at least four Commodity Processing Numbers in which the first two digits of each differ from the first two digits of the other three Commodity Processing Numbers. (For example, Processing Numbers 411, 421, 612, and 621 would meet this requirement, while Processing Numbers 411, 412, 413, and 418 would not meet the requirement);

(3) At least 40 individual validated licenses would be needed to export the proposed commodities; and

(4) The license, if granted, would be used for one of the following activities:

(i) A substantial project representing a capital expansion, either a new facility or expansion of an existing facility; or

(ii) A program for supplying maintenance, repair, and operating supplies to serve an existing facility; or

(iii) A program for supplying materials to be used in the production of other commodities for sale.

(b) *Commodities, technical data, and activities not eligible for project license.* The Project License Procedure does not apply if:

(1) The commodities are listed in Supplement No. 1 to this Part 373;

(2) The commodities are related to nuclear weapons, nuclear explosive devices, or nuclear testing, as described in § 378.1 of this subchapter;

(3) The technical data is not generally available to the public and relates to nuclear weapons, nuclear explosive devices, or nuclear testing, as described in § 379.4(c)(1) of this subchapter;

(4) The commodities are intended for resale in the form in which they were exported from the United States; or

(5) Electronic, mechanical, or other devices as described in § 376.13(a) of this subchapter, primarily useful for surreptitious interception of wire or oral communications.

(c) *Application procedure.*—(1) *General.* The preparation of an initial application for a Project License requires a

substantial amount of work by the exporter. Therefore, a prospective applicant may wish to consult the Office of Export Control in advance to obtain a preliminary determination of the applicability of the project licensing procedure and to obtain advice as to any special information that may be required.

(2) *Documents required.* An applicant for a Project License shall submit the following:

(i) Form FC-420, Application Processing Card, prepared in accordance with the provisions of § 372.4(a)(5) of this subchapter, except that the applicant shall:

(a) Write "Project License" in the Export Control Commodity Number space;

(b) Leave the Processing Number space blank;

(c) Show the name or description of the project in the commodity description space.

(ii) Form FC-419, Application for Export License, prepared in accordance with the provisions of § 372.4(a)(4) of this subchapter, except that the applicant shall:

(a) Insert "see attached list" in the space entitled "Ultimate Consignee in Foreign Country" if there is more than one ultimate consignee, and attach to the application a list, in duplicate, of the country(ies) of ultimate destination followed by the name(s) of the ultimate consignee(s), both in alphabetical order. For example:

France: Central Corp.; Development Corp.
Mexico: Consolidated Copper; Fairway Limited

(b) Insert the following in the space entitled "Commodity Description":

Articles and materials set forth on the attached statement of estimated requirements constitute the known requirements of commodities (and technical data, if applicable) requiring validated licenses for the (insert name of program or project).

I (We) hereby certify that if a license is granted in response to this application: (a) no commodities (or technical data, if applicable) will be exported under the license unless specifically required for the (program) (project); and (b) after export, the com-

modities (and technical data, if applicable) will not be disposed of or used for any purpose other than that stated in this application.

(iii) Form FC-988, Statement by Ultimate Consignee in Support of Project License Application (see Supplement S-14 for facsimile of form). This form is required from each ultimate consignee named in the license application, including subsidiaries, affiliates, branches, or other associated firms of the applicant, if the applicant and the consignee are separate legal entities. It is not required where the applicant is the same person as the ultimate consignee. Form FC-988 shall be manually signed by the ultimate consignee, or by a responsible official of the ultimate consignee's firm who has (a) personal knowledge of the information included in the statement, (b) authority to bind the ultimate consignee, and (c) the power and authority to control the use and disposition of the licensed commodities and technical data in the country of ultimate destination. The authority to sign this form may not be delegated to any person (agent, employee, or other) whose authority to sign is not inherent in his official position with the ultimate consignee. The official signing the statement shall include his official title with his signature.

(iv) Statement of requirements:

(a) *Estimated requirements.* A statement shall be submitted in duplicate specifying the estimated requirements for commodities requiring a validated license which are expected to be exported during the first 1-year validity period and any commodities exportable under General License GLV which the licensee prefers to ship under the Project License.

(b) *Descriptive categories.* Only broad descriptive categories corresponding with the commodity sections and subheadings appearing in the Commodity Control List (§ 399.1(j) of this subchapter) shall be used to describe the commodities, and the requirements for each commodity shall be broken down into sub-totals and grand totals for Country Group T, Country Group V, and another entry for all other Country Groups. (See example below.)

EXAMPLE: VALIDATED LICENSE REQUIREMENTS FOR FIRST YEAR

Commodity section	Country Group T	Country Group V	Other country groups	Subtotal
Section 3—Mineral Fuels, Lubricants and Related Materials:				
Petroleum and Petroleum Products.....	\$50,000	\$100,000	\$20,000	\$170,000
Section 7—Machinery and Transport Equipment:				
Machinery, Other Than Electric.....	100,000	175,000	25,000	300,000
Electrical Machinery, Apparatus, and Appliances.....	750	1,500	250	2,500
Transport Equipment.....	2,250	4,500	750	7,500
Section 8—Miscellaneous Manufactured Articles:				
Professional, Scientific, and Controlling Instruments.....	75,000	125,000	25,000	225,000
Grand total.....	228,000	406,000	71,000	705,000

(c) *Capital expansion project.* An additional statement, in duplicate, shall be submitted if the commodities are for use in a project representing a capital expansion. This statement shall cover the estimated requirements of commod-

ities requiring a validated license that are expected to be exported during the period required for the full completion of the project.

(d) *Value limitation.* If a Project License is issued, the estimated values

constitute a limit only on the grand total licensed. It is not a limit on the sub-totals. For example, in the following illustration an amendment is necessary only if the grand total value of all shipments under the Project License to all Country Groups will exceed \$705,000.

(c) *Technical data.* The following information regarding any exports of technical data related to the project shall accompany the statement of estimated commodity requirements:

(1) A detailed description of the subject matter or substance of the technical data and its relationship to the project;

(2) Processes involved, if any; and

(3) The form in which the information will be furnished to the foreign consignee (e.g., blue prints, specifications, technical aid contracts, manufacturing agreements, patent licensing arrangements, instruction, or training).

(v) *Comprehensive narrative statement:* The comprehensive narrative statement of explanation by the applicant shall include, as a minimum:

(a) *Qualification.* An explanation by the applicant of how the proposed Project License application qualifies under the criteria described in paragraph (a) of this section.

(b) *Description.* A detailed description, including the nature and scope of the project, and the estimated completion date.

(c) *Business relationship.* The nature and duration of the business relationship between the applicant and the consignee(s) named in the Project License application. If there are any corporate or other ownership relationships between the parties, these relationships shall be fully disclosed.

(d) *Action by Office of Export Control on license applications—(1) Approved license application.* When an application for a Project License is approved, the covering export license will be similar to validated license described in § 372.9, with the following exceptions:

(i) *Validation.* The license will be validated by stamping in the license number space a facsimile of the U.S. Department of Commerce seal the letter "D," and a series of numbers to indicate the year, month, and day on which the license was validated. For example, a validation stamp which reads "D0-110" indicates that the license was validated in the year 1970 (0), in the month of January (1), and on the 10th day of the month (10).

(ii) *License number.* The license number assigned to the project will be indicated immediately below the validation stamp. This will be a four-digit number prefixed by the letters DL, and suffixed by a one-letter code indicating the Office of Export Control licensing division to which the project was assigned (that is: "C" for Capital Goods Division; "P" for Production Materials and Consumer Products Division; and "S" for Scientific and Electronic Equipment Division).

(2) *Commodity description.* Instead of a specific description of quantities, kinds, or values of commodities and technical data, one of the following statements

will appear in the commodity description item on the license:

(i) *If commodities only:*

This license authorizes export of commodities requiring a validated license subject to the specific limitations set forth in the Export Control Regulations and on this license.

(ii) *If commodities and technical data:*

This license authorizes export of commodities and technical data requiring a validated license subject to the specific limitations set forth in the Export Regulations and on this license.

If any special conditions are imposed with respect to the use of a specific Project License that are more restrictive than the general conditions provided in the Export Control Regulations, these conditions will either be set forth on the license or the licensee will be advised by other means.

(3) *Notification to Customs Offices.* The Office of Export Control will notify all Customs Offices of the issuance of the Project License.

(4) *Rejected applications.* When an application for a Project License is rejected, the applicant will be notified by Form FC-204-A, Notification of Rejection of Export License Application. This notice will explain the reason for rejection. The applicant may apply for an individual or other appropriate type of validated license for transactions covered by the rejected Project License application.

(e) *Extensions and amendments of project licenses—(1) Extensions—(i) Form to use.* Requests to extend a Project License shall be submitted in triplicate on Form FC-957, "Application for and Notice of Extension of Project License" (see Supplement S-13 for facsimile of form and instructions). All items of the form must be completed. If more space is needed, an extra sheet shall be attached identified by the Project License number and by the item number to which the information applies. If no answer applies to an item, the word "none" shall be inserted.

(ii) *When to apply.* An extension request should be submitted to the Office of Export Control from 60 to 90 days before the expiration date in order to avoid interrupting the movement of shipments under the license.

(iii) *Action by Office of Export Control.* Each extension request is analyzed by the Office of Export Control as to the past activity of the project to determine whether an extension is justified. Prior to asking for an extension the licensee should examine his own records to see if the criteria described in paragraph (a) of this section were met during the initial validity of the license. If not, the licensee should apply for an individual or other appropriate type of license instead of an extension of the Project License. When action has been taken by the Office of Export Control, this form will be returned to the licensee for retention in his files.

(2) *Amendments—(i) Form to use.* All requests for amendment other than an extension of validity period shall be submitted on Form IA-763 in the usual manner (see § 372.11 of this subchapter). However, if submitted with an extension request, the amendment request may also be included on the Form FC-957.

(ii) *New consignee.* Where an additional ultimate consignee is proposed, the request shall be accompanied by a statement from the proposed ultimate consignee and the U.S. exporter setting forth the information required by paragraph (c) (2) (iii) and (v) (c) of this section.

(iii) *Addition of technical data.* If an amendment request proposes adding technical data, the Form FC-763 shall be accompanied by: a statement from the U.S. exporter setting forth the information required by paragraph (c) (2) (iv) (e) of this section, a Form FC-988, Statement by Ultimate Consignee in Support of Project License Application, from each ultimate consignee who will receive the data, as described in paragraph (c) (2) (ii) of this section and the following certification:

I (We) certify that if the request for amendment of Project License No. ----- is granted, the technical data will be used only in connection with the (program) (project) and after export will not be disposed of or used for any other purpose than that stated in this request.

(iv) *Transfer of license.* A request to transfer a Project License is handled in the same manner as a request to transfer any other license. See § 372.13 of this subchapter.

(3) *Amendments not required.* No amendment is needed to add a commodity section or change the total estimated value of a commodity section unless the grand total value of all shipments shown in the statement of estimated amounts needed will be exceeded.

(4) *Action by Office of Export Control on extensions or amendments to Project Licenses—(i) Approval.* When a request to amend or extend a Project License is approved, the Form FC-957 or IA-763 will be validated as described in §§ 372.11 and 372.12 of this subchapter and a copy returned to the licensee. The approved form will show any changes that may have been made in the licensee's request, or any special conditions that may have been added. The Office of Export Control will notify Customs Offices of the approval action.

(ii) *Rejection.* When a request for extension is rejected, the original of Form FC-957 or IA-763 will be held in the Office of Export Control; the duplicate and triplicate copies will be returned to the applicant. The reason for rejection will be given, either on Form FC-204A, Notification of Rejection of Export License Application, or by letter.

(f) *Export clearance—(1) General.* The Office of Export Control usually notifies all Customs Offices of the approval of a Project License within 15 days after dispatch of the license to the licensee. An exporter should not plan to clear an export at an earlier date unless

he has verified that notification has reached the Customs Office at the intended port of exit. In unusual circumstances, the exporter may request earlier notification to one Customs Office in order to clear a specific emergency shipment(s).

(2) *Presentation of license, extension, or amendment.* The license, extension, or amendment is not required to be filed with the Customs Office. However, when clearing shipments, the licensee shall, on demand, show the Customs Officer either the original or a photocopy of the license or amendment.

(3) *Shipper's Export Declaration.* The Shipper's Export Declaration covering an export made under a Project License shall be prepared in accordance with standard instructions. Although the Project License and amendments describe the commodities only in broad descriptive categories, commodity descriptions on the Declaration shall show specifically the commodity description conforming to the applicable Commodity Control List description and incorporating any additional information where required by Schedule B; e.g., type, size, name of specific commodity, etc. In addition: (i) The Declaration shall include the Project License number; (ii) the symbol "DL" shall be entered in the upper right corner of the Declaration; and (iii) one additional copy shall be filed with the Customs office.

(4) *Mail shipments.* Shipments by mail shall be made in accordance with the instructions contained in § 386.1(c) of this subchapter.

(5) *Shipments exportable under General License GLV.* Notwithstanding any statement appearing on a Project License, a Project License holder may use either his Project License or General License GLV to export commodities which meet the provisions of General License GLV. The Project License, however, may not be used for shipments which can be made under any other general license.

(g) *Reexports.* Commodities and technical data exported under a Project License may be reexported between ultimate consignees covered by the terms of the Project License without obtaining specific approval from the Office of Export Control.

(h) *Application for other validated licenses—(1) Exporter holding a Project License.* An exporter holding a Project License shall not apply for, nor will the Office of Export Control issue to him, an individual or any other type of validated license for any transaction involving the licensed project, except for export of shipments described in paragraph (b) of this section.

(2) *Other exporters.* Where a valid Project License is in force, the Office of Export Control will not issue another Project License to cover shipments to the licensed project or program. If an exporter intends to make shipment to a project or program for which another exporter already holds a Project License, he may apply to the Office of Export Control for an individual license or any

other appropriate type of validated license except a Project License.

§ 373.3 Distribution license.

A Distribution License procedure is established that authorizes exports, during a period of 1 year, of certain commodities under an international marketing program to consignees that have been approved in advance as foreign distributors or users.

(a) *Eligible countries.* Exports may be made under the Distribution License procedure from the United States to approved consignees in:

- (1) All countries in Country Group T; and
- (2) The following countries in Country Group V:

Australia	The Netherlands
Austria	New Zealand
Belgium	Norway
Denmark	Pakistan
France	The Philippines
Greece	Portugal
India	Spain
Ireland	Thailand
Italy	Turkey
Japan	United Kingdom
Luxembourg	West Germany

(b) *Eligible commodities.* Any commodities requiring a validated license for export to the countries listed above qualify for the Distribution License Procedure; except:

(1) Commodities related to nuclear weapons, nuclear explosive devices, or nuclear testing, as described in § 378.1 of this subchapter;

(2) Commodities listed in Supplement No. 1 to this Part 373; and

(3) Electronic, mechanical, or other devices, as described in § 376.13(a) of this subchapter, primarily useful for surreptitious interception of wire or oral communications.

(c) *Eligible exporters and consignees—*

(1) *Applicant-consignee relationship.* The ultimate consignee of a Distribution License must be:

(i) A subsidiary, affiliate, or branch of the U.S. exporter serving as the distributor of the commodities to be exported. The subsidiary, affiliate or branch must be under the full and active control of the exporter and a majority of any voting stock in the subsidiary, affiliate, or branch must be owned by the exporter; or

(ii) An agent, representative, or any other person or firm distributing the commodities to be exported under this license pursuant to a written agreement with the U.S. exporter or its wholly owned subsidiary that effectively assures compliance with U.S. export control regulations, including the provisions set forth in paragraph (1) of this section; or

(iii) An end-user importing the commodities for his own use or for use in the production or manufacture of commodities.

(2) *Duration and evidence of relationship.* The U.S. exporter generally shall have had a continuous business relationship with each ultimate consignee named in his application for a period of not less than 2 years immediately preceding

the date of filing the application for a Distribution License. This restriction does not apply to an ultimate consignee that is a subsidiary, affiliate, or branch. At the time the application is filed, the applicant for a Distribution License shall have in his possession, documentary evidence of the existence of the relationship with each ultimate consignee, as described above. These documents and records shall be kept and made available for inspection in accordance with the provisions of § 387.11 of this subchapter.

(3) *Prerequisite volume of business.* Within the calendar year immediately preceding the date of filing of the application for a Distribution License, the U.S. exporter shall have exported to the distributor(s) and end-user(s) commodities covered by the application in a grand total value of not less than \$100,000 for the entire list of proposed consignees in all the proposed countries of destination. In addition, the exporter shall have a reasonable expectation that this business volume will continue for the next year in an amount of not less than \$100,000. The exporter also shall have a reasonable expectation that the Distribution License, if granted, will replace not less than 40 individual validated export licenses that would otherwise be required.

(4) *Order requirement.* An applicant for a Distribution License need not hold an order as defined in § 370.2 of this subchapter from the ultimate consignee(s) for the commodities subject to this procedure at the time he applies for the license.

(d) *Application for Distribution License—(1) Prior consultation.* The preparation of any initial application for a Distribution License requires a substantial amount of work by the exporter. Therefore, a prospective applicant may wish to consult the Office of Export Control in advance to obtain a preliminary determination of the applicability of the Distribution License procedure and to obtain advice as to any special information that may be required.

(2) *Documents required.* Each application for a Distribution License shall include the following documents:

(i) Form FC-420, Application Processing Card;

(ii) Form FC-419, Application for Export License;

(iii) Form FC-1143,¹ Distribution License Consignee Statement (See Supplement S-15 for facsimile of form.); and

(iv) Comprehensive narrative statement by the exporter.

An application for a Distribution License need not be supported by the Import Certificate or Consignee Statement otherwise required under § 375.1 or § 375.2 of this subchapter.

¹ Form FC-1143 may be obtained at all U.S. Department of Commerce Field Offices (see list of addresses on page 1 under Field Office addresses) and from the Office of Export Control (Attention: 852), U.S. Department of Commerce, Washington, D.C. 20230.

(3) *Preparation of documents*—(i) *Form FC-420*. The applicant shall prepare Form FC-420, Application Processing Card, in accordance with the provisions of § 372.4(a) (5) of this subchapter except that the applicant shall:

(a) Write "Distribution License" in the Export Control Commodity Number space;

(b) Leave the Processing Number space blank; and

(c) Enter "Various" in the commodity description space.

(ii) *Form FC-419*. The applicant shall prepare and submit the application in accordance with the provisions of § 372.4 of this subchapter except that the applicant shall:

(a) Write "Distribution License," as well as the date, in the space entitled, "Date of Application."

(b) Where there is more than one ultimate consignee, insert "See attached list" in the space entitled "Ultimate Consignee in Foreign Country."

(c) Attach a duplicate list of the country(ies) of ultimate destination, in alphabetical order, followed by the name(s) of the ultimate consignee(s) in each country, also in alphabetical order.

(d) List separately on the application or an attachment thereto, all commodities identified by the symbol "A" in the last column of the Commodity Control List (§ 399.1 of this subchapter) or, if feasible, describe them in related product groups. Examples of acceptable product groups are "Semiconductors, A type"; "electronic testing instruments, A type"; etc. All commodities not identified by either the symbol "A" or the symbol "B" on the Commodity Control List having Export Control Commodity Numbers with the same first two digits may be combined into a single entry. The commodity description for each entry shall be in terms of broad descriptive categories corresponding with the commodity sections and subheadings on the Commodity Control List.

(e) Enter the estimated total value of each "A" commodity or "A" product group and of each group non-"A" commodities to be exported during the 1 year validity period of the Distribution License in the space provided for the total selling price, with the grand total for all.

(f) Enter the following statement at the bottom of the commodity description space:

No commodity excluded from the Distribution License Procedure under the Export Control Regulations will be exported to any consignee in any destination under this Distribution License if this application is approved.

(g) Leave blank the spaces entitled "Export Control Commodity No. and Processing No.," "Unit Price," and "Quantity To Be Shipped".

(iii) *Form FC-1143*. Three copies of Form FC-1143 shall be manually signed by the consignee or by a responsible official of the consignee who is authorized to bind the consignee to all of the terms, undertakings, and commitments set forth on the form. All copies shall be co-

signed by the applicant and submitted with the application to the Office of Export Control.

(iv) *Comprehensive narrative statement*. A comprehensive narrative statement shall be submitted by the applicant in support of the application. This statement shall describe the applicant's marketing program pertinent to the application and shall detail the nature and duration of the business relationship existing between the applicant and each consignee. If the consignee is a subsidiary, affiliate, or branch of the U.S. exporter, the statement shall show clearly that the qualifications set forth in paragraph (c) of this section are met and shall show the form of ownership or other control exercised by the U.S. exporter. If the consignee is a distributor other than a subsidiary, affiliate, or branch of the U.S. exporter, the statement shall include both the terms of the distributorship agreement and the written agreement assuring compliance with U.S. export control regulations as described in paragraph (c) (1) (ii) of this section. In addition, the statement shall list, for each consignee, the volume of business in the commodities involved for the preceding year, describing the commodities in the same detail as on the license application.

(e) *Action on license applications*—(1) *Approved license application*. When an application for a Distribution License is approved, a Form FC-628, Export License, is issued by the Office of Export Control authorizing, subject to the provisions of the Export Control Regulations and to the terms and provisions of the license, the export of commodities covered during a validity period of one year.

(i) *Validation*. The license will be validated in the license number space with a stamp that includes a facsimile of the U.S. Department of Commerce seal, the letter "H" and a series of numbers to indicate the year, month, and day on which the license was validated. For an explanation of the coded dates shown on the license see § 372.9 of this subchapter.

(ii) *Distribution License number*. The Distribution License number will be indicated immediately below the validation stamp. This will be a four-digit number prefixed by the letter "V," and suffixed by a one-letter code indicating the Office of Export Control licensing division to which the license was assigned (that is: "C" for Capital Goods Division; "P" for Production Materials and Consumer Products Division; and "S" for Scientific and Electronic Equipment Division).

(iii) *Special conditions*. If any other special conditions are imposed with respect to the use of a specific Distribution License more restrictive than the general conditions set forth in the Export Control Regulations, these conditions will be set forth on the license document at the time of issuance, or the licensee will be advised by other means.

(iv) *Table of Denial and Probation Orders*. The licensee under a Distribu-

tion License is responsible for furnishing promptly to all of his ultimate consignees current reprints of the "Table of Denial and Probation Orders Currently in Effect" (see Supplement No. 1 to Part 388 of this subchapter) and each addendum thereto. Copies of these reprints, generally issued April 1 and October 1, may be obtained without charge from the Office of Export Control.

(2) *Notification to customs offices*. The Office of Export Control will notify all customs offices of the issuance of the Distribution License.

(3) *Applications returned without action*. When a Distribution License application is returned without action, the application together with related documents will be returned to the applicant with the Form FC-204-B, Advice on Application Returned Without Action. This form will state the reason for return of the license application and will explain the corrections and additional information required if the application is to be resubmitted for further consideration by the Office of Export Control.

(4) *Applications not approved*. When an application for a Distribution License is not approved, the applicant will be notified and the notice will explain the reason. The applicant may apply for an individual or other appropriate type of validated license for transactions covered by the Distribution License application that was not approved.

(f) [Reserved]

(g) *Action on Form FC-1143*. (1) Concurrently with the approval of a Distribution License application, two validated copies of each approved Form FC-1143 will be sent to the U.S. exporter. One copy shall be retained by the exporter, and one copy shall be sent by the exporter to the approved consignee.

(2) The letter of transmittal to the approved consignee shall notify (i) the consignee that he will be receiving from the exporter reprints of the U.S. Department of Commerce "Table of Denial and Probation Orders Currently in Effect" and addendum thereto listing individuals and firms to whom the consignee may not sell or otherwise dispose of the U.S. commodities received under the Distribution License, and (ii) advise the consignee that, in addition to the other requirements set forth in this procedure, he may not sell or otherwise dispose of any such U.S.-origin commodities when he has reason to believe the commodities will be used in designing, developing, or fabricating nuclear weapons or nuclear explosive devices, or in devising, carrying out, or evaluating nuclear weapons tests or nuclear explosions. If a consignee is not approved, the form will be returned to the U.S. exporter with a rider stating the reason for this action.

(h) *Export clearance*—(1) *Notification to customs*. The Office of Export Control usually notifies customs offices of the approval of a Distribution License within 15 days after dispatch of the license to the licensee. Therefore, an exporter should not plan to clear an export at an earlier date unless he has verified

that notification has reached the customs office at the intended port of exit.

(2) *Presentation of license or other approval action.* When clearing shipments for export under a distribution license, the licensee shall, on demand, show to the customs officer or postmaster either the original or a photocopy of the license or amendment. The Distribution License or amendment however is not required to be filed with the customs office or post office. When exporting by mail, the Distribution License number shall be entered on the address side of the wrapper on the package.

(3) *Limit on amount shipped.* Exports under a Distribution License of any commodity identified in the last column of the Commodity Control List by the symbol "A" are limited for each entry during the entire validity period of the license, to the amount shown on the license for that entry. This limitation does not apply to commodities not identified by the symbol "A". Exports of an entry not identified by the symbol "A" may exceed the amount shown for that particular entry provided the total of all such shipments does not exceed the grand total authorized for all of the commodities not identified by the symbol "A" on the license.

(4) *Shipper's Export Declaration.* As set forth in the standard instructions for preparing Shipper's Export Declarations, the validated license number must be shown on the Declaration. In the case of a Distribution License the license number is prefixed by the letter "V" (see paragraph (e) (1) (ii) of this section). Although the Distribution License may describe the commodities in broad terms, commodity descriptions on the Declaration shall be specific. The description shall (i) conform to the applicable Commodity Control List description, and (ii) incorporate any additional information where required by Schedule B; for example, the type, size, or name of specific commodity.

(5) *Destination control statement.* The following Destination Control Statement shall be entered on the Shipper's Export Declaration and other relevant documents, as prescribed in § 388.6 of this subchapter, covering exports made under a Distribution License:

These commodities licensed by the United States for ultimate destination (name of country). Diversion contrary to U.S. law prohibited.

Use of this statement does not preclude the consignee from reexporting to any of the exporter's other approved consignees or to other countries for which specific prior approval has been received from the Office of Export Control. In such instances, diversion (i.e., reexport) is not contrary to U.S. law and hence is not prohibited.

(1) *Reexports—(1) Distributor.* A distributor who is an approved consignee under a Distribution License may not reexport any commodity received under the Distribution License without the specific prior authorization of the U.S. Government, except reexports to any of

the U.S. exporter's other consignees who have been approved under the Distribution License procedure. Upon specific instructions from the U.S. exporter, any of his subsidiaries, affiliates, or branches, as described in paragraph (c) (1) (i) of this section, that are located in countries outside the scope of the Distribution License procedure, other than Switzerland or Liechtenstein may also reexport eligible commodities (see section (b) of this section) to any of his approved consignees. Reexports from Switzerland and Liechtenstein may be made only in accordance with § 374.3(d) (2) of this subsection.

(2) *End-user.* An end-user who is an approved consignee under a Distribution License is not precluded from exporting manufactured products incorporating U.S. commodities received under a Distribution License to any destination he has listed on the Form FC-1143 that has been approved by the U.S. Government. However, reexport of the U.S.-origin commodity in the form received is prohibited, unless specifically authorized in writing by the U.S. Government.

(3) *Request for specific authorization.* A request for specific authorization for any reexport under a Distribution License that is not authorized by the provisions of subparagraph (1) or (2) of this paragraph shall be submitted by letter to the Office of Export Control (Attention: 852), U.S. Department of Commerce, Washington, D.C. 20230. The letter shall show the Distribution License Number, the name and address of the consignee of the reexport, and the commodity description, quantity, and value of each reexport. In addition, each request shall be supported by any document that is required under the provisions of Part 375 of this subchapter in support of an application for an individual license to export such commodities directly from the United States to the country to which the reexport is to be made.

(4) *Permissive reexports provision inapplicable.* The permissive reexport provisions of the Export Control Regulations relating to the reexport of commodities within the established GLV dollar-value limits shown on the Commodity Control List (see § 374.2 of this subchapter) shall not apply to exports, reexports, or distributions under this procedure.

(j) *Direct shipment to distributor's customer.* If a distributor requests that commodities be delivered directly to his customer in the same country of destination or in another country to which reexport is authorized in accordance with paragraph (i) of this section, the U.S. exporter may do so under his Distribution License by showing on the Shipper's Export Declaration, the name and address of the customer as ultimate consignee followed by a footnote. The related footnote shall read, "by order of (name of distributor and his address)," and shall appear below the commodity description. Unless the name of the distributor appears in this manner on the Declaration, direct shipment may not be

made to the distributor's customer under the Distribution License.

(k) *Amendment of license.* If the exporter desires to add new consignees to this license, or if the amount licensed under a Distribution License proves insufficient to meet his requirements, he may file new Forms FC-1143 and/or request an increase in the value authorized for export under the license at any time during the validity period of the license. Requests for amendment shall be submitted on Form IA-763, Request for and Notice of Amendment Action (see Supplement S-4 for facsimile of form), in accordance with the provisions of § 372.11 of this subchapter. An amendment request for the addition of a new consignee shall be supported by Form FC-1143, prepared as required by the provisions of paragraph (d) (3) of this section. Amendment of a Distribution License to extend the validity period will not be granted. A new license application with supporting Form FC-1143 shall be filed for such purpose.

(1) *Records.* (1) The U.S. exporter shall retain one copy of each validated Form FC-1143, or each form not approved, for a period of 3 years from the date of a validation or rejection.

(2) All other forms, documents, correspondence, memoranda, books, and other records relating to any export from the United States under a Distribution License shall be kept and made available for inspection in accordance with the recordkeeping requirements of § 387.11 of this subchapter.

(3) All records regarding a sale or reexport by a distributor who is an approved consignee under a Distribution License shall be retained by the distributor for a period of 3 years from the date of sale or reexport. As a minimum, these records shall contain for each sale or reexport the following:

(i) Full name and address of individual or firm to whom sale or reexport was made;

(ii) Full description of each commodity sold or reexported;

(iii) Units of quantity or value of each commodity sold or reexported; and

(iv) Date of sale or reexport.

(4) All of the above-mentioned records shall be made available for inspection, upon request, by the U.S. Department of Commerce, by a U.S. Foreign Service Post, or by any other accredited representative of the U.S. Government.

(For further recordkeeping requirements see § 387.11 of this subchapter.)

(m) *Reports.* The exporter shall prepare and submit, on a monthly basis, a report on all exports made during the preceding month under the Distribution License, as well as any reexports he has specifically authorized to be made to approved consignees by his subsidiary, affiliate, or branch that is not approved under the Distribution License procedure. The report shall cite the license number indicated on the export license and, as a minimum, show, for each consignee, a separate aggregate value for each commodity category as shown on his license (i.e., for each "A" commodity

or "A" product group, and for each non-"A" commodity category). The report shall be submitted in original only and transmitted to the Office of Export Control (Attention: 852), U.S. Department of Commerce, Washington, D.C. 20230.

(n) *Exceptions.* In the event that a U.S. exporter is unable to meet any of the requirements of this Distribution License Procedure, but believes that unusual circumstances warrant a waiver or an exception to one or more of these requirements, he may consult with or write to the Office of Export Control explaining the circumstances in full and requesting a waiver or exception.

§ 373.4 Foreign-based warehouse procedure.

A Foreign-Based Warehouse Procedure is established that authorizes an exporter to stock commodities abroad at a central location for distribution to customers in the country where the stock is located or in other countries; to ship commodities directly from the United States to these customers to fill an urgent need or a specialized requirement that cannot be filled from the foreign-based stock; or to ship directly from the United States to these customers parts or components not stocked abroad to be used to repair equipment originally exported by the U.S. exporter. The documentation usually required in support of an application for an export license (see Part 375 of this subchapter) and prior specific reexport authorization (see Part 374 of this subchapter) are waived under this procedure.

(a) *Definitions.* As used in this § 373.4, the following terms are defined as described below:

(1) *"Subsidiary."* A subsidiary is any foreign-based subsidiary affiliate, or branch of the U.S. exporter's firm: (i) In which the majority of any existing voting stock in such subsidiary, affiliate, or branch is owned by the U.S. exporter; and (ii) over which the U.S. exporter exercises full and active control.

(2) *Foreign-based stock.* A "foreign-based stock" consists of U.S.-origin commodities not identified by the symbol "B" in the last column of the Commodity Control List (see § 399.1 of this subchapter), which have been licensed by the Office of Export Control to be stocked outside the United States by a U.S. exporter or his subsidiary for distribution in three or more countries to customers approved by the Office of Export Control.

(3) *Distributor.* A "distributor" is a subsidiary of the U.S. exporter not located in Country Group S, W, Y, or Z that distributes or sells the U.S. commodities exported under this procedure exclusively to customers located in three or more countries who have been approved by the Office of Export Control; and delivery is: (i) From foreign-based stocks; (ii) directly from the United States, based on the distributor's instructions, to fill an urgent need or a specialized requirement for a commodity covered by the procedure but not available for shipment from the foreign-based stock; or (iii) directly from the

United States to an approved customer for use in repairing equipment originally manufactured by the U.S. exporter.

(4) *Customer.* A person or firm in a country other than Country Group S, W, Y, or Z, who is supplied with U.S.-origin commodities through a distributor as defined above.

(b) *Exports to the foreign-based warehouse.* A U.S. exporter who qualifies under this procedure may apply for and obtain licenses for exports to an approved destination for the purpose of maintaining a foreign-based stock of any commodity(ies) not identified by the symbol "B" in the last column of the Commodity Control List, except the following commodities:

Export Control Commodity Number and Commodity Description
51520 Deuterium and compounds, mixtures, and solutions containing deuterium, including heavy water and heavy paraffin.
71420 Electronic computers.
71980 Electron beam equipment for the deposition of thin film, the coating of thin film, or the working thereof.
72620 X-ray machines and parts therefor; and flash discharge type X-ray tubes.
72952 Vibration testing equipment.
72952 Mass spectrometers.
72970 Neutron generators and specially designed parts therefor; and neutron generator tubes.
86198 Mass spectrometers.

(c) *Application to participate in the foreign-based warehouse procedure—*

(1) *Form FC-143.* To be considered for participation under the Foreign-Based Warehouse Procedure, a U.S. exporter shall complete and submit to the Office of Export Control six copies of Form FC-143, Request for authorization to Distribute U.S.-Origin Commodities Stocked Abroad to Approved Customers. (See Supplement S-9 for facsimile.) This form contains a certification by the exporter, on his own behalf and on behalf of his distributor, that distribution from foreign-based stocks will be made only to approved customers, none of whom may be in Country Groups S, W, Y, or Z.

(2) *Form FC-243.* Each customer to whom distribution is proposed, whether or not in the country where the foreign-based stock is located, must complete and submit to the distributor or to the U.S. exporter six copies of Form FC-243, Multiple Transactions Statement by Customer of Distributor of United States Commodities Stocked Abroad. (See Supplement S-10 for facsimile.) The U.S. exporter shall submit these forms to the Office of Export Control either with or subsequent to his filing the Form FC-143. Form FC-243 may authorize the customer to resell or otherwise redistribute the commodities received. If, however, the distributor himself wishes to distribute the commodities similarly in the country where his warehouse is located, while relying on his customers to redistribute elsewhere, such distributor is not precluded from submitting his own Form FC-243 as well as those of his customers. In such a case, he assumes

all of the responsibilities of a customer in the country where his warehouse is located in addition to the responsibilities of a distributor.

(3) *Letter request.* Form FC-243 is not required if the customer is a government agency, provided the commodities are to be distributed to the government agency. Where the customer is a U.S. agency, it is not necessary to request any approval from the Office of Export Control. Where the customer is a foreign government agency, request for approval should be submitted to the Office of Export Control by letter in six copies, giving the name and address of the foreign government agency.

(4) *Other documents.* In addition to the Forms FC-243 required above, if the customer is located in Switzerland or Yugoslavia, the exporter or his distributor must obtain for each transaction a Swiss Blue Import Certificate or a Yugoslav End-Use Certificate showing the United States as the country of origin of the commodities to be distributed. The Swiss Blue Import Certificate need not be submitted to the Office of Export Control but shall be retained in accordance with the recordkeeping provisions described in paragraph (h) of this section. The original of each Yugoslav End-Use Certificate issued, or a reproduced copy if the original is required by the government of the country in which the distributor is located, shall be immediately forwarded by the distributor to the U.S. exporter. The originals or reproduced copies received from the distributor shall be submitted by the U.S. exporter, on a monthly basis, to the Office of Export Control (Attention: 852), U.S. Department of Commerce, Washington, D.C. 20230, with a letter identifying the customer's assigned "C" number. This number is entered by the Office of Export Control on the reverse of approved Forms FC-243 immediately below the U.S. Department of Commerce validation stamp in the "Validation" box.

(5) *Table of Denial and Probation Orders.* The U.S. exporter shall also furnish promptly to each approved customer, other than an end-user of the commodities, current reprints of the "Table of Denial and Probation Orders Currently in Effect" and each addendum thereto. Copies of these reprints, issued on or about April 1 and October 1, may be obtained without charge from the Office of Export Control.

(d) *Action on application to participate in the foreign-based warehouse procedure—*(1) *U.S. exporter.* If a Form FC-143 is approved, two validated copies will be sent to the U.S. exporter, containing the validation number and the expiration date. The exporter shall keep one copy and send the other to his distributor. Generally, the expiration date is June 30 of the year following the date on which the Form FC-143 is signed by the U.S. exporter, unless an earlier termination date is requested. The distributor is permitted, until the expiration or revocation of his validated Form FC-143, to distribute or reexport the commodities stocked abroad, without obtaining prior

Office of Export Control approval for each separate individual transaction, to any customer who has been approved by the Office of Export Control; whether such customer is in the country where the foreign-based stock is located or in any other country. If the Form FC-143 is not approved, the Form will be returned to the U.S. exporter with a notice informing him of the reason for this action. The letter of transmittal to any approved customer other than an end user shall notify each customer that he will be receiving from the exporter reprints of the U.S. Department of Commerce "Table of Denial and Probation Orders Currently in Effect" and addendum thereto listing individuals and firms to whom the consignee may not sell or otherwise dispose of the U.S. commodities received.

(2) *Customer of distributor.* If a Form FC-243, or letter request, covering a foreign government agency is approved, two validated copies will be sent to the U.S. exporter. The exporter shall keep one copy and shall send the other copy to the foreign office from which the distribution is controlled. These forms and letters shall be used in assuring that distribution under the Foreign-Based Warehouse Procedure will be made only to customers approved by the Office of Export Control. If the customer is not approved, the Form FC-243, or letter request covering a foreign government agency, will be returned with a notice informing the exporter of the reason. An FC-243 is generally valid until June 30 of the year following the date on which the form is signed by the customer unless an earlier expiration date is requested. An approved letter covering a foreign government agency remains valid until the related Form FC-143 and extensions thereto expire; no renewal need be requested prior to that time.

(3) *Use of other procedures.* Where a commodity, customer, distributor, or destination is not approved under the Foreign-Based Warehouse Procedure, the exporter is not precluded from using any other applicable export procedure, authorization, or provision. Persons or firms located in Country Group S, W, Y, or Z will not be approved as distributors under the Foreign-Based Warehouse Procedure. Customers in Country Group S, W, Y, or Z may be approved only on an individual transaction basis with the prior written approval of the Office of Export Control for each shipment from the foreign-based stock.

(e) *Application for license to export under approved Form FC-143—(1) Application form.* Except for the commodities listed in paragraph (b) of this section, a qualified U.S. exporter may apply for a license to export any commodity necessary to maintain foreign-based stocks in an approved destination. The application shall be made on Form FC-419 in accordance with the provisions of § 372.4 of this subchapter. However, more than one commodity may be included on a single application if the first two digits of the Processing Number are the same

for each.¹ Commodity Control List descriptions and Export Control Commodity Numbers must be shown, nevertheless, for each commodity. The applicant is not required to provide any supporting document other than Form FC-143 and Form FC-243.

(2) *Types of shipments.* A qualified U.S. exporter may apply for export licenses covering any of three different types of shipments under the provisions set forth below. All such license applications must be received in the Office of Export Control within the validity period of the supporting Forms FC-143 and/or 243.

(1) If a shipment is to be made to a distributor for subsequent distribution under this procedure, the application shall contain the following statement in the space entitled "Additional Information" on the application form, or on an attachment thereto:

The ultimate consignee named in this application is an approved distributor of U.S. commodities stocked abroad and has been assigned validation number (insert Form FC-143 validation number).

(ii) If an urgent direct shipment to a distributor's customer is to be made, an application may be submitted provided that the distributor has notified the U.S. exporter that he has an order from an approved customer for an approved commodity which is not in the distributor's foreign-based stock and for which the customer has an urgent need or specialized requirement. Upon receipt of this license, the U.S. exporter may ship the commodity direct from the United States to his distributor's customer. The license application shall include the following statement in the space entitled "Additional Information" or on an attachment thereto:

The ultimate consignee named in this application is an approved customer of our foreign distributor. Our distributor (insert Form FC-143 validation number) requests that shipment be made directly from the United States to fill an urgent need or specialized requirement.

(iii) If a shipment of parts and components is to be made direct to a distributor's customer, an application may be submitted if all of the conditions set forth in (a) through (c) of this subdivision are met. Each order received from the distributor's customer should, whenever possible, include a certification from the customer that he will comply with all the provisions of (a) and (b) of this subdivision. Regardless of whether the certification appears on the order, the U.S. exporter will, at the time of filling the order, transmit a written notification to the customer setting forth these restrictions.

(a) The commodities are included on the customer's validated Form FC-243 and represent parts and components that are either for use by the distributor's customer to repair equipment origi-

nally manufactured by the U.S. exporter or are used by another party exclusively for this purpose. The parts and components may be authorized for reexport only to the countries listed on the customer's validated Form FC-243. Re-exports will not be authorized to Country Group S, W, Y, or Z.

(b) The commodities will not be used to repair equipment owned or controlled by, or leased or chartered to, a country in Group S, W, Y, or Z or a national thereof.

(c) The commodities are in a quantity which the exporter expects to ship to the customer during the next six calendar months for use in repairing equipment originally manufactured by the exporter's firm. If the licensed quantity proves insufficient, a request for an amendment to increase the quantity may be submitted in accordance with the provisions of Part 372 of this subchapter. However, no amendment will be granted to extend the validity period of such a license. Instead, the exporter should submit a new application for license 30 days prior to the expiration date of the outstanding license, accompanied by a statement showing the total quantity and value of each commodity shipped under the previous license as of the date of the new application.

(d) The license application includes the following statement in the space entitled "Additional Information" or on an attachment thereto:

The ultimate consignee named in this application is an approved customer of our foreign distributor (insert Form FC-143 validation number). Before making any shipment under this license, if granted, I (we) shall: (1) Obtain an export order from the ultimate consignee, (2) wherever possible, obtain a written certification from the ultimate consignee on the export order with regard to the restrictions set forth in § 372.4(e)(2)(iii) of the Export Control Regulations, and (3) for each shipment notify the ultimate consignee, in writing, of these restrictions.

(f) *Exports and redistributions—(1) Exports, reexports, distributions, and resales.* In no case may an export, reexport, distribution, or resale be made under the Foreign-Based Warehouse Procedure to any person or firm until the exporter has received a validated Form FC-243 showing approval by the Office of Export Control of that person or firm as a customer (except when otherwise specifically authorized by the U.S. Government or except as provided for government agencies in paragraph (c) (3) of this section).

(2) *Request for specific authorization.* A request for specific authorization to export, reexport, distribute, or resell a commodity under the provisions of the Foreign-Based Warehouse Procedure to any person or firm not approved under this procedure shall be submitted by letter to the Office of Export Control (Attention: 852), U.S. Department of Commerce, Washington, D.C. 20230. The letter shall show the export license number and application case number, the name and address of the consignee, and the commodity description, quantity, and value involved in each transaction. In

¹ For license applications covering aircraft and equipment, parts, components and accessories therefor, see § 376.8.

addition, each request shall be supported by any document that is required under the provisions of Part 375 in support of an application for a license to export such commodities from the United States directly to the country of the proposed ultimate consignee.

(3) *Permissive reexport provision inapplicable.* The permissive reexport provisions of the Export Control Regulations relating to the reexport of commodities within the established GLV dollar-value limits shown on the Commodity Control List (see § 374.2 of this subparagraph) do not apply to exports, reexports, or distributions under this procedure.

(4) *Special destination control statement.* The U.S. exporter shall enter one of the two following destination control statements on the Shipper's Export Declaration, commercial invoice, and bill of lading covering exports under the Foreign-Based Warehouse Procedure:

(i) These commodities licensed by the United States for ultimate destination (name of country where the foreign-based stock is located). Diversion contrary to U.S. law prohibited.

(ii) These commodities licensed by the United States for ultimate destination (name of country where the foreign-based stock is located) and for distribution or resale in (name(s) of country(ies) where approved customers are located). Diversion contrary to U.S. law prohibited.

Use of statement "(i)" in no way prohibits distribution of the commodities to customers in other countries if they have been approved by the Office of Export Control on a Form FC-243.

(g) *Extension of validity period—(1) New form required.* The validity period of a Form FC-143 or FC-243 may be extended by submitting a new form (in six copies) to the Office of Export Control prior to the expiration date of a current form.

(2) *"C" Number or "D" Number required.* In addition to the information furnished on a new Form FC-143 or FC-243 submitted to extend the validity period of a current form, there must be set forth in the "Reference" box on Form FC-243 the customer's assigned "C" Number, and in the "Reference" box on Form FC-143 the distributor's assigned "D" Number. These are the numbers entered by the Office of Export Control on the reverse of the previously approved forms, immediately below the U.S. Department of Commerce validation stamp in the "Validation" box.

(h) *Records and reports.* (1) The U.S. exporter shall retain for 3 years from the date of validation or return, one copy of each validated Form FC-143 and FC-243, or any such form that was not approved by the Office of Export Control, at his office in the United States and one copy at his distributor's office abroad from which the distribution of the foreign-based stock is controlled.

(2) All other forms, documents, correspondence, memoranda, books, and other records, as required to be retained by this procedure relating to any export from the United States under the Foreign-Based Warehouse Procedure

shall be kept and made available for inspection in accordance with the record-keeping requirements of § 387.11 of this subchapter. For each export of parts and components under paragraph (e) (2) (iii) of this section, the U.S. exporter shall retain records which shall include, as a minimum, the following:

- (i) Validated license number;
- (ii) Validated Form FC-243 number assigned to the customer;
- (iii) A full description of each commodity shipped directly from the United States;
- (iv) Units of quantity or value of each commodity shipped;
- (v) Date of shipment; and
- (vi) A copy of the export order.

(3) All records regarding a distribution, sale, or reexport from a foreign-based stock under this procedure (including distributions to government agencies under the provisions of paragraph (c) (3) of this section) shall be retained at the office from which the distribution is controlled for a period of 3 years from the date of distribution. In addition, the original of the Swiss Blue Import Certificates and reproduced copies of the original Yugoslav End-Use Certificates obtained in accordance with the requirements of this procedure shall also be retained by the distributor for a period of 3 years from the date the commodities are distributed. As a minimum, these records shall contain for each distribution the following:

- (i) Validated Form FC-243 number assigned to the customer;
- (ii) Full description of each commodity distributed from the foreign-based stock;
- (iii) Units of quantity or value of each commodity distributed; and
- (iv) Date of shipment.

(4) All of the above-mentioned records shall be made available for inspection, upon request, by the Office of Export Control or any other accredited representative of the U.S. Government. In the event that a foreign governmental regulation or statute prohibits a U.S. Government representative from inspecting these records in the foreign country, the exporter shall, upon instruction from the Office of Export Control, obtain these records from his distributor and forward them, in original form or in duplicate or reproduction, to his U.S. office or directly to the Office of Export Control. However if it is necessary to forward records to the United States, copies of validated Forms FC-143 and FC-243 need not be forwarded unless specifically requested.

§ 373.5 Periodic Requirements (PRL) License.

A periodic Requirements (PRL) License procedure is established under which commodities may be exported for a period of 1 year from issuance of the license to one or more ultimate consignees in a single country of destination.

(a) *Destinations.* The PRL licensing procedure is applicable to all destinations except Country Groups S, W, X, Y, and Z.

(b) *Commodities subject to PRL License procedure.* (1) The commodities

for which the issuance of a PRL License will be considered are identified in the last column of the Commodity Control List (§ 399.1 of this subchapter) by PRL Commodity Group numbers, consisting of an "E" followed by a number. However, a PRL License is not applicable to export of any:

- (i) Commodity related to nuclear weapons, nuclear explosive devices, or nuclear testing, as described in § 378.1 of this subchapter; and
- (ii) Electronic, mechanical, or other device as described in § 376.13(a) of this subchapter, primarily useful for surreptitious interception of wire or oral communications.

(2) An application may cover as much as 1 year's estimated requirements of the named consignee(s) for the commodities included in the application. The PRL Commodity Groups are:

- Group E-1—Rubber products.
- Group E-2—Aircraft.
- Group E-3—Plastics.
- Group E-4—Petroleum products.
- Group E-5—Refractories.
- Group E-6—Electrical machinery and apparatus.
- Group E-7—Metals and minerals, crude and semifinished.
- Group E-8—Metals and minerals, mill-products and manufactured products.
- Group E-9—General industrial equipment.
- Group E-10—Power generating machinery.
- Group E-11—Construction equipment.
- Group E-12—Petroleum equipment.
- Group E-13—Industrial inorganic chemicals.
- Group E-14—Organic chemicals.
- Group E-15—Agricultural machinery.

(c) Qualification for PRL License—

(1) *Applicant-consignee relationship.* (i) The applicant shall have had a business relationship with each ultimate consignee named on the application for a period of 2 years immediately preceding the date of filing the application; and

(ii) The applicant shall have exported to each named consignee a minimum of \$2,000 worth of commodities in each PRL Commodity Group covered by the application during the 2-year period.

(2) *Records and recordkeeping.* At the time he files his application for a PRL License the applicant shall have in his possession documentary evidence of the existence of the 2-year business relationship with each ultimate consignee as described above. These documents and records shall be kept and made available for inspection in accordance with the provisions of § 387.11 of this subchapter.

(3) *Minimum quantity.* Where shipments to any one consignee are expected to be less than \$2,000 in value during the 1-year validity of the license, an individual or other appropriate license should be applied for.

(4) *Waiver of order requirements.* The provisions of § 372.6(a) of this subchapter requiring an order in support of a license application are waived with respect to a PRL License.

(d) *Application for a PRL License.* An application for a PRL License shall be prepared and submitted on Form FC-419, Application for Export License (Rev. January 1966 or later), with Form FC-

420, Application Processing Card,' attached, in accordance with instructions contained in § 372.4(a) of this subchapter except as modified below:

(1) The words "Periodic Requirements License" shall be entered across the top of the Form FC-419, immediately above the printed words "United States of America."

(2) Only one country of ultimate destination may be entered on an application, but more than one commodity may be included provided all of the commodities have the same Processing Number on the Commodity Control List.

(3) If exports to more than one consignee within the same country of destination are included, a list, in duplicate, of the names and addresses of the proposed consignees shall be attached. "See attached list of consignees," shall be entered, in such cases, on the application in the space entitled "Ultimate Consignee in Foreign Country."

(4) The quantity of the commodities included in the application shall not exceed an estimated 1 year's requirements. Total quantities and values shall be shown, but breakdown among consignees is not required. If no unit of quantity is indicated in the Commodity Control List for the commodity, only the value need be given on the application.

(5) The following certification shall be inserted on each PRL application in the space entitled "Additional Information" or on an attachment:

This is to certify that (I) (we) have had a business relationship with (the) (each) ultimate consignee named on this application extending over the two-year period immediately preceding the date of submission of this application and, during this two-year period, (I) (we) have exported to (the) (each) named consignee commodities included in PRL Commodity Group(s) E (enter all PRL Commodity Groups by E symbol and number), in a value totaling at least \$2,000 for (the) (each) PRL Commodity Group(s).

(e) *Issuance of license*—(1) *Form of issuance.* A PRL License is issued on Form FC-628, Export License, and bears the identifying words "Periodic Requirements License" below the validation stamp. The list of approved ultimate consignees (see paragraph (d) (3) of this section) is attached to and becomes part of the license.

(2) *Validity period.* A PRL License is valid for 1 year from the last day of the month during which the license was issued. The expiration date will be shown on the license.

(3) *Deletion of consignees.* If the Office of Export Control finds that it will require an extended period of time to process a PRL License application because of the necessity for prolonged consideration of one or more proposed ultimate

consignees, a PRL License will be issued excluding such consignees. The applicant will be notified that an individual license application may be submitted to cover each excluded consignee.

(f) *Export clearance*—(1) *Presentation of license to customs.* The licensee shall deposit his PRL License with the Customs Office at the port of export through which the largest number of shipments will move. When requested by the licensee, Customs offices may authorize movement of the commodities from another port in accordance with the procedure established in § 386.2(e) of this subchapter.

(2) *Shipments by mail.* Shipments may be made by mail without obtaining additional licenses in accordance with the procedure described in § 386.1(c) of this subchapter.

(g) *Amendments.* The licensee may request an increase in the quantity or value authorized for export under the license at any time during the validity of the license, using Form IA-763, Request for and Notice of Amendment Action (see Supplement S-4 for facsimile of form), in accordance with the provisions of § 372.11 of this subchapter. Extension of the validity period of a PRL License will not be granted, and a new license application shall be filed for such purpose.

(h) *Application for other validated licenses.* An exporter holding a PRL License shall not apply for, nor will the Office of Export Control issue to him, any other type of validated license for any transaction involving a commodity and consignee covered by the PRL License.

§ 373.6 Time Limit (TL) License.

A Time Limit (TL) License Procedure is established that authorizes for a period of one year the export of unlimited quantities of a commodity (ies) to one or more named ultimate consignees in a single country in Country Group T.

(a) *Eligibility for Time Limit License*—(1) *Commodities.* The commodities exportable under the Time Limit License Procedure are identified on the Commodity Control List (§ 399.1 of this subchapter), by the Country Group symbol T in the column headed "Validated License Required for Country Groups Shown Below," except

(i) Commodities identified by the symbol "G" in the last column of the Commodity Control List;

(ii) Commodities related to nuclear weapons, nuclear explosive devices or nuclear testing (see § 378.1 of this subchapter); and

(iii) Electronic, mechanical, or other devices, as described in § 376.13(a) of this subchapter, primarily useful for surreptitious interception of wire or oral communications.

(2) *End use.* The commodities covered on a Time Limit License must be intended for consumption or resale within the particular T country of destination, or for reexport by approved consignees to importers in other T countries in accordance with the provisions of paragraph (f) of this section.

(3) *Applicant-consignee relationship.* An applicant for a Time Limit License shall have:

(i) Had a business relationship with each ultimate consignee named on the application for a period of 2 years immediately preceding the date of filing the TL License application;

(ii) Exported to each consignee during that two year period, the commodities covered by the application in an amount totalling at least \$2,000, part of which was exported during each of the 2 years.

(4) *Records and recordkeeping.* At the time of filing a Time Limit License application, the applicant shall have in his possession documentary evidence of the existence of the two year business relationship with each ultimate consignee as described above. These documents and records shall be kept and made available for inspection in accordance with the provisions of § 387.11 of this subchapter.

(5) *Waiver of order.* The order requirement provisions of § 372.6(a) of this subchapter are waived with respect to an application for a Time Limit License.

(b) *Preparation of a TL License application*—(1) *Application form.* An application for a Time Limit License shall be prepared and submitted on Form FC-419, Application for Export License, together with Form FC-420, Application Processing Card, in accordance with instructions in § 372.4(a) of this subchapter, except that the applicant shall:

(i) Enter the words "Time Limit License" across the top of the application form immediately above the words "United States of America";

(ii) Leave blank the spaces entitled "Quantity to be Shipped," "Unit Price," and "Total Price";

(iii) Where there is more than one ultimate consignee, attach a list, in duplicate, giving name and address of each consignee (plus an additional copy for each additional license required pursuant to paragraph (e) (2) of this section);

(iv) Insert "See attached List of Consignees" in the space entitled "Ultimate Consignee in Foreign Country"; and

(v) Insert the following certification in the space entitled "Additional Information" or on an attachment to the application:

This is to certify that (I) (we) have had a business relationship with (Name(s) of ultimate consignee(s)) extending over a period of two years preceding the date of submission of this application and have exported to the named consignee(s) the commodities applied for under this application in an amount totalling at least \$2,000 during these two years, part of which was exported during each of the two years.

(2) *Multiple Transactions Statement.* Each TL License application shall be supported by a Form FC-843, Multiple Transactions Statement by Consignee and Purchaser, completed by each ultimate consignee named on the application in accordance with § 375.2 of this subchapter.

(c) *Issuance of TL License*—(1) *Form of issuance.* A TL License is issued on Form FC-628, Export License, bearing

¹ Forms FC-419 and FC-420 may be obtained at all U.S. Department of Commerce Field Offices (see list of addresses on page 1 under Field Office addresses) and from the Office of Export Control (Attention: 852), U.S. Department of Commerce, Washington, D.C. 20230.

the identifying words "Time Limit License" below the validation stamp. Where more than one ultimate consignee is approved, the list of such ultimate consignees, submitted in accordance with the above instructions, is attached to and becomes a part of the license.

(2) *Validity period.* A TL License is valid for one year from the last day of the month during which the license is issued. The expiration date is shown on the license.

(3) *Deletion of consignees.* If the Office of Export Control finds it will require an extended period of time to process the license application because of the necessity for prolonged consideration of one or more proposed ultimate consignees, a TL License may be issued excluding such consignee(s). The applicant will be notified to that effect and advised to submit an individual license application for each excluded consignee.

(d) *Amendments*—(1) *Extension of validity period.* A TL License will not be extended. In order to assure the continuity of an outstanding TL License the exporter may submit an additional application for a TL License 30 days prior to the expiration date of the outstanding license. Where special circumstances exist (for example, lead time in long-cycle production commodities), an additional TL License application may be submitted 90 days prior to the expiration date of the outstanding license, provided that the reason(s) for such early submission is included with the application.

(2) *Addition of new ultimate consignee.* A request to amend an outstanding TL License to add a new ultimate consignee shall be submitted on Form IA-763, Request for and Notice of Amendment Action (see § 372.11 of this subchapter). The amendment request shall be supported by a Form FC-843, Multiple Transactions Statement by Consignee and Purchaser (see paragraph (b) (2) of this section), and a certification of applicant-consignee business relationship (see paragraph (a) (3) of this section).¹

(e) *Export clearance*—(1) *Presentation of license to customs.* The licensee shall deposit his TL License in the customs office at the port of export through which the largest number of shipments will move.

(2) *Shipment through another port.* Upon request of the licensee, Customs Offices may authorize movement of the commodity from another port in accordance with § 386.2(e) of this subchapter. As an alternative, the applicant may obtain an additional license for deposit with the customs office at each additional port of export through which substantial shipments will move, by listing these

ports on his license application. If, subsequent to issuance of the license, additional licenses are required under the alternative procedure, the licensee may make such request by letter to the Office of Export Control, indicating the case number, name(s) of ultimate consignee(s), and port through which substantial shipments will move.

(3) *Shipments by mail.* Shipments may be made by mail without obtaining additional licenses, in accordance with § 386.1(c) of this subchapter.

(f) *Reexports.* Reexport may be made between ultimate consignees named on outstanding TL Licenses, issued to the same licensee, without the necessity of obtaining specific approval from the Office of Export Control. Approval for reexport to other importers in Country Group T may be obtained in accordance with the procedure described below. Requests for reexport approval may be made either with the license application or subsequent to the issuance of the TL License. In order to obtain such approval, the procedure on reexports described in Part 374 of this subchapter shall be followed.

§ 373.7 Service Supply (SL) Procedure.

A procedure is established to enable persons or firms in the United States or abroad to provide prompt service for equipment exported from the United States, produced abroad by a subsidiary, affiliate, or branch of a U.S. firm, or produced abroad by a manufacturer who uses parts imported from the United States in the manufactured product.

(a) *Definitions and interpretations.* Terms used in this § 373.7 (and in the related forms), are defined or interpreted in subparagraphs (1) through (8) of this paragraph:

(1) *Service and servicing.* The terms "service" and "servicing" refer to normal and usual activities to maintain equipment in proper, efficient, and safe operating condition or to restore equipment to this condition;

(2) *Service facility.* The term "service facility" refers to a person or firm that has as its function, or as one of its functions, the servicing of equipment;

(3) *Equipment.* The term "equipment" includes, but is not restricted to, instruments, machines, aircraft, vehicles, and apparatus;

(4) *U.S. equipment.* The term "U.S. equipment" refers to equipment (i) exported from the United States, or (ii) manufactured or produced abroad by a U.S. subsidiary;

(5) *U.S. subsidiary.* The term "U.S. subsidiary" means a foreign-based subsidiary, affiliate, or branch of a U.S. person or firm under the full and active control of such U.S. person or firm;

(6) *Effective control.* The term "effective control" means the exercise of a right, under a contractual agreement between the U.S. exporter and the consignee, to determine and control the reexport of parts exported from the United States;

(7) *Replacement parts.* The term "replacement parts" means parts needed for the immediate repair of equipment, in-

cluding replacement of defective parts. (It does not include test instruments or operating supplies.) Commodities that improve or change the basic design characteristics (e.g., as to accuracy, capability, or productivity) of the equipment upon which they are installed are not deemed to be replacement parts within the meaning of the Supply Service (SL) Procedure;

(8) *Spare parts.* The term "spare parts" refers to parts in the kinds and quantities normally and customarily kept on hand in the event they are needed to assure prompt repair of equipment. (It does not include test instruments and operating supplies.) Commodities that improve or change the basic design characteristics (e.g., as to accuracy, capability, or productivity) of the equipment upon which they are installed are not deemed to be spare parts within the meaning of the Service Supply (SL) Procedure.

(b) *Commodities subject to the service supply (SL) procedure.* Any commodity for which a validated export license is required may be exported or reexported under the provisions of this § 373.7, except:

(1) Parts to service commodities related to nuclear weapons, nuclear explosive devices, or nuclear testing, as described in § 378.1 of this subchapter;

(2) Parts to service arms, ammunition, or implements of war referred to in Supplement No. 2 to Part 370 of this subchapter;

(3) Parts to service commodities subject to the Atomic Energy Act referred to in § 370.10(e) of this subchapter;

(4) Parts to service commodities¹ listed in Supplement No. 1 to this Part 373; and

(5) Commodities listed in Supplement No. 1 to this Part 373.

(c) *Destinations*—(1) *Country Groups S and Z.* No export or reexport may be made directly or indirectly under provisions of this § 373.7 to Country Group S or Z. Furthermore, no equipment owned or controlled by, or under lease or charter to Country Group S or Z or any national thereof may be serviced under the provisions of this SL Procedure.

(2) *Country Groups W and Y.* Export and reexport to Country Groups W and Y may be made only in accordance with the provisions of paragraph (1) of this section. Except as provided in paragraph (1) of this section, no equipment owned or controlled by, or under lease or charter to, Country Group W and Y or any national thereof may be serviced under the provisions of this SL Procedure.

(d) *Types of service supply authorizations.* Three types of export or reexport authorizations are obtainable under the provisions of this § 373.7.

(1) *Exports from the United States.* A U.S. person or firm may obtain a license valid for 12 months to export spare

¹ Except that parts may be exported under the provisions of this § 373.7 to service commodities identified in Supplement No. 1 to Part 373 under Export Control Commodity No. 73410.

¹ Forms IA-763 and FC-843 may be obtained from all U.S. Department of Commerce field offices (see list on page 1 under Field Office Addresses), from the Office of Export Control (Attention: 852), U.S. Department of Commerce, Washington, D.C. 20230, and from U.S. consulates, embassies and other posts in Country Group "T" countries.

and replacement parts to consignees in Country Group T, V, or X for purposes of servicing U.S. equipment unless such consignees are listed in the U.S. Table of Denial and Probation Orders (see paragraph (h)(3) of this section). Under certain conditions replacement parts (but not spare parts) may also be exported to Country Groups W and Y, subject to the provisions set forth in paragraph (i) of this section.

(i) *Qualification requirements.* To qualify for a Service Supply (SL) License authorizing exports from the United States, the applicant must meet all of the following requirements:

(a) The applicant must be either (1) the U.S. person or firm that manufactured or exported the equipment to be serviced abroad, or (2) the U.S. firm whose foreign subsidiary manufactured the equipment to be serviced.

(b) Supplying spare and replacement parts must be a normal function of the applicant's business; and

(c) The export shall be made for purposes of servicing U.S. equipment in the possession of the consignee.

(i) *Applications.* The applicant shall submit the following documents, satisfactorily completed:

(a) Form FC-420, Application Processing Card;

(b) Form FC-419, Application for Export License;

(c) Form IA-543, Service Supply (SL) License Statement by U.S. Exporter (see Supplement S-22 for facsimile of form); and

(d) Comprehensive narrative statement by the exporter.

(iii) *Documents waived.* An application for an SL License need not be supported by the Import Certificate or Consignee Statement otherwise required under § 375.1 or § 375.2 of this subchapter. A Swiss Blue Import Certificate or a Yugoslav End-Use Certificate is required when applicable. (See paragraph (e) of this section.)

(iv) *Preparation of documents.* The document listed in subdivision (ii) of this subparagraph shall be prepared as follows:

(a) *Form FC-420.* The applicant shall prepare Form FC-420, Application Processing Card, in accordance with the provisions of § 372.4(a)(5) of this subchapter except as follows:

(1) "Service Supply License" shall be entered in the Export Control Commodity Number space;

(2) The Processing Number space shall not be completed; and

(3) The applicant shall enter the word "various" in the commodity description space on the Form FC-420.

(b) *Form FC-419.* The applicant shall prepare and submit Form FC-419, Application for Export License, in accordance with the provisions of § 372.4

(a)(4) of this subchapter with the following specific modifications:

(1) The words "Service Supply License" shall be entered in the space entitled, "Date of Application," in addition to entering the date in the same space.

(2) The word "various" shall be entered in the space provided for the ultimate consignee.

(3) A duplicate list of countries of ultimate destination shall be prepared in alphabetical order, and the words "See attached list" shall be inserted in the space for the ultimate destination.

(4) An estimated one year's supply of spare and replacement parts shall be entered on the application. All commodities identified by the Symbol "A" in the last column of the Commodity Control List (see § 399.1 of this subchapter) shall be either listed separately on the application or on an attachment thereto, or, if feasible, described in related product groups. Examples of acceptable product groups are "Semiconductors, A type"; "aircraft engines, A type"; etc.

(5) All commodities not identified by the symbol "A" on the Commodity Control List having Export Control Commodity Numbers with the same first two digits may be combined into a single entry. The commodity description for each such entry shall be in terms of broad descriptive categories corresponding with the commodity sections and subheadings that appear on the Commodity Control List (§ 399.1 of this subchapter).

(6) The estimated total value of each "A" commodity or "A" product group and of each group of non-"A" commodities to be exported during the one-year validity period of the SL License shall be shown in the space provided for the total selling price, and a grand total shall be computed for all of the commodities.

(7) The following statement shall be entered at the bottom of the space provided for the commodity description on the application:

No commodity excluded from the SL Procedure under the Export Control Regulations will be exported to any consignee in any destination under this SL License if this application is approved.

(8) The spaces entitled "Export Control Commodity No. and Processing No.," "Unit Price," and "Quantity to Be Shipped" shall be left blank.

(c) *Form IA-543.* Three copies of Form IA-543 shall be manually signed by the applicant or by a responsible official of the applicant who is authorized to bind the applicant to all of the terms, undertakings, and commitments set forth on the form.

(d) *Comprehensive narrative statement.* A comprehensive narrative statement shall be submitted by the applicant in support of his application for an SL License. This statement shall set forth the scope of the applicant's servicing activities pertinent to the application and shall include, for each entry listed on the application, the volume of exports for servicing made during the preceding year. If this volume has to be estimated, the basis upon which the estimate was compiled shall be explained.

Note: The preparation of an application for an SL License involves a substantial amount of work. Therefore, a prospective applicant may wish to consult the Office of Export Control to obtain a preliminary determination of the applicability of the SL Procedure to his transaction and as to any special information that may be required.

(2) *Reexports authorization by foreign-based service facility.* A service facility located in Country Group T, V, or X may be authorized to use and to re-export spare and replacement parts to consignees in any other destination in Country Group T, V, or X to service U.S. equipment, unless such consignees are listed in the U.S. Table of Denial and Probation Orders (see paragraph (h)(3) of this section). If the service facility is approved, reexports are authorized in accordance therewith regardless of any restrictions imposed on reexports under the terms of the other licensing procedures. The service facility may also be authorized to service U.S. equipment in the country where the facility is located and return the serviced equipment to the country from which it was sent within Country Group T, V, or X. If the foreign-based service facility is under the effective control of the U.S. exporter, it may also be authorized to reexport, upon specific instructions of the U.S. exporter, replacement parts for immediate repair in Country Group W or Y of U.S. equipment, subject to the provisions of paragraph (i) of this section.

(i) *Qualification requirements.* To qualify to receive reexport authorization under the SL Procedure, a foreign person or firm must have been designated as a service facility by the U.S. manufacturer or by the U.S. exporter of the U.S. equipment to be serviced, and servicing such equipment must be a normal function of the designated facility.

(ii) *Application.* The service facility shall submit to the Office of Export Control (Attention: 852), U.S. Department of Commerce, Washington, D.C. 20230, a letter requesting authorization to use and reexport spare and replacement parts under the SL Procedure. This letter shall be accompanied by three completed copies of Form IA-544, Service Supply (SL) License by Service Facility or Manufacturer (see Supplement S-23 for facsimile of form) and by a comprehensive narrative statement by the operator of the service facility prepared in accordance with the following instructions:

(a) The statement shall identify the U.S. manufacturer(s) or U.S. exporter(s) that has (have) designated the facility to be its service facility and shall indicate the period for which the designation shall remain in effect.

(b) If the service facility is under the effective control of the U.S. person or firm, the statement shall so indicate.

(c) The statement shall describe in detail the services performed by the service facility, as indicated on the Form IA-544.

(3) *Reexports by foreign manufacturer.* A manufacturer located in Country Group T, V, or X who incorporates parts exported from the United States into a product may be authorized to reexport

* Form IA-543 may be obtained at all U.S. Department of Commerce Field Offices (see list of addresses on page (1) under Field Office addresses) and from the Office of Export Control (Attention: 852), U.S. Department of Commerce, Washington, D.C. 20230.

to consignees in Country Group T, V, or X such U.S.-origin parts as spare or replacement parts for servicing the manufactured products in the consignee's possession, unless such consignees are listed in the U.S. Table of Denial and Probation Orders (see paragraph (h) (3) of this section).

(i) *Qualification requirements.* To qualify to receive reexport authorization under the SL Procedure, a foreign manufacturer must use parts exported from the United States in the manufactured equipment to be serviced, and the parts to be reexported for purposes of servicing such equipment must be of the same type as the components they are to replace.

(ii) *Applications.* The manufacturer shall submit a letter requesting permission to reexport under the SL Procedure parts imported from the United States to replace such parts incorporated into a product manufactured by the applicant. This letter shall be supported by three completed copies of Form IA-544, Service Supply (SL) Statement by Service Facility or Manufacturer (See Supplement S-23 for facsimile of forms.) identifying the manufactured products containing parts exported from the United States and the countries to which these products are exported.

(e) *Exports and reexport to Switzerland or Yugoslavia.* For an export or reexport of spare and replacement parts to service equipment located in Switzerland or Yugoslavia, the U.S. exporter or his approved service facility, or the authorized foreign manufacturer, must obtain for each transaction a Swiss Blue Import Certificate or a Yugoslav End-Use Certificate showing the United States as the country of origin of the parts to be shipped. Exporters shall forward these documents to the Office of Export Control in accordance with the provisions of paragraph (k) of this section. Approved Form IA-544 holders (i.e., foreign service facilities and manufacturers) shall forward, on a monthly basis the originals of these documents (or reproduced copies if the originals are required by the Government of the country in which the Form IA-544 holder is located) directly to the Office of Export Control (Attention 852), U.S. Department of Commerce, Washington, D.C. 20230. A letter of transmittal showing the SL License number of the approved Form IA-544 shall accompany the documents.

(f) *Action by Office of Export Control on license applications.*—(1) *Approved license applications.*—(i) *Issuance of licenses.* When an application for an SL License is approved, a Form FC-628, Export License, will be issued authorizing, subject to the provisions of the Export Control Regulations and to the terms and provisions of the license, the export of commodities covered during a validity period of 1 year. An approved copy of Form IA-543 will also be issued to the exporter. The SL License will be similar to a validated license described in § 372.9 of this subchapter with the following exceptions:

(a) *Validation.* The license will be validated in the license number space with a stamp which includes a facsimile of

the U.S. Department of Commerce seal, the letter "D" and a series of numbers to indicate the year, month, and day on which the license was validated. An explanation of the coded dates shown on the license is set forth in § 372.9(b) of this subchapter.

(b) *Service Supply License Number.* Immediately below the validation stamp, the SL License number assigned to the license will be indicated. This license number will be a four-digit number prefixed by the letter "S" and suffixed by a one-letter code indicating the Office of Export Control licensing division to which the license was assigned (that is: "C" for Capital Goods Division; "P" for Production Materials and Consumer Products Division; and "S" for Scientific and Electronic Equipment Division).

(c) *Special conditions.* Special conditions or restrictions may be imposed on the use of an SL License in addition to the general conditions or restrictions set forth in the Export Control Regulations. These conditions or restrictions will be set forth on the license document at the time of issuance, or a separate written notification of these conditions or restrictions will be given to the licensee.

(ii) *Notification to customs offices.* The Office of Export Control will notify all customs offices of the issuance of the SL License.

(2) *Applications returned without action.* When an SL License application is returned without action by the Office of Export Control, the application together with related documents will be returned to the applicant with Form FC-204-B, Advice on Application Returned Without Action. This form will state the reason(s) for return of the license application and will explain the corrections and additional information required if the application is to be resubmitted to the Office of Export Control for further consideration.

(3) *Applications not approved.* When an application for an SL License is not approved by the Office of Export Control, the applicant will be notified, and the notice will explain the reason(s) why the application was not approved. The applicant may apply for an individual or other appropriate type of validated license for transactions covered by the SL License application that was not approved.

(g) *Export clearance.*—(1) *General.* Generally, the Office of Export Control will notify all Customs Offices of the approval of an SL License within 15 days after dispatch of the license to the licensee. Therefore, an exporter should not plan to clear an export at an earlier date unless he has verified that notification has reached the Customs Office at the intended port of exit.

(2) *Presentation of license or other approval action.* When clearing shipments for export under an SL License, the licensee shall, on demand, show to the Customs Officer or Postmaster either the original or a photocopy of the license or amendment. The license or amendment, however, is not required to be filed with the Customs Office or Post

Office. When exporting by mail, the SL License number shall be entered on the address side of the wrapper on the package.

(3) *Limitation on amount shipped.* Exports under an SL License of any commodity or commodity group identified thereon by the symbol "A" are limited for each such entry, during the entire validity period of the license, to the amount shown on the license for that entry. However, exports of an entry not identified by the symbol "A" may exceed the amount shown for that particular entry provided the total amount of all such shipments does not exceed the grand total of the amounts authorized for all of the commodities not identified by the symbol "A" shown on the license.

(4) *Notice to ultimate consignee.* The following notice shall be entered on the commercial invoice covering each shipment under the SL License:

These commodities are sent for the authorized repair purposes only and may not be used for any other purpose.

(5) *Shipper's Export Declaration.* As set forth in the standard instructions for preparing Shipper's Export Declarations, the validated license number must be shown on the Declaration. In the case of an SL License, the license number is prefixed by the letter "S". (See paragraph (f) (1) (i) (b) of this section.)

NOTE: Although the SL License describes the commodities in broad descriptive terms, commodity descriptions on the Declaration shall be specific. The description of a commodity shall (1) conform to the applicable Commodity Control List description, and (2) incorporate any additional information where required by Schedule B; for example, the type, size, or name of the specific commodity.

(h) *Action by Office of Export Control on Reexports.*—(1) *Reexports by foreign-based service facility.* If the Office of Export Control approves the request of a foreign-based service facility for authorization to reexport parts imported from the United States under the SL Procedure, a validated copy of Form IA-544 will be sent to the service facility, via the U.S. Foreign Service. This shall be retained by the service facility as evidence of its authority to reexport spare or replacement parts imported from the United States. However, this authority shall in no way relieve the service facility from its responsibilities to comply with the laws, rules, and regulations of the countries from which the parts are to be reexported, or of any other country having authority over any phase of the transaction. If the service facility's Form IA-544 was submitted to the Office of Export Control through its U.S. parent firm, the validated copy will be sent through the U.S. parent firm, with an extra copy for retention by the U.S. parent firm. The copy of the validated Form IA-544 will bear a Facility Number on the bottom right corner of the form. When ordering spare or replacement parts from the United States, under the individual validated license procedure, the service facility shall cite this Form IA-544 Facility Number instead

of submitting the documentation otherwise required in support of a license application (such as an import certificate or a consignee/purchaser statement). Normally, the Office of Export Control will accept this number instead of documents otherwise required. Unless specifically restricted, an approved Form IA-544 authorizes the named service facility to:

(i) Service the types of equipment indicated on the Form IA-544 in the country where the facility is located and return the serviced equipment to the country from which it was sent within Country Group T, V, or X;¹ and

(ii) Reexport parts imported from the United States to consignees in Country Group T, V, or X for the purpose of servicing U.S.-origin equipment in the possession of the consignee. If the service facility is under the effective control of the U.S. exporter, it may, upon specific instructions of the exporter, reexport replacement (but not spare) parts to a consignee in Country Group W or Y, subject to the special provisions set forth in paragraph (i) of this section.² The reexport authorizations described in this subdivision normally will apply to commodities imported under the provisions of any type of U.S. export license. Except when specifically limited by the Office of Export Control, reexports under an approved Form IA-544 are authorized regardless of any restrictions imposed under the terms of any other licensing procedure.

(iii) In all cases, reasonable care and diligence must be exercised to prevent shipments of kinds and quantities of parts in excess of that not needed for the authorized service.

(2) *Reexports by foreign manufacturer.* If the Office of Export Control approves the request of a foreign manufacturer for authorization to reexport U.S. spare or replacement parts, a validated copy of Form IA-544 will be sent to the manufacturer, via the U.S. Foreign Service. This shall be retained by him as evidence of his authority to reexport the spare or replacement parts to the countries listed in the Form IA-544. However, this authority shall in no way relieve the manufacturer from its responsibilities to comply with the laws, rules, and regulations of the country from which the commodity is to be reexported, or of any other country having authority over any phase of the transaction. This reexport authorization normally will apply to commodities imported under the provisions of any type of U.S. export license. Except when specifically limited by the Office of Export Control, reexports under an approved Form IA-544 are authorized regardless of any

¹ If the service facility is under the effective control of the U.S. exporter, it may also return the serviced equipment to Country Groups W and Y.

² Further authorization from the Treasury Department is not required for reexports to Country Group W or Y authorized by the Office of Export Control under the SL Procedure.

restrictions imposed under the terms of other licensing procedures. In all cases, reasonable care and diligence must be exercised to prevent shipments of kinds and quantities of parts not needed for the authorized service.

(3) *Table of Denial and Probation Orders.* A U.S. parent firm shall furnish its foreign-based service facility(ies) or foreign manufacturer(s) with current reprints of the "Table of Denial and Probation Orders Currently in Effect" when the validated Form IA-544 is forwarded. Thereafter, each addendum to the table shall also be furnished promptly to each foreign-based service facility or manufacturer. If the foreign-based service facility or manufacturer is not a U.S. subsidiary, the current table will be sent with the validated Form IA-544 by the Office of Export Control. Thereafter, it will be the responsibility of the facility or manufacturer to obtain each addendum to the table, either by subscription to the Export Control Regulations, by written request to the Office of Export Control, or by other suitable arrangements.

(4) *Special provisions for Country Groups W and Y.* An export or reexport may be made to Country Group W or Y under the provisions of this § 373.7 only if the following conditions and restrictions are complied with:

(1) The U.S. exporter or a foreign service facility under the U.S. exporter's effective control may export or reexport only replacement parts to a consignee in Country Group W or Y. Spare parts, as defined in paragraph (a)(8) of this section, may not be exported or reexported to these destinations under the SL Procedure.

(2) The U.S. exporter or the reexporting service facility must have no knowledge or reason to believe that the equipment to be serviced was exported or reexported to the Country Group W or Y destination without the authorization of the U.S. Government.

(3) The shipment must be for the purpose of servicing equipment originally exported from the United States or obtained from a U.S. subsidiary. Further, the shipment may be made in a total quantity no greater, and a quality no better, than that necessary for this purpose.

(4) Parts identified by the symbol "A" on the Commodity Control List may not be exported or reexported under this procedure to Country Group W or Y if the value of the parts included in a shipment is more than \$2,000.00.³

(5) Parts identified by the symbol "A" on the Commodity Control List, regardless of value, may not be exported or reexported to Country Group W or Y to service equipment also identified on the Commodity Control List by the symbol "A".³

(6) Special recordkeeping and reporting requirements for exports and reex-

³ Requests for exceptions to this restriction will be considered under the provision of § 373.7(1).

ports to Country Groups W and Y must be observed. (See paragraphs (j) and (k) of this section.)

(j) *Records.* A U.S. exporter is required to maintain records of all exports for a period of 3 years in accordance with the provisions of § 387.11 of this subchapter. A foreign-based service facility or a foreign manufacturer is required to retain records of all reexports made under the provisions of this SL Procedure for a period of 3 years and to make all such records available for inspection in accordance with the provisions of § 387.11 of this subchapter, upon request, by officials of the U.S. Government. As a minimum, the record of each reexport shall show:

- (1) The Form IA-544 approval number and the full name and address of the individual or firm to which the parts were reexported;
- (2) A description of the equipment for which the parts are intended;
- (3) A description of the parts exported;
- (4) Quantity or value of each part reexported; and
- (5) Date of reexport.

In the event that a foreign governmental regulation or statute prohibits a U.S. Government representative from inspecting these records in the foreign country, the Office of Export Control may, in substitution, require the submission of specified records, documents, or both.

(k) *Reports.* Each exporter who has been issued an SL License under the provisions of paragraph (f)(1) of this section shall prepare and submit, on a monthly basis, a report on all exports made during the preceding month under the SL License. The report shall cite the license number indicated on the export license and shall show, as a minimum for each consignee, a separate aggregate value for each commodity category as shown on his license (i.e., for each "A" commodity, or "A" product group, and for each non-"A" commodity category). Where exports are made to service vessels or aircraft, both the country of registry and the country to which the shipment was made shall be listed. Yugoslav End-Use Certificates and Swiss Blue Import Certificates covering exports to these destinations shall be submitted as attachments to the report. If exports of commodities identified by the symbol "A" on the Commodity Control List have been made to Country Group W or Y under the SL Procedure, the monthly report shall show each of these shipments separately, the date of each shipment, and shall include the following additional information for each such commodity:

- (1) A description of the equipment serviced in Commodity Control List terms;
- (2) The quantity or number and the value of such items of equipment serviced; and
- (3) The country in which the equipment was serviced.

If the U.S. exporter has authorized his approved foreign-based service facility

to reexport such commodities identified by the symbol "A" to Country Group W or Y, a similar monthly report shall be submitted in the same detail set forth above. In addition, the Office of Export Control may require additional reports regarding any aspect of exports or reexports under the provisions of this § 373.7. The reports shall be submitted in original only and transmitted to the Office of Export Control (Attention: 852), U.S. Department of Commerce, Washington, D.C. 20230.

(l) *Exceptions.* In the event that a U.S. exporter is unable to meet any of the requirements of this SL Procedure, but believes that unusual circumstances warrant a waiver or an exception to one or more of these requirements, he may consult or write to the Office of Export Control explaining the circumstances in full and requesting a waiver or exception.

(m) *Cancellation or restriction of license or reexport authorization.* The Office of Export Control may find it necessary to revoke, suspend, revise, or restrict a Service Supply License or a reexport authorization granted under the provisions of the SL Procedure with or without prior notice.

(n) *Amendment of license or reexport authorization.* A person or firm desiring to increase the amount authorized for export under the SL Procedure may do so at any time during the validity period of the license. Amendment requests shall be submitted on Form IA-763, Request for and Notice of Amendment Action (see Supplement S-4 for facsimile of form), in accordance with the provisions of § 372.11 of this subchapter. An amendment of an SL License to extend the validity period will not be granted. A new license application shall be filed for this purpose.

(o) *Effect of other provisions.* Insofar as consistent with the provisions of this § 373.7, all of the provisions of the Export Control Regulations shall apply equally to license and reexport authorizations issued under this § 373.7 and to applications for licenses and requests for reexport authorization.

§ 373.8 Aircraft and Vessel Repair Station Procedure.

An Aircraft and Vessel Repair Station Procedure is established as an alternative procedure to the filing of supporting documents with applications to export aircraft or vessel repair parts to certain destinations.

(a) *Definitions.*—(1) *Station Number.* As used in this section, a "Station Number" is a number assigned by the Office of Export Control on Form FC-43, Statement by Foreign Importer of Aircraft or Vessel Repair Parts (see Supplement S-8 for facsimile of form), to an approved foreign importer of such parts.

(2) *Foreign importer.* As used in this section, a "Foreign Importer" is a person or firm located in any foreign country except Country Groups S, W, Y, or Z, that is either:

(i) Engaged in the repair, maintenance, or servicing of aircraft or vessels,

either exclusively or as part of a related business; or

(ii) Engaged in supplying U.S.-origin parts, accessories, equipment or components, either exclusively or as part of a related business, directly to aircraft or vessels for use thereon. Such foreign person or firm need not maintain an aircraft repair hangar or ship repair yard.

(b) *Eligibility.*—(1) *Eligible foreign businesses.* The types of foreign businesses that may be eligible to use the Aircraft and Vessel Repair Station Procedure include, but are not limited to, the following:

(i) Repair of aircraft or vessels, for which repair U.S.-origin parts are used.

(ii) Repair of aircraft or vessels, using U.S.-origin parts and also sale of such parts directly to aircraft or vessels as spares or standby equipment; or

(iii) Sale of U.S.-origin parts directly to aircraft or vessels as spares or standby equipment, but not the repair of such aircraft or vessels.

(2) *Noneligible foreign businesses.* The following types of foreign businesses are not eligible to use the Aircraft and Vessel Repair Station Procedure:

(i) A foreign importer who imports U.S.-origin parts for general resale (including resale to repairmen), or for reexport in the form received; or

(ii) A foreign importer whose normal business is the repair of components for aircraft or vessels; e.g., engines, radar, etc., unless he installs them on or returns them to the aircraft or vessels for use thereon.

(3) *Importers engaged in both eligible and noneligible businesses.* In some instances a foreign importer may be engaged in several types of businesses, but not all of them will be eligible to use the Aircraft and Vessel Repair Station Procedure. For example, the importer may be engaged in repairing aircraft or vessels, as well as in selling commodities to other repairmen or in reexporting the commodities to other countries. These several types of businesses do not preclude him from eligibility under this procedure with respect to U.S.-origin commodities used by him in the repair, maintenance or servicing of aircraft or vessels. However, for commodities which the importer purchases in the United States for end-uses not authorized under this procedure, both the importer and the exporter must meet the standard documentation and reexport provisions of the Export Control Regulations.

(c) *Authorizations and limitations of aircraft and vessel repair station procedure.* (1) A foreign importer is authorized to use U.S.-origin parts in the repair, maintenance, or servicing of any aircraft or vessel, provided the aircraft or vessel is not registered in, or not owned or controlled by, or not chartered or leased to a Group S, W, Y, or Z country or any national thereof.

(2) Unless otherwise authorized by the Export Control Regulations, a foreign importer may not reexport U.S.-origin commodities in the form received

or dispose of them in any other manner without the prior approval of the Office of Export Control. The permissive reexport provisions of § 374.2 of the Export Control Regulations in this subchapter relating to reexports of commodities within allowable GLV dollar limits are not applicable to commodities exported under this Aircraft and Vessel Repair Station Procedure.

(d) *How to obtain a repair station number.*—(1) *Documentation.* The documentation provisions of the Export Control Regulations require that, under specified circumstances, a foreign importer must send his U.S. exporter an Import Certificate, a Hong Kong Import License, a consignee/purchaser statement, a Swiss Blue Import Certificate, or a Yugoslav End-Use Certificate to support an application for export license or a reexport request. Additionally, before U.S.-origin parts, accessories, equipment, or components may be used abroad in the repair, maintenance or servicing of aircraft or vessels, authorization must be obtained from the Office of Export Control, either on the validated license or by other type of authorization. As an alternative to these requirements, a foreign importer may submit instead Form FC-43, Statement by Foreign Importer of Aircraft or Vessel Repair Parts, revised March 1, 1965, or later, to the Office of Export Control in accordance with the procedure described below. Copies of Form FC-43 are available from the Department of Commerce in Washington, D.C., all of the Department's Field Offices, and from U.S. diplomatic and consular offices. (Late revisions of the form include "Southern Rhodesia" in the "Certification" space. If it does not appear, it should be inserted following the name "Cuba.")

(2) *Submission of Form FC-43 by foreign importer.* To apply for qualification to operate under the Aircraft and Vessel Repair Station Procedure, the foreign importer shall submit five copies of Form FC-43 to the Office of Export Control. All items on the form must be completed including the signature of an official of the foreign firm attesting to agreement to the terms and conditions of the form.

(3) *Office of Export Control action on Form FC-43.* If the Office of Export Control approves a Form FC-43, a validated copy is sent to the foreign importer. If the request is not approved, the importer is so advised. The validated Form FC-43 will contain a Station Number and an expiration date. (The expiration date generally is June 30 of the year following the date on which the form was signed unless an earlier termination is requested by the foreign importer.)

(e) *Use of repair station number.* (1) The approval of a foreign repair station under this procedure does not relieve the U.S. exporter of the requirement that he obtain a validated export license when applicable before making shipment to the repair station.

(2) Instead of submitting the supporting documents normally required as described above, an approved foreign importer shall advise his U.S. exporter of the Station Number assigned to his approved Form FC-43. The U.S. exporter shall then insert the following statement in the space entitled "Additional Information" on the license application or on an attachment thereto:

The ultimate consignee named on this application is an approved foreign importer of aircraft or vessel repair parts and has been assigned Station Number (insert number).

A license application supported by a Station Number must be received in the Office of Export Control prior to the expiration date shown on the approved Form FC-43.

(f) *Records and reports.* (1) Any foreign importer approved under this procedure shall maintain records, in the detail set forth below, of commodities imported from the United States and supplied to aircraft or vessels. These records shall be kept for a period of 3 years from the date the commodities are supplied to such aircraft or vessel and shall be made available for inspection, upon demand, by the Office of Export Control or any accredited representative of the U.S. Government. In the event the foreign importer is prohibited by governmental regulation or statute from permitting a U.S. Government representative to inspect his records, the Office of Export Control will consider granting a waiver of this requirement and the substitution therefor of a calendar quarterly report setting forth the information contained in the records. Such request for waiver shall be part of the submission of Form FC-43 to the Office of Export Control, and shall include a citation to the governmental regulation or statute prohibiting the inspection of records, together with a certification that a calendar quarterly report, containing the information specified below, will be submitted to the Office of Export Control if the waiver request is granted.

(2) As a minimum, the records or reports shall include the following with respect to each aircraft or vessel on which U.S.-origin parts, accessories, equipment, or components are supplied:

- (i) Name, business address, and nationality of the owner;
- (ii) Country of registry;
- (iii) Type of aircraft and model number;
- (iv) If a vessel, the name of the vessel or other identification, and type of vessel;
- (v) Date the commodities are supplied to the aircraft or vessel; and
- (vi) The commodity description and units of quantity or value of the commodities supplied to the aircraft or vessel.

(g) *Extension of validity period of Form FC-43.* (1) If there are no changes in the facts and commitments set forth in the Form FC-43 originally approved by the Office of Export Control, a for-

ign importer may request the extension of an expiring Form FC-43 by submitting a letter to the Office of Export Control in an original and four copies, which includes the following certification. However, if there will be a change, to take effect upon validation of the extension, with respect to the facts originally certified on the approved Form FC-43, a new Form FC-43 must be submitted.

I (We) certify that the representations contained in my (our) Form FC-43, signed on _____ and expiring on _____, have not changed and continue to reflect, accurately and completely, the intended use and disposition of all commodities to be imported under Station No. _____ through the period ending (insert June 30 of next year or an earlier date if preferred).

I (We) shall obtain the approval of the Office of Export Control regarding any change in any representation that may occur after the signing of this certification.

(Name of foreign firm)

(Signature of official of foreign firm)

(Typed or printed name and title of official)

(Date of signature)

(2) If the request for extension is approved, one copy of the foreign importer's letter will be returned to him imprinted with the seal of the U.S. Department of Commerce. Where the request for extension is not approved, the foreign importer will be advised by letter.

Supplement No. 1—Commodities Excluded From Certain Special License Procedures

Export Control Commodity Number and Commodity Description
23120 Carboxyl terminated polybutadiene; hydroxyl terminated polybutadiene; and cyclized 1,2-polybutadiene.
28311 Copper ores and concentrates.
28312 Copper matte.
28393 Zirconium ores and concentrates.
28398 Rhenium concentrates (salts).
28401 Copper bearing ash and residues.
28402 Copper or copper-base alloy waste and scrap.
33250 Lubricants which contain fluoroalcohol esters or perfluoroalkyl ethers as the principal ingredient.
33250 Lubricants wholly made of fluorocarbon polymers or copolymers as defined in § 399.2, Interpretation 22.
51202 Cyclic chemical intermediates, as follows: (a) 2-di-cyclohexyl carbodilimide; (b) di-o-tolyl carbodilimide; (c) methyl benzylate; (d) ortho chloro benzaldehyde; (e) piperidine carboxyl acid; (f) 3-quinuclidinone; and (g) 3-quinuclidinol.
51203 Beta-diethylaminoethyl diphenylpropylacetate hydrochloride.
51208 Cyclic chemical products, as follows: (a) ethyl centralite; (b) methyl centralite; (c) NN-diphenylurea; (d) methyl NN diphenylurea; (e) ethyl-NN-diphenylurea; (f) ethyl phenyl urethane; (g) diphenyl urethane; (h) diortho tolylurethane; and (i) 2-nitro-diphenylamine.

51209 Organic chemicals, as follows: (a) Guanidine nitrate; (b) 3-nitrazo-1,5 pentane diisocyanate; (c) bis 2 (2, 2' dinitropropyl) formal and acetal; (d) 2, 2' dinitropropanol; (e) tetrazene; (f) lead styphnate; (g) dibromotetrafluoroethane; (h) polybromotrifluoroethylene; (i) trifluoromonochloroethylene; (j) 2 1-cyanoacetamide; (k) diethylmethyl phosphonite; (l) di-isopropyl amino ethyl chloride hydrochloride; (m) di-isopropyl carbodilimide; (n) 2-di-isopropyl aminoethanol; (o) di-methyl hydrogen phosphite; (p) lysergic acid diethyl amine; (q) malononitrile; (r) methyl dichlor phosphine; (s) methyl isonicotenate; (t) methyl phosphonyl dichloride; (u) N, N-diethyl ethylene diamine; (v) trichlorotrifluoroethane; and (w) dichlorotetrafluoroethane.

51209 Diethylene triamine, purity 96 percent or higher.

51320 Boron fibrous and filamentary materials as defined in § 399.2, Interpretation 23.

51329 Boron element (metal), all forms.

51329 Calcium metal containing less than one hundredth (0.01) percent by weight of impurities other than magnesium and less than 10 parts per million of boron.

51329 Lithium metal.

51341 Chlorine trifluoride.

51365 Alumina-silica, aluminum oxide, or synthetic sapphire whiskers as defined in § 399.2, Interpretation 23.

51369 Fibrous and filamentary materials made of beryllium carbide, beryllium oxide, tungsten monocarbide, or zirconium oxide as defined in § 399.2, Interpretation 23.

51369 Beryllium oxides, hydroxides, peroxides, and compounds; hafnium oxides; and monocrystalline gallium compounds.

51369 Zirconium oxide, as follows: (a) Containing less than one part hafnium to 500 parts zirconium by weight; (b) purity 97 percent or higher; or (c) stabilized with lime and/or magnesia.

51400 Aluminum nitride fibrous and filamentary materials as defined in § 399.2, Interpretation 23.

51470 Fibrous and filamentary materials made of boron carbide, boron nitride, beryllium carbide, beryllium oxide, silicon carbide, zirconium oxide, or tungsten monocarbide as defined in § 399.2, Interpretation 23.

51470 Boron carbides, hydrides, and nitrides.

51470 Beryllium compounds; hafnium compounds; and zirconium compounds.

51470 Master alloys of copper containing 8 percent or more phosphor.

51470 Hydrides in which lithium is compounded with hydrogen or complexed with other metals or aluminum hydride.

51510 Radioisotopes, cyclotron-produced or naturally occurring, and compounds and preparations thereof.

51510 Polonium metal, salts and compounds.

51520 Deuterium and compounds, mixtures, and solutions containing deuterium, including heavy water and heavy paraffin.

- 51520 Lithium as follows: (a) Lithium 6 and 7 isotopes, (b) hydrides in which lithium enriched in the 6 isotope is compounded with hydrogen or its isotopes, or complexed with other metals or aluminum hydride, (c) alloys containing any quantity of lithium enriched in the 6 isotope, (d) any other material containing lithium enriched in the 6 isotope, including compounds, mixtures and concentrates; or (e) compounds enriched in lithium 7 isotopes.
- 57112 Primary explosives and priming compositions containing barium styphnate, diazodinitrophenol, lead dinitrosarcinate, lead styphnate, lead thiocyanate, mercury fulminate, and tetrazene.
- 58110-58120 Resin (plastic) composites, unfinished or semifinished (including molding compounds, laminates and molded shapes), as follows: (a) As defined in § 399.2, Interpretation 23; and (b) containing silica, quartz, carbon, or graphite fibers in any form.
- 59972 Artificial graphite, whether or not coated or composited with other materials to improve its performance at elevated temperatures to reduce its permeability to gases, having an apparent relative density of 1.90 or greater, when compared to water at 60° F. (15.5° C.).
- 59972 Artificial graphite having a boron content of one part per million or less, the total thermal neutron absorption cross section being 5 millibarns per atom or less.
- 59972 Other artificial pyrolytic graphite.
- 59972 Carbon or graphite fibers in any form (including chopped or macerated); and products thereof.
- 59999 Hydraulic fluids formulated wholly or in part with fluorinated or chlorinated silicones, fluoro-alcohol esters, or perfluoro-alkyl ethers.
- 62105 Hose and tubing lined with or covered with fluorocarbon polymers or copolymers as defined in § 399.2, Interpretation 22.
- 62910 Tires, of a kind specially constructed to be bullet proof or run when deflated; and other aircraft tires and inner tubes.
- 65180 Continuous yarn and roving suitable for use in filament wound structures, made of glass fibers, having (a) a modulus of elasticity of 10.5 times 10⁶ p.s.i. or greater, or (b) having a tensile strength to density ratio (figure of merit) of 300,000 p.s.i. or greater.
- 65180 Yarn, roving, and strand made from glass, silica, quartz, or glass-like fibers.
- 65380 Continuous tape suitable for use in filament-wound structures, made of glass fibers having: (a) A modulus of elasticity of 10.5 times 10⁶ p.s.i. or greater, or (b) a tensile strength to density ratio (figure of merit) of 300,000 p.s.i. or greater.
- 65380 Broad and narrow woven fabric including tape, made from glass, silica, quartz, or glass-like fibers.
- 65543 Textile fabrics, n.e.c., coated or impregnated with polyimides, polybenzimidazoles, polyimidazopyrrolones, aromatic polyamides, and polyparaxylolones where the value of such contained polymeric substances, either alone or in combination with fluorocarbon polymers or copolymers as defined in § 399.2, Interpretation 22, is 50 percent or more of the total value of the materials used.
- 65584 Textile fabrics and articles used in machinery or plant as follows: (a) Wholly made of fluorocarbon polymers or copolymers as defined in § 399.2, Interpretation 22; and (b) coated or impregnated with polyimides, polybenzimidazoles, polyimidazopyrrolones, aromatic polyamides, and polyparaxylolones where the value of such contained polymeric substance, either alone or in combination with fluorocarbon polymers or copolymers as defined in § 399.2, Interpretation 22, is 50 percent or more of the total value of the materials used.
- 66232-66233 High temperature refractory cement or bonding mortar, brick and similar shapes, and other refractory construction materials, n.e.c., containing 97 percent or more by weight of beryllium oxide or zirconium oxide, or containing zirconium oxide stabilized with lime and/or magnesium oxide.
- 66363 Carbon or graphite fibers in any form (including chopped or macerated); and products thereof.
- 66363-66370 Artificial graphite products, n.e.c., whether or not coated or composited with other materials to improve their performance at elevated temperatures or to reduce their permeability to gases having an apparent relative density of 1.90 or greater when compared to water at 60° F. (15.5° C.).
- 66363-66370 Artificial graphite products, n.e.c., having a boron content of one part per million or less, the total thermal neutron absorption cross section being 5 millibarns per atom or less.
- 66363-66370 Other artificial pyrolytic graphite products, n.e.c.
- 66370 Refractory products wholly made of boron carbide or boron nitride.
- 66370 Crucibles and refractory products other than refractory construction materials, n.e.c., containing 97 percent or more by weight of magnesium oxide, beryllium oxide, or zirconium oxide, or containing zirconium oxide stabilized with lime and/or magnesium oxide.
- 66404 Glass, silica, quartz, or glass-like fibers in any form (including chopped or macerated); and articles thereof.
- 66740 Sapphire whiskers as defined in § 399.2, Interpretation 23.
- 67150 Ferrozirconium containing more than 50 percent zirconium in which the ratio of hafnium content to zirconium content is less than one part to 500 parts by weight.
- 67820-67830 Seamless pressure tube and pipe of 8 inches or more inside diameter, having a wall thickness of 8 percent or more of the inside diameter and made of (a) stainless steel, or (b) other alloy steel containing 10 percent or more nickel and/or chromium.
- 67850 Pressure tube and pipe fittings having a tube or pipe size connection of 8 inches or more inside diameter, for tube or pipe having a wall thickness of 8 percent or more of the inside diameter and made of (a) stainless steel, or (b) other alloy steel containing 10 percent or more nickel and/or chromium.
- 68211 Blister copper and other unrefined copper.
- 68212 Refined copper, including remelted, in cathodes, billets, ingots, wire bars, and other crude forms.
- 68213 Master alloys of copper.
- 68221 Bars, rods, angles, shapes, sections, and wire of copper or copper alloy.
- 68222 Plates, sheets, and strips (including perforated) of copper or copper alloy.
- 68223 Copper or copper alloy foil, including paperbacked.
- 68224 Copper or copper alloy powders and flakes.
- 68225 Tubes, pipes, and blanks therefor, and hollow bars of copper or copper alloy.
- 68226 Pressure tube fittings and pipe fittings, copper-nickel alloy, having a tube or pipe size connection of 8 inches or more inside diameter, for tube or pipe having a wall thickness of 8 percent or more of the inside diameter.
- 68321 Bars, rods, angles, shapes, and sections of porous nickel having a purity of 99 percent or more.
- 68321 Other bars, rods, angles, shapes, sections, and wire of nickel alloy containing 32 percent or more nickel, except nickel-copper alloys containing not more than 6 percent of other alloying elements.
- 68322 Nickel powders with a particle size less than 200 microns.
- 68322 Plates, sheets, strips, and foil of porous nickel having a purity of 99 percent or more.
- 68323 Tubes, pipes, blanks, and fittings therefor, and hollow bars of porous nickel having a purity of 99 percent or more.
- 68323 Pressure tube and pipe fittings containing 32 percent or more nickel, having a tube or pipe size connection of 8 inches or more inside diameter, for tube or pipe having a wall thickness of 8 percent or more of the inside diameter.
- 68933 Beryllium fibrous and filamentary materials as defined in § 399.2, Interpretation 23.
- 68933 Beryllium metal or beryllium alloys containing more than 50 percent beryllium, wrought and unwrought, and waste and scrap.
- 68942 Molybdenum fibrous and filamentary materials as defined in § 399.2, Interpretation 23.
- 68950 Boron or titanium fibrous and filamentary materials as defined in § 399.2, Interpretation 23.
- 68950 Hafnium metal and alloys containing more than 15 percent hafnium by weight.
- 68950 Lithium alloys containing 50 percent or more lithium.
- 68950 Rhenium metal and rhenium metal alloys, wrought or unwrought.
- 68950 Titanium metal and titanium alloys containing 70 percent or more titanium, wrought or unwrought, including intermediate mill shapes, and waste and scrap.
- 68950 Zirconium metal and zirconium alloys containing more than 50 percent zirconium in which the ratio of hafnium content to zirconium content is less than one part to 500 parts by weight, wrought and unwrought, and waste and scrap.
- 69211-69299 Containers, jacketed only, for the storage of liquefied gases at temperatures below minus 274° F. (minus 170° C.) as follows: (a) with multilaminar type insulation under vacuum; (b) with other insulating systems, having a liquid capacity of 250 gallons or more, and specially designed for use with liquid fluorine or for gases boiling below minus 328° F. (minus 200° C.), and having an evaporation loss

- 69211-69899—Continued
rate of less than 3 percent per day as determined at an ambient temperature of 75° F. (24° C.) without exposure to direct sunlight; or (c) stationary storage tanks with other insulating systems, and designed only for liquid oxygen, nitrogen, or argon, and having a capacity of 500 tons or more.
- 69891 Iron whiskers as defined in § 399.2, Interpretation 23.
- 69892 Copper or copper alloy castings and forgings.
- 69899 Beryllium or beryllium alloy castings and forgings containing more than 50 percent beryllium; and articles wholly made of beryllium.
- 69899 Castings and forgings, as follows: (a) Hafnium metal and hafnium alloy containing more than 15 percent hafnium by weight; (b) polonium metal; (c) rhenium or rhenium alloy; (d) lithium or lithium alloy containing 50 percent or more lithium; and (e) titanium metal or titanium alloy containing 70 percent or more titanium.
- 69899 Zirconium or zirconium alloy castings, forgings, and other articles, n.e.c., containing more than 50 percent zirconium in which the ratio of hafnium content to zirconium content is less than one part to 500 parts by weight; and other articles wholly made of zirconium or zirconium alloys.
- 69899 Electrical conducting materials specially designed for operation continuously or discontinuously at ambient temperatures below minus 170° C.
- 69899 Wire mesh, all types, including electroformed, containing 95 percent or more nickel, with 60 or more wires per linear centimeter or the equivalent thereof.
- 71120 Heat exchangers and heat-exchanger type condensers specially designed for nuclear reactors; and parts and accessories, n.e.c.
- 71120 Tubular type heat exchangers designed to operate at pressures of 1,500 p.s.i. and above and with all flow contact surfaces made of or lined with 10 percent or more nickel and/or chromium; and parts and accessories, n.e.c.
- 71120 Heat exchangers and heat-exchanger type condensers, tubular, designed for use in steam power generation and to operate at pressures of 300 p.s.i. and over and with all flow contact surfaces made of any of the following materials: aluminum, nickel, titanium, zirconium, or alloys containing 60 percent or more nickel, either separately or combined, and parts and accessories, n.e.c.
- 71131-71132 Steam turbines designed for use of saturated steam for an output of 2,000 horsepower (1,500 kilowatts) up to and including 100,000 horsepower (75,000 kilowatts); and parts and accessories, n.e.c.
- 71170 Parts and accessories, n.e.c., specially fabricated for nuclear reactors, including mechanical devices designed to control or shut down a nuclear reactor.
- 71420 Advanced electronic computers; i.e., those with a bus rate of 50,000,000 bits per second or more.
- 71420 Other electronic computers, analog or digital (including digital differential analyzers).¹
- 71510 Metal-cutting machine tools and other machine tools for the working of metals, specially designed for the manufacture of arms, munitions, and implements of war.
- 71521 Foundry equipment specially designed for the manufacture of arms, munitions, and implements of war; and parts, n.e.c.
- 71851 Foundry machines specially designed for the manufacture of arms, munitions, or implements of war; and parts, n.e.c.
- 71911 Electrolytic cells, and parts, n.e.c.
- 71919 Process vessels specially designed for chemically processing radioactive material; and parts and accessories, n.e.c.
- 71919 Other machines and equipment, n.e.c., specially designed for use in processing of irradiated nuclear materials to isolate or recover fissionable materials; and parts and accessories, n.e.c.
- 71919 Heat exchangers made of aluminum, copper, nickel, or alloys containing more than 60 percent nickel, or combinations of these metals as clad tubes, designed to operate at subatmospheric pressure, with a leak rate of less than 10⁻⁴ atmospheres per hour under a pressure differential of 1 atmosphere; and parts, n.e.c.
- 71919 Equipment for the production of liquid helium; and parts, n.e.c.
- 71919 Equipment for the production of liquid fluorine; and parts, n.e.c.
- 71919 Equipment specially designed for the production and/or concentration of deuterium oxide; and parts, n.e.c.
- 71921 Industrial pumps having all flow-contact surfaces made of any of the following materials: (a) 90 percent or more tantalum, titanium, or zirconium, either separately or combined, (b) 50 percent or more cobalt or molybdenum, either separately or combined, (c) polytetrafluoroethylene, or (d) polychlorotrifluoroethylene; and parts and attachments, n.e.c.
- 71921 Vertically shafted centrifugal pumps, glandless, hermetically sealed (canned) type or mechanical pressurized sealed type, having all flow contact surfaces made of or lined with 10 percent or more nickel and/or chromium and rated at 50 kilowatts or more; and parts and attachments, n.e.c.
- 71921 Other centrifugal pumps, glandless, hermetically sealed (canned) type, having all flow contact surfaces made of 10 percent or more chromium or nickel, either separately or combined; and parts and attachments, n.e.c.
- 71921 Pumps designed to move molten metals by electro-magnetic forces; and parts and attachments, n.e.c.
- 71922 Compressors and blowers (turbo, centrifugal, and axial flow types) having a designed capacity of 60 c.f.m. or more and all flow contact surfaces made of aluminum, nickel, or alloy containing 60 percent or more nickel; and parts and attachments.
- 71923 Counter-current solvent extractors specially designed for the extraction of radioactive substances (for example, pulsed columns and mixer-settlers made of stainless steel); and parts.
- 71923 Equipment specially designed for the separation of isotopes of uranium and/or lithium; and parts.
- 71923 Equipment for filtering, purifying, separating or treating radioactive impurities from nuclear reactor coolant; and parts.
- 71923 Gas centrifuges capable of the enrichment or separation of isotopes; and parts.
- 71923 Other centrifuges, power-driven, bowl type, with all product contact surfaces of aluminum, nickel, or alloy containing 60 percent or more nickel; and parts.
- 71923 Centrifuge bowls, wholly made of or lined with aluminum, nickel, or alloy containing 60 percent or more nickel; and parts.
- 71980 Nuclear reactor fuel chopping, disassembling, or dejecting machines; and parts and accessories, n.e.c.
- 71980 Hot or cold isostatic presses; and parts and accessories, n.e.c.
- 71980 Assembling jigs and fixtures for military equipment; and parts and accessories, n.e.c.
- 71980 Assembling jigs and fixtures for military and parts and accessories, n.e.c.
- 71980 Equipment for the production of military explosives and solid propellants.
- 71980 Filament winding machines designed for or modified for the manufacture of rigid structural forms by precisely controlled tensioning and positioning of filament yarns, tapes, or rovings; and parts, controls, and accessories, n.e.c.
- 71992 Pipe valves having all of the following characteristics: a pipe size connection of 8 inches or more inside diameter, all flow contact surfaces made of or lined with alloys of 10 percent or more nickel and/or chromium and rated at 1,500 p.s.i. or more; and parts.
- 71992 Valves, 1 inch or more in diameter, fitted with bellows seal, and wholly made of or lined with aluminum, nickel, or alloys containing 60 percent or more nickel, except those having metal to metal seats; and parts.
- 71992 Valves, cocks, or pressure regulators with all flow contact surfaces made of or lined with polytetrafluoroethylene or polychlorotrifluoroethylene; and parts.
- 71992 Other valves fitted with bellows seal, and wholly made of or lined with aluminum, nickel, or alloys containing 60 percent or more nickel; and parts.
- 72210 Generators and turbine-generator sets specially designed for use with nuclear reactors; and parts and accessories, n.e.c.
- 72310 Other turbine-generator sets specially designed for use of saturated steam; and parts and accessories, n.e.c.
- 72310 Wire and cable coated with or insulated with fluorocarbon polymers or copolymers.
- 72310 Communications or coaxial cable.
- 72310 Insulated nickel or nickel alloy wire as follows: (a) Insulated thermocouple nickel chrome wire containing less than 95 percent nickel and within a diameter range of 0.2 mm. to 5 mm. both inclusive, or (b) other insulated nickel or nickel alloy wire containing 32 percent or more nickel, except nickel copper alloy wire containing not more than 6 percent of other alloying elements.
- 72310 Other copper or copper alloy insulated wire and cable.
- 72620 Flash discharge type X-ray tubes; and parts and accessories, n.e.c.

¹ Excluded from Project License procedure only.

- 72620 X-ray machines having any of the following characteristics: (a) Peak power exceeding 500 megawatts, (b) output voltage exceeding 500 kilovolts, or (c) output current exceeding 2,000 amperes with pulse width of 0.2 microseconds or less; and parts and accessories, n.e.c.
- 72911 Electro-chemical and radioactive devices for the conversion of chemical energy to electrical energy, having any of the following characteristics: (a) Fuel cells, including regenerative cells (i.e., cells for generating electric power, to which all the consumable components are supplied from outside the cells), (b) primary cells possessing a means of activation and having an open circuit storage life in the unactivated condition, at a temperature of 70° F. (21° C.), of 10 years or more, (c) primary cells capable of operating at temperatures from below minus 13° F. (minus 25° C.) to above plus 131° F. (plus 55° C.), including cells and cell assemblies (other than dry cells) possessing self-contained heaters, or (d) power sources other than nuclear reactors based on radioactive materials systems, except those having a power output of less than 0.5 watts in which the ratio of output (in watts) to weight (in pounds) is less than 1 to 2; and parts, components, and subassemblies therefor.
- 72930 Image converter tubes specially designed for light shutter applications and having shutter speeds of less than 100 nanoseconds.
- 72930 Triggered spark-gaps, having an anode delay time of 15 microseconds or less and rated for a peak current of 3,000 amperes or more; and parts and accessories, n.e.c.
- 72952 Testing and inspecting machines specially designed for the examination, testing and checking of arms, munitions, and implements of war.
- 72952 Nuclear radiation detection and measuring instruments designed to measure neutron flux in connection with the determination of the power level of an operating nuclear reactor; and other nuclear radiation dosimeters capable of measuring dosages above 5 roentgens in one exposure.
- 72952 Vibration testing equipment.
- 72952 Control equipment specially designed for hot or cold isostatic presses (No. 71980).
- 72952 Mass spectrographs and mass spectrometers, except mass spectrometer type leak detectors.
- 72970 Neutron generators employing the electrostatic acceleration of ions; and parts.
- 72970 Neutron generator tubes designed for operation without external vacuum system, and utilizing electrostatic acceleration to induce a tritium deuterium nuclear reaction; and parts.
- 72970 Accelerators, as follows: (a) Betatrons, synchrotrons, cyclotrons, synchrocyclotrons and linear accelerators, (b) electron accelerators capable of imparting energies in excess of 500,000 electron volts, and (c) other electronuclear machines capable of imparting energies in excess of 1,000,000 electron volts to a nuclear particle or ion; and parts.
- 72991 Magnets specially designed for electronuclear machines capable of imparting energies in excess of 1,000,000 electron volts to a nuclear particle or ion.
- 72992 Electric cold crucible vacuum induction furnaces designed to operate at pressures lower than 0.1 millimeter of mercury and at temperatures higher than 2,012° F. (1,100° C.).
- 72996 Electrical carbons made of artificial graphite having a boron content of one part per million or less, the total thermal neutron absorption cross section being 5 millibarns per atom or less.
- 72996 Electrical carbons made of artificial graphite whether or not coated or composited with other materials to give improved performance at elevated temperatures or to reduce their permeability to gases, having an apparent relative density of 1.90 and greater.
- 72996 Articles for electrical purposes, made of carbon or graphite fibers in any form, as defined in § 399.2, Interpretation 23.
- 72996 Other artificial pyrolytic graphite electrical carbons.
- 73410 Nonmilitary helicopters, aircraft, and ground effects machines (GEMS), including surface effect machines and other air cushion vehicles.
- 73410 Military aircraft, demilitarized (not specifically equipped or modified for military operations), the following only: (a) Cargo, "C-45 through C-118," and "C-121;" (b) trainers, bearing a "T" designation and using piston engines; (c) utility, bearing a "U" designation and using piston engines; and (d) liaison, bearing an "L" designation.
- 86112 Lenses and prisms specially designed for high-speed cameras and streak cameras under Nos. 86140 and 86150 which are subject to the Import Certificate/Delivery Verification procedure.
- 86140 Streak cameras capable of recording events which are not initiated by the camera mechanism; and parts and accessories.
- 86140 Photographic micro-flash equipment capable of giving a flash of 1/200,000 second or shorter duration at a minimum recurrence frequency of 200 flashes per second; and parts and accessories.
- 86140 High-speed cameras as follows: (a) Recording cameras in which the film does not move, and which are capable of recording at rates exceeding 250,000 frames per second for the full framing height of standard 35 mm. wide film, or proportionately higher rates for lesser frame heights, or proportionately lower rates for greater frame heights; or (b) cameras having shutter speeds of less than one microsecond per operation; and parts and accessories, n.e.c.
- 86150 High speed recording cameras (cine) in which the film (a) is continuously advanced and which are capable of recording at rates greater than 3,000 frames per second at full framing heights of standard 35 mm. wide film or proportionately higher rates for lesser frame heights, or proportionately lower rates for greater frame heights; or (b) is intermittently advanced, being automatically locked in place for each frame, and which are capable of recording at the following rates for full frame heights: (i) Greater than 250 frames per second for 16 mm. wide film, (ii) greater than 130 frames per second for 35 mm. wide film, or (iii) greater than 50 frames per second for 70 mm. wide film; and parts and accessories, n.e.c.
- 86191 Range finders specially designed for cameras under Nos. 86140 and 86150 which are subject to the Import Certificate/Delivery Verification procedure; and parts and accessories, n.e.c.
- 86195 Testing and inspecting machines specially designed for the examination, testing, and checking of arms, munitions, and implements of war.
- 86195 Vibration testing equipment.
- 86198 Mass spectrographs and mass spectrometers, except mass spectrometer type leak detectors; and parts, n.e.c.
- 86198 Testing and inspecting equipment specially designed for the examination, testing, and checking of arms, munitions, and implements of war; and parts n.e.c.
- 86199 Parts (including positive ion sources), assemblies, components, and accessories, n.e.c., for mass spectrographs and mass spectrometers under No. 72952 which require a validated license to all Country Groups.
- 86199 Parts and accessories, n.e.c., for nuclear radiation dosimeters.
- 86246 Film and plates, as follows: (a) Having an intensity dynamic range of 1,000,000 : 1 or more, or (b) having a speed of ASA 10,000 (or equivalent) or more.
- 89300 Articles, n.e.c., of artificial plastic materials containing silica, quartz, carbon, or graphite fibers in any form.
- 89300 Hose or tubing made of, lined with, or covered with fluorocarbon polymers or copolymers as defined in § 399.2 Interpretation 22.
- 89927 Wire cloth sieves, all types, including electroformed, containing 95 percent or more nickel, with 60 or more sieves per linear centimeter or the equivalent thereof.

PART 374—REEXPORTS

Sec.

- 374.1 Prohibited exports and reexports.
- 374.2 Permissive reexports.
- 374.3 How to request reexport authorization.
- 374.4 Notice to consignee.
- 374.5 Validity period.
- 374.6 Presentation of Shipper's Export Declaration to Canadian Customs.
- 374.7 Retention of documents.
- 374.8 Revocation of authorization to re-export.
- 374.9 Effect on foreign laws.

AUTHORITY: The provisions of this Part 374 issued under sec. 3, 63 Stat. 7; 50 U.S.C. App. 2023; E.O. 10945, 26 F.R. 4487, 3 CFR 1959-1963 Comp.; E.O. 11038, 27 F.R. 7003; 3 CFR 1959-1963 Comp.

§ 374.1 Prohibited exports and reexports.

Unless the reexport of a commodity previously exported from the United States has been specifically authorized by the Office of Export Control, in writing, prior to its reexport, or is authorized under the provisions of § 374.2, or is otherwise authorized under any other provision of the Export Control Regulations, no person in the United States or in a foreign country (including Canada) may:

(a) Reexport such commodity directly or indirectly, in whole or in part, from the authorized country(ies) of ultimate destination; or

(b) Export such commodity from the United States with the knowledge that it is to be reexported, directly or indirectly, in whole or in part, from the authorized country(ies) of ultimate destination.

§ 374.2 Permissive reexports.

The following reexports of U.S.-origin commodities¹ may be made without obtaining prior written authorization from the Office of Export Control:

(a) Reexports of any commodity that, at the time of reexport, may be exported directly from the United States to the new country of destination (1) under General License G-DEST, or (2) where the value of the reexport does not exceed the GLV value on the Commodity Control List for the new country of destination.²

(b) Reexports of any commodity from Canada that, at the time of reexport, may be exported directly from the United States to the new country of destination under any general license.

- (c) Reexports between:
 - (1) Switzerland and Liechtenstein;
 - (2) Italy and the area of Trieste under Italian Civil administration; and
 - (3) Yugoslavia and the area of Trieste under Yugoslav administration.

(d) Reexports between ultimate consignees as provided by the terms of the Project License procedure, see § 373.2(g) of this subchapter, or the terms of the Time Limit license, see § 373.6(f) of this subchapter.

(e) Reexports between an exporter's approved consignees as provided by the terms of the Distribution License procedure, see § 373.3(i) of this subchapter.

(f) Reexports to customers of a distributor as provided by the terms of the Foreign-Based Warehouse Procedure, see § 373.4(e)(2)(iii)(a) of this subchapter.

(g) Reexports to a destination to which direct shipment from the United States is authorized under an unused outstanding validated export license.³

§ 374.3 How to request reexport authorization.

(a) *Requests for reexport authorization for commodities exported under general license.* In order to obtain prior authorization to reexport commodities previously exported from the United States under a general license, a request shall be submitted by letter, in duplicate, to the Office of Export Control (Attention: 852) U.S. Department of Commerce, Washington, D.C. 20230. The letter shall identify the original country of destination, the general license under which shipment was made from the United States, the commodity, and the quantity proposed for reexport to each

country. If a reexport is to be made to any of the countries listed in paragraph (d)(1) of this section, the information and documentation required by paragraph (d)(1)(i) and (ii) of this section, shall also be submitted with the letter request.

Note: Optional ports of unloading. When an export is being made to Country Group T, V, or W under the provisions of General License G-DEST and the exporter does not know, prior to the departure of the exporting carrier, which of several countries is the country of ultimate destination, he may name optional ports of unloading on the Declaration and bill of lading even when more than one foreign country is involved, as provided by § 398.3(e) of this subchapter.

(b) *Requests for reexport authorization accompanying license application.* In order to obtain prior authorization to reexport commodities at the time of submission of the application for a license to export from the United States, the reexport request shall be included on the license application. In addition to specifying the country to which the reexport will be made, the application shall include the information required by paragraph (b) of this section, if applicable. If it is stated on an individual export license application that the commodity to be exported is intended for distribution or resale in a country(ies) other than the named country of ultimate destination, authorization for such distribution or resale will be granted or withheld by an appropriate statement on the face of the validated license, as follows:

- (1) "Distribution or resale of the commodities listed above is permitted in the country of ultimate destination only"; or
- (2) "Distribution or resale of the commodities listed above is permitted in (name of country of ultimate destination) and (names of other approved countries)."

Other methods for obtaining reexport authorization are set forth in the special licensing procedures (see Part 373 of this subchapter).

(c) *Requests for reexport authorization subsequent to submission of license application—(1) Before shipment.* If prior authorization to reexport commodities is requested while the license application is still pending with the Office of Export Control, or, if the export license has been issued and the proposed shipment has not been cleared for export by the U.S. Customs Office, Form IA-763, Request for and Notice of Amendment Action (see Supplement S-4 for facsimile), shall be submitted to the Office of Export Control (Attention: 852), U.S. Department of Commerce, Washington, D.C. 20230, in accordance with the procedure described in § 372.11(h) of this subchapter. On Form IA-763, in the space headed "Amend license to read as follows," the applicant should state, "Add permission to reexport to (name of countries)." (See paragraph (d) of this section for special provisions for specified countries.)

(2) *After shipment cleared for export.* If prior authorization to reexport com-

modities is requested after the shipment has been cleared for export by the U.S. Customs Office, a letter request shall be submitted to the Office of Export Control (Attention: 852), U.S. Department of Commerce, Washington, D.C. 20230. The letter request shall identify both the application case number and export license number (if known) and include the commodity description and quantity proposed for distribution or resale in each country of distribution or resale. (See paragraph (d) of this section for special provisions for specified countries.)

(d) *Special requirements.* In addition to the provisions of paragraphs (a), (b) and (c) of this section, the request for authorization to reexport shall include the following:

(1) *Reexports to certain countries.* If the reexport is to be made to a destination specified below, regardless of the country to which the commodities were originally shipped from the United States, additional information shall be furnished as set forth in subdivisions (i) and (ii) of this subparagraph.

Cambodia.	Yugoslavia.
Laos.	Any destination in
Liechtenstein.	Country Group S,
Malaysia.	W, X, Y or Z (see
Singapore.	Supplement No. 1
South Africa	to Part 370 of this
(Republic of)	subchapter for the
Sweden.	countries included
Switzerland.	in each country
Thailand.	group.)
Vietnam	
(Republic of).	

(i) The name and address of each person or firm to whom reexport will be made, and the commodity description, quantity, and value of the commodities that will be reexported to each, and

(ii) Consignee/purchaser statement or other documentation from the new ultimate consignee that would be required by Part 375 of this subchapter if the reexport were a direct export from the United States to the new country. Where this document is a Yugoslav End Use Certificate or a Swiss Blue Import Certificate, and the same document must be furnished to the export control authorities of the country from which reexport will be made, the Office of Export Control will accept a reproduced copy of the document being furnished to the country of reexport. If the required documentation cannot be obtained, waiver may be requested in accordance with the applicable provisions of the Export Control Regulations. (See § 375.2(b)(4) of this subchapter for waiver of a Consignee/Purchaser Statement; § 375.1(d) of this subchapter for waiver of an Import Certificate; § 375.3(c) of this subchapter for waiver of a Swiss Blue Import Certificate; and § 375.4(c) of this subchapter for waiver of a Yugoslav End-Use Certificate.)

(2) *Reexports from Switzerland and Liechtenstein.* If export from the United States was made, or will be made, to Switzerland or Liechtenstein under a validated export license, the request to reexport from Switzerland or Liechtenstein

¹ For reexport of technical data, see § 379.8 of this subchapter.

² The permissive reexport provisions set forth above relating to the reexport of commodities within the established GLV dollar value limits do not apply to exports, reexports, or distributions made under the Distribution License, Foreign-Based Warehouse, or Aircraft and Vessel Repair Station Procedures. (See §§ 373.3, 373.4, and 378.8 of this subchapter.)

³ The unused validated export license shall be returned to the Office of Export Control (Attention: 852), U.S. Department of Commerce, Washington, D.C. 20230, with a letter giving the full details of the reexport.

shall include the name and address of each person or firm to whom reexport will be made, the quantity and value of the commodities to be reexported to each, and the number and date of the Swiss Blue Import Certificate(s) submitted in support of the application(s) for license to export the commodities from the United States.

§ 374.4 Notice to consignee.

Where the Office of Export Control has authorized a type of reexport described in § 374.2(d) (1) or (2), the U.S. exporter shall advise his foreign consignee of the amount of reexport authorized and the name of the person or firm to whom the reexport has been authorized. In those cases where the Office of Export Control has disapproved a reexport authorization request, in whole or part, the exporter may wish to advise his foreign consignee of this rejection decision in advance of the notification he is required to include in the destination control statement on the bill of lading and commercial invoice (see § 386.6 of this subchapter).

§ 374.5 Validity period.

(a) *Limitation on validity period.* Generally, only authorizations to reexport to Country Group W, Y, or Z are restricted to a limited validity period. Any authorization to reexport or redistribute commodities to Country Group W, Y, or Z, whether authorized on the validated export license or separately, expires on the last day of the 6th month following the month in which the reexport is authorized unless otherwise specified. The U.S. exporter shall, in connection with each such authorization, furnish written notification to the ultimate consignee of this limitation on the validity period of the reexport authorization.

(b) *Request for extension of validity period.* A request for an extension of the validity period of a reexport or redistribution authorization shall be submitted in the same manner as a request for the reexport authorization, except that the documentation required by § 374.3(d) (1) (ii) need not be resubmitted if the original documents remain valid. In addition, the request for extension shall identify the original authorization, date of authorization, names of countries covered, commodities, and quantities originally authorized for reexport, and the commodities and quantities remaining to be reexported.

§ 374.6 Presentation of Shipper's Export Declaration to Canadian Customs.

When an export to a foreign country is made in transit via Canada, the U.S. exporter shall submit an authenticated copy of the U.S. Shipper's Export Declaration to the Canadian customs authorities at the Canadian port of entry. (See § 386.3(i) (3) of this subchapter.)

§ 374.7 Retention of documents.

The document authorizing reexport shall be kept and made available for inspection in accordance with the provisions

of § 387.11 of this subchapter. (For further recordkeeping requirements, see § 387.11 of this subchapter.)

§ 374.8 Revocation of authorization to reexport.

All export licenses and other authorizations to reexport are subject to revision, suspension, or revocation without notice.

§ 374.9 Effect on foreign laws.

Any reexport or distribution authority granted by the U.S. Office of Export Control does not relieve any person from complying with foreign laws.

PART 375—DOCUMENTATION REQUIREMENTS

Sec.	
375.1	International Import Certificates and Delivery Verification Certificates.
375.2	Ultimate Consignee and Purchaser Statement.
375.3	Swiss Blue Import Certificate.
375.4	Yugoslav End-Use Certificate.
375.5	Documents accompanying applications.
	Supplement No. 1—Authorities Administering Import Certificate/Delivery Verification System in Foreign Countries.

AUTHORITY: The provisions of this Part 375 issued under sec. 3, 83 Stat. 7; 50 U.S.C. App. 2023; E.O. 10945, 26 F.R. 4487, 3 CFR 1959-1963 Comp.; E.O. 11038, 27 F.R. 7003, 3 CFR 1959-1963 Comp.

§ 375.1 International Import Certificates and Delivery Verification Certificates.

(a) *Scope.* The provisions of this § 375.1 shall apply whenever a validated license is required for the export of certain commodities to certain destinations as set forth below. Additionally, in certain exceptional instances, an International Import Certificate may be required for transactions not involving an export from the United States under a validated license. (See § 368.2(a) (8) of this subchapter.)

(1) *Commodities.* The International Import Certificate requirement applies only to those commodities identified by the symbol "A" in the last column of the Commodity Control List (§ 399.1 of this subchapter). (See paragraph (e) (3) of this section for commodities from which the symbol "A" is deleted after the Import Certificate has been submitted.) The Delivery Verification Certificate requirement applies to all commodities for which a validated license is required.

(2) *Destinations.* (i) The following destinations apply the International Import Certificate/Delivery Verification Certificate System:

Austria.	Japan.
Belgium.	Luxembourg.
Denmark.	Netherlands.
France.	Norway.
Greece.	Portugal.
Hong Kong (see § 375.1(b) (4) below).	Turkey.
Italy (including the area of Trieste under Italian civil administration).	United Kingdom.
	West Germany (Federal Republic of Germany, Western Sectors of Berlin and Saar).

(See Supplement No. 1 to this Part 375 for list of addresses in the above

destinations where foreign importers may obtain International Import Certificates.)

(ii) Facsimiles of International Import Certificates issued by each of the above destinations may be inspected at any U.S. Department of Commerce field office (see list on page 1 under Field Office Addresses), or at the Office of Export Control, Exporters' Service Section, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, D.C. The provisions of this § 375.1 do not apply to any overseas territories of the above destinations unless specifically listed.

(3) *Effective dates of changes.* Whenever the scope of this § 375.1 is extended by adding a commodity or country, the change shall become effective 45 days from the date of such addition.

(b) *Documentation provisions—(1) Terms used.* As used in this § 375.1 the terms "International Import Certificate," "Delivery Verification Certificate," "Hong Kong Import License," and "Landing Certificate," refer to the documents issued by governments of the destinations listed in paragraph (a) (2) of this section to importers in such destinations, and are equivalent documents to the Form FC-826, International Import Certificate, and Form FC-908, U.S. Delivery Verification Certificate, issued to U.S. importers (see §§ 368.2 and 368.3 of this subchapter).

(2) *Content of documents.* These documents contain an undertaking by the issuing government to exercise legal control over the disposition of the commodities covered. This control is in addition to conditions and restrictions placed on the export by the Office of Export Control. The laws and regulations of the United States are in no way modified, changed, or superseded by the issuance of an Import Certificate or Delivery Verification Certificate.

(3) *Triangular symbol.* In accordance with international practice, the government issuing office may stamp a triangular symbol on the Import Certificate. This symbol is a notification that the importer does not intend to import or retain the commodities in the country issuing the import certificate, but that, in any case, the commodities will not be delivered to any destination except in accordance with the export regulations of the issuing country.

(4) *Special provisions for Hong Kong.* (i) With regard to exports to Hong Kong, the term "Import Certificate" means the duplicate copy of Form 3, Hong Kong Import License, containing one of the following stamped endorsements signed by an official of the Hong Kong Government:

For consumption in Hong Kong. Diversion en route prohibited. Reexport not permitted except under special license and subject in addition to general or specific concurrence of government of supplying country concerned.

OR

For reexport to (approved destination). Diversion en route prohibited. To be delivered by shipping or airline company concerned to Govt-designated godown. Overseas

delivery not permitted. Release from godown subject to approval of export license.

The term "Delivery Verification Certificate" means the C&I Form 229, Hong Kong Delivery Verification, or the C&I Form 42, Hong Kong Landing Certificate. C&I Form 42 is acceptable only where the Hong Kong Government does not issue its C&I Form 229. (See paragraph (k) of this section for delivery verification certificate requirements.)

(c) *Exemptions.* The Import Certificate requirements shall not apply to:

(1) A license application filed under the Project License procedure (see § 373.2 of this subchapter);

(2) A license application to export commodities classified in a single entry on the Commodity Control List the total value of which, as shown on the export order, is less than \$500, except where a multiple transactions Import Certificate is filed in accordance with paragraph (f) (2) of this section;

(3) A license application to export commodities to a foreign government or government agency that actually placed the order with the applicant and will take delivery of the commodities when received in the importing country (see § 375.2(b) (2) (iv) for definition of "government agency");

(4) A license application filed by a relief agency registered with the Advisory Committee on Voluntary Foreign Aid, Agency for International Development, for export of commodities to a member agency in the foreign country;

(5) A license application supported by Form FC-43, Statement by Foreign Importer of Aircraft or Vessel Repair Parts; Form FC-143, Request for Authorization To Distribute U.S. Origin Commodities Stocked Abroad to Approved Customers; the current Station Number or validation number of any of these forms; or Form FC-1143, Distribution License Consignee Statement (see §§ 373.3, 373.4, and 373.8 of this subchapter);

(6) A license application to export commodities for exhibition, demonstration, or testing purposes (see § 372.8(e) of this subchapter); or

(7) A request for authorization to make temporary exports of video tape (see § 376.11 of this subchapter).

(d) *Exceptions*—(1) *Grounds for exception.* Favorable consideration of a request for exception generally will be given where the Import Certificate requirement:

(i) Imposes an undue hardship on the applicant and/or ultimate consignee (e.g., refusal by the foreign government to issue an Import Certificate and such refusal constitutes discrimination against the U.S. exporter); or

(ii) Cannot be complied with (e.g., the commodities will be held in a foreign trade zone or bonded warehouse for subsequent distribution in one or more countries); or

(iii) Is not applicable to the transaction (e.g., the commodities will not be imported for consumption into the named country of destination).

An exception will not be granted if contrary to the objectives of the U.S. export control program.

(2) *Types of requests.* A request for exception may involve either a single transaction or, where the reason necessitating the request is continuing in nature, multiple transactions.

(i) The single transaction exception relates to a single export order and, if granted, will cover the application(s) which the exporter submits to ship the single export order; or

(ii) The multiple transactions exception relates to multiple export orders and, if granted, will cover all applications submitted by the exporter during all or any part of the period ending not later than June 30 of the year following the year during which the request is submitted, unless an earlier termination date is requested.

(3) *How to submit request.* (i) The request for exception shall be submitted with the application to which it relates. Where the request relates to more than one application, it shall be submitted with the first application and referred to in the "Additional Information" item on any subsequent applications.

(ii) Each request for exception shall be by letter, in duplicate, addressed to the Office of Export Control (Attention: 854), U.S. Department of Commerce, Washington, D.C. 20230. It shall be accompanied by an ultimate consignee and purchaser statement in accordance with § 375.2, unless such statement is already on file in the Office of Export Control.

(iii) As a minimum, the letter request shall include:

(a) Name and address of ultimate consignee;

(b) Name and address of purchaser if different than ultimate consignee;

(c) Location of foreign trade zone or bonded warehouse if the commodities will be exported to a foreign trade zone or bonded warehouse;

(d) Type of request, i.e., whether for a single transaction or multiple transactions;

(e) Full explanation of the reason(s) for requesting the exception;

(f) Nature and duration of the business relationship between the applicant and importer shown on the license application;

(g) Whether the exporter has previously submitted to the Office of Export Control any Import Certificate issued in the name of the importer and a listing of the case number(s) to which the certificate(s) applied;

(h) Whether a statement from the consignee/purchaser, in accordance with § 375.2, is on file with the Office of Export Control;

(i) Requested date of expiration if a multiple transactions exception is requested and the exporter wishes the exception period to expire before June 30 of the next year; and

(j) Any other facts to justify granting an exception.

(4) *Action by Office of Export Control*—(i) *Single transaction request.* Where a single transaction is involved,

the Office of Export Control will act on the request for exception at the same time as the license application with which the request is submitted. In those instances where the related application is approved, the issuance of the export license will serve as an automatic notice to the exporter that the exception is also approved. However, if any restrictions are placed on the approval, or if the request is disapproved, the Office of Export Control will advise the exporter by letter.

(ii) *Multiple transactions request.* Where multiple transactions are involved, the Office of Export Control will advise the exporter by letter of the action taken on the exception request. The letter will contain any conditions or restrictions which the Office of Export Control finds necessary to impose. In addition, a written acceptance of these conditions or restrictions will be required from the parties to the transaction.

(5) *Additional applications.* On any additional license application that is subject to an approved request for exception to the import certificate requirement, the following certification shall be inserted on the application in the space entitled "Additional Information" or on an attachment:

I (We) certify that the circumstances shown in the original request for exception to submission of an Import Certificate (or Hong Kong Import License) also exist with respect to this application. The request for exception was submitted in support of application number (insert case number or, if case number is unknown, the applicant's reference number; date of submission of the application to which the request for exception was attached; and Export Control Commodity Numbers and Processing Number shown on that application).

(6) *Relationship to reexports.* The granting of an exception to the import certificate requirement in no way relieves the applicant or any other party to the transaction from obtaining reexport authorization from the Office of Export Control when so required by the Export Control Regulations.

(e) *Relationship to consignee/purchaser statement.* (1) The requirement of a consignee/purchaser statement (§ 375.2) is not applicable where an Import Certificate is required by this § 375.1.

(2) Where an Import Certificate is not specifically required by this § 375.1, an export to a destination listed in paragraph (a) (2) of this section is subject to the requirement of a consignee/purchaser statement and an Import Certificate may not be substituted for that statement.

(3) When the symbol "A" is deleted from an entry on the Commodity Control List, the commodities covered by that entry are removed from the Import Certificate/Delivery Verification requirements of this § 375.1. Neither a new Import Certificate nor an Import Certificate previously submitted to the Office of Export Control will be accepted in lieu of the required consignee/purchaser statement in support of a license application which is submitted to the Office

of Export Control after the deletion of the symbol "A."

(f) *Submission of Import Certificate*—(1) *Single transaction Import Certificate*. (i) The applicant shall attach to his license application covering a proposed export the original Import Certificate, bearing the official authentication of the government authorities in the importing country, issued to the named importer or his agent and covering the commodity(ies) described in the application. A reproduced copy (photocopy or other type) of the Import Certificate will not be accepted by the Office of Export Control.

(ii) The exporter should furnish his consignee the commodity description shown on the Commodity Control List and advise him to use this description when applying for the Import Certificate from his government. In addition, where the commodity is a new or highly technical product, it is advisable also to furnish a manufacturer's catalog or bulletin, or printed pages describing the commodity. This will be helpful to the foreign government in determining whether the commodity meets the criteria for the issuance of an Import Certificate.

(iii) Where the single transaction Import Certificate covers commodities for which more than one license application is submitted, the original Certificate shall be attached to the first such application, and each subsequent application shall show the following certification in the space entitled "Additional Information" or on an attachment:

I (We) certify that the quantities of commodities shown on all export licenses based on the (Name of country) Import Certificate (or Hong Kong Import License) Number -----, when added to the quantities shown on all additional applications pending in the Office of Export Control based on the same Import Certificate, including the present application, do not total more than the quantities shown on that Import Certificate.

This Import Certificate was submitted in support of application number (Insert case number or, if case number is unknown, the applicant's reference number; date of submission of the application to which the Import Certificate or Hong Kong Import License was attached; and Export Control Commodity Numbers and Processing Number shown on that application.)

Failure to supply the case number or other identifying information may result in delay in processing the application.

(2) *Multiple transactions Import Certificate*. A multiple transactions Import Certificate is an officially authenticated original of an Import Certificate which covers more than one proposed transaction. If a multiple transactions Import Certificate specifies the amount of the commodities (in terms of either quantity or value), all export licenses, including those covering a commodity valued at less than \$500, will be charged against the amount specified. The applicant shall attach the original multiple transactions Import Certificate, bearing the official authentication of governmental authorities in the importing country, to

his first application the certificate is intended to support. A reproduced copy (photocopy or other type) of the Import Certificate is not acceptable. On each subsequent application submitted against that certificate, one of the following certifications, as appropriate, signed by the applicant, shall be inserted in the space entitled "Additional Information" or on an attachment:

(i) If quantity or value is shown on the Certificate:

I (We) certify that the quantities (values) of commodities shown on all export licenses based on the (name of country) Import Certificate (or Hong Kong Import License) Number -----, when added to the quantities (values) shown on all additional applications pending in the Office of Export Control based on the same Import Certificate, including the present application, do not total more than the quantities (values) shown on that Import Certificate. This Import Certificate was submitted in support of application number (Insert case number or, if case number is unknown, the applicant's reference number, date of submission of the application to which the Import Certificate or Hong Kong Import License was attached, and Export Control Commodity Numbers and Processing Number shown on that application.)

or

(ii) If quantity or value is not shown on the Certificate:

I (We) certify that this application is supported by the (name of country) multiple transactions Import Certificate (or Hong Kong Import License) Number -----, which was submitted in support of application number (Insert case number or, if case number is unknown, the applicant's reference number, date of submission of the application to which the Import Certificate or Hong Kong Import License was attached, and Export Control Commodity Numbers and Processing Number shown on that application.)

(iii) The exporter should furnish his consignee the commodity description shown on the Commodity Control List and advise him to use this description when applying for the Import Certificate from his government. In addition, where the commodity is a new or highly technical product, it is advisable also to furnish a manufacturer's catalog or bulletin, or printed pages describing the commodity. This will be helpful to the foreign government in determining whether the commodity meets the criteria for the issuance of an Import Certificate.

(g) *Requirements applicable to both single and multiple transactions Import Certificates*—(1) *Translation requirements*. All abbreviations, coded terms, or other expressions in the Import Certificate having special significance in the trade or to the parties to the transaction shall be explained. Quantities not shown in Commodity Control List units shall be converted to such units. Documents in a foreign language shall be accompanied by an accurate English translation, which, if not made by a translating service, shall be certified by the applicant to be a correct translation. An explanation or translation of an Import Certificate shall be submitted on a separate document attached to the

certificate. (See § 387.8 of this subchapter with regard to an alteration of an export control document.)

(2) *Purchase order*. The Import Certificate may cover more than one purchase order and more than one commodity, but shall relate only to purchase orders placed by a single importer located in a single foreign country with a single U.S. exporter.

(3) *Parties named on Import Certificate*. The Import Certificate may be accepted from either the ultimate consignee or the purchaser if they are different parties located in the same country. If they are not located in the same country, an Import Certificate, a consignee/purchaser statement, or other applicable equivalent document is required from the party located in the country of ultimate destination. The U.S. exporter named in the Import Certificate must appear as applicant, supplier, or order party on license applications submitted to the Office of Export Control.

(4) *Validity period*. The Import Certificate must be submitted to the Office of Export Control within the period shown thereon, which in no case will exceed 6 months from the date it is issued by the foreign government. In addition, any license application supported by such certificate must be submitted within 12 months from the date the certificate was initially submitted to the Office of Export Control. The expiration of an Import Certificate will in no way affect the validity period of the resultant export license(s).

(5) *Applicant's responsibility for full disclosure*. In submitting an Import Certificate, the applicant is responsible for full disclosure of any other information concerning the ultimate destination and end use of which he has knowledge or belief, even if inconsistent with the representations set forth in the certificate. In accordance with the provisions of § 387.5 of this subchapter, the applicant shall promptly notify the Office of Export Control of any changes in facts set forth in the certificate that are brought to his attention after the date the certificate is issued.

(6) *Triangular transactions*. Whenever an Import Certificate bearing a triangular symbol is submitted to the Office of Export Control, the U.S. exporter shall advise the Office of Export Control of all parties to the transaction, including parties located outside the country that issued the Import Certificate. If the importer objects to giving this information to the U.S. exporter, he may submit it directly to the Office of Export Control through a U.S. Foreign Service post or in a sealed envelope to the exporter, marked "To be opened by the Office of Export Control only."

(7) *Reexports*. Submission of an Import Certificate does not relieve the parties to the transaction from compliance with the reexport provisions (Part 374 of this subchapter).

(8) *Alterations*. After an Import Certificate is issued by the foreign government, no corrections, additions, or alterations may be made in such certificate

by any person. (See § 387.8 of this subchapter on unauthorized use and alterations of export control documents.) If the exporter desires to explain any information on the certificate, he may attach thereto a signed statement to that effect.

(h) *Import Certificate as a factor in licensing.* The Office of Export Control reserves the right in all respects to determine to what extent any license shall be issued covering commodities for which a foreign government has issued an Import Certificate. The certificate is only one of the many considerations upon which licensing action will be based. Generally, commodities licensed on the basis of dollar value will not be licensed in excess of the dollar value shown on the certificate, and commodities licensed on the basis of units of quantity will not be licensed in excess of the units shown.

(i) *Return of Import Certificate.* A U.S. exporter may be requested by his foreign importer to return an unused or partially used Import Certificate. In such case, the exporter shall do so as soon as he determines that the certificate will not be used with a new or resubmitted license application, or an appeal. Failure on the part of the exporter to comply with his importer's request will result in the importer's inability to fulfill his obligations to his government and may result in the importer being denied further Import Certificates and possibly being subjected to other penalties. The Office of Export Control will not return a certificate where the total quantity has either been shipped or is covered by an outstanding export license(s), except as indicated in paragraph (i) (3) of this section concerning unshipped quantities. An unused or partially used certificate on file in the Office of Export Control, appropriately marked to show the amount canceled, will be returned to the exporter in accordance with the procedures described below:

(1) *Import Certificate quantity greater than license application.* Where an Import Certificate covers a quantity greater than that shown on the related license application, or names no quantity at all, the certificate will be retained by the Office of Export Control unless the exporter formally requests its return. Such a request should be submitted, in writing, to the Office of Export Control (Attention: 852), U.S. Department of Commerce, Washington, D.C. 20230, showing the name and address of the named importer, case numbers to which the Import Certificate applies, the certificate number, and a statement that the certificate will not be used in connection with a new or resubmitted license application.

(2) *Import Certificate quantity same as license application.* The Office of Export Control will retain the Import Certificate if the application is approved for the same quantity as covered by the certificate. The certificate will usually be returned to the exporter if the application is approved in a reduced quantity or is rejected. In some instances, however, the Import Certificate covering a rejected application will be returned directly to the foreign issuing government,

in which case the exporter will be so advised by the Office of Export Control. In the event the Office of Export Control should decide to retain the certificate for its files, it will advise both the exporter and the foreign government.

(3) *Unshipped quantities.* Where the exporter does not intend to ship all of the commodities for which a license has been issued and wants the Import Certificate returned, he shall submit his request in writing to the Office of Export Control, as follows:

(i) *Unexpired export license.* If the license has not expired but no further shipment is to be made, the written request for return of the certificate shall either be accompanied by the license or include the name of the port where the license is filed. In the latter event, the exporter shall request the customs office to forward the license to the Office of Export Control for cancellation. If further shipment(s) is intended, the letter shall be accompanied by a request on Form IA-763 for amendment of the license to show the actual total quantity to be shipped against the license. (See § 372.11 of this subchapter for regular amendment procedure.)

(ii) *Expired export license.* If the license has expired, the written request for return of the Import Certificate shall either be accompanied by the license or include the name of the port where the license is filed. Form IA-763 is not required.

(j) *Requests for amendment of export license.* A request to amend a license (also see § 372.11 of this subchapter) to increase the quantity over that originally covered by the Import Certificate, or for a change in any party to the transaction to one who has not appeared on the original certificate, must be accompanied by a new or appropriately amended certificate. However, if a proposed quantitative amendment is in accordance with the original certificate, then the following certification shall appear on the amendment request Form IA-763, or on a signed attachment:

I (We) certify that this request for amendment of export license number -----, if granted, will not exceed the total quantity authorized under the (name of country) Import Certificate (or Hong Kong Import License) Number -----.

(k) *Delivery Verification Certificate—*
(1) *Notification of requirement.* (i) Delivery Verification Certificates are required by the Office of Export Control on a selective basis. They may be required for exports of any commodities exported under a validated license to any of the destinations listed in paragraph (a) (2) of this section, including commodities not identified by the symbol "A" and commodities for which an exemption or exception to the Import Certificate requirement has been established in accordance with paragraph (c) or (d) of this section. Where verification of delivery is required, the words "Delivery Verification required, see attached Form IA-863" will be stamped on the face of the export license. In addition, Form IA-863, Notification of Delivery Verifi-

cation Requirement (see Supplement S-20 for facsimile), will be attached to the license.¹ Where the license is sent directly to an agent or freight forwarder of the licensee, it is the responsibility of that agent or freight forwarder to notify the licensee that a Delivery Verification Certificate is required. (See Supplement No. 1 to this Part 375 for list of addresses where importers may obtain Delivery Verification Certificates. Facsimiles of Delivery Verification Certificates issued by each of these destinations may be inspected at any U.S. Department of Commerce field office or at the Office of Export Control, Exporters' Service Section, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, D.C.)

(ii) The Delivery Verification Certificate requirement for a particular export transaction is canceled automatically if, subsequent to the issuance of a license, (a) the symbol "A" is removed from the last column of the Commodity Control List, and (b) the exporter returns the original copy of Form IA-863 to the Office of Export Control with a statement that the symbol "A" has been removed.

(2) *Submission to the Office of Export Control.* When notified to do so by the Office of Export Control, any person issued a license covering a shipment within the scope of this § 375.1 shall:

(i) Transmit to the foreign importer a written request for a Delivery Verification Certificate at the time of making each shipment under the license (whenever possible, this request shall be submitted together with the related bill of lading or air waybill). The request shall include the number of the Import Certificate for the transaction referred to in Form IA-863, and notify the foreign importer that this same Import Certificate number should be shown on the Delivery Verification Certificate;

(ii) Obtain from the named importer a Delivery Verification Certificate which has been issued to the importer by his government covering the commodities described on the export license, or as much thereof (when complete shipment against the license will not be made) as the licensee has shipped; and

(iii) Send the original copy of the Delivery Verification Certificate to the Office of Export Control within a reasonable time after the last shipment has been made against the license. If verification of delivery is required for commodities covered by a license against which partial shipments have been made, the licensee shall obtain the required verification for each partial shipment. When all the Delivery Verification Certificates have been received, the original of each shall be forwarded in one package to the Office of Export Control. (See Supplement No. 1 to this Part 375 for list of addresses where foreign consignees may obtain Import Certificates and Delivery Verification Certificates.)

¹ In certain instances the licensee may be requested to submit a Delivery Verification Certificate under alternative procedures.

(3) *Inability to obtain Delivery Verification Certificates.* If an exporter is unable to obtain the required Delivery Verification Certificate from his importer, he shall promptly notify the Office of Export Control and, upon request, make available to that office all information and records, including correspondence, regarding his attempt to obtain the required document.

§ 375.2 Ultimate Consignee and Purchaser Statement.

(a) *Scope.* The provisions of this § 375.2 (unless exempted in paragraph (b) (2) of this section) apply to all proposed shipments of commodities for which validated export licenses are required where the country of ultimate destination is in Country Group S, V, W, X, Y, or Z, and to all proposed shipments to Country Group T under the Time Limit (TL) license procedure (see § 373.6 of this subchapter).

(b) *Statements required from ultimate consignee and purchaser—*(1) *General.* The applicant shall furnish a statement from the ultimate consignee and purchaser named in the license application, certifying to certain facts relating to the proposed transaction. This statement shall be submitted on Form FC-842, Single Transaction Statement by Consignee and Purchaser, or on Form FC-843, Multiple Transactions Statement by Consignee and Purchaser (see Supplements S-6 and S-7 for facsimiles¹). In either instance, every item on the form must be completed. More detailed instructions are given in paragraph (e) of this section. Such statement is required by the Office of Export Control to assure that foreign consignees and purchasers are fully aware of their responsibility for the representations made to the Office of Export Control and for the disposition of the licensed commodities only in those foreign countries where the Office of Export Control has specifically authorized disposition.

(2) *Exemptions.* The provisions of this § 375.2 do not apply if the license application covering the proposed shipment shows that any of the following conditions are present:

(i) An Import Certificate (§ 375.1), a Swiss Blue Import Certificate (§ 375.3), or a Yugoslav End-Use Certificate (§ 375.4) is required in support of the application;

(ii) The total value, as shown on the export order covering the application, of the commodity(ies) classified in a single entry on the Commodity Control List is less than \$500. However, the exemption does not apply to an application supported by a Form FC-843 or to an application covering a shipment to the

Republic of Vietnam of any copper commodity described in § 377.3 of this subchapter;

(iii) Shipment will be made under a Project License (§ 373.2 of this subchapter);

(iv) Both the ultimate consignee and purchaser are a foreign government(s) or foreign government agency(ies). However, if either is not a foreign government or government agency, then a statement from that nongovernmental party is required.

(a) For the purpose of this regulation, the term "government agency" is construed as follows:

(1) National governmental departments operated by government-paid personnel performing governmental administrative functions; e.g., Finance Ministry, Ministry of Defense, Ministry of Health, etc. Municipal or other local government entities must submit consignee statements.

(2) National government-owned public service entities; e.g., nationally owned railway, postal, telephone, telegraph, broadcasting, and power systems, etc.

(b) The term "government agency" does not include government corporations, quasi-government agencies, and state enterprises engaged in commercial, industrial, and manufacturing activities, such as petroleum refineries, mines, steel mills, retail stores, automobile manufacturing plants, airlines, or steamship lines which operate between two or more countries, etc.:

(v) Shipment will be made by a relief agency registered with the Advisory Committee on Voluntary Foreign Aid, U.S. Agency for International Development, to a member agency in the foreign country;

(vi) The license applicant is the same person as the ultimate consignee provided he furnishes on the license application all the applicable information that would be required in a consignee/purchaser statement. This exemption does not apply where the applicant and the consignee are separate entities, such as parent and subsidiary, or affiliated or associated firms;

(vii) The license application is supported by a Form FC-43, Statement by Foreign Importer of Aircraft or Vessel Repair Parts; Form FC-143, Request for Authorization To Distribute U.S.-origin Commodities Stocked Abroad to Approved Customers; the Current Station Number or validation number of either of these forms; or Form FC-1143, Distribution License Consignee Statement (see §§ 373.8, 373.4, and 373.3 of this subchapter for explanations, and Supplements S-8, S-9, and S-15 for facsimiles);²

(viii) The export will be made for display at a trade fair or exhibition, or for demonstration or testing purposes (see § 372.8(c) of this subchapter); or

(ix) The request is for authorization to make a temporary export of video tape (see § 376.11 of this subchapter).

(3) *Grace period.* Whenever the requirement for a consignee/purchaser statement for any commodity is extended by reason of the addition of a country group(s) in the column on the Commodity Control List headed "Validated License Required for Country Groups Shown Below," or by removal of the symbol "A" in the column on the Commodity Control List headed "Special Provisions," an export license need not conform to the requirements of this § 375.2 for a period of 30 days after the date that the commodity becomes subject to the new requirement. In lieu thereof, applications filed during the 30-day grace period shall be accompanied by any evidence available to the applicant which will support his representations concerning the ultimate consignee, ultimate destination, and end-use, such as copies of the order, letters of credit, correspondence between the exporter and ultimate consignee, or other documents received from the ultimate consignee.

(4) *Applications filed without statements.* Where an application requiring a consignee/purchaser statement is not accompanied by such statement, the application will be returned without action to the applicant. However, if an applicant can show that he has made diligent efforts to obtain such statement and has been unable to get it, he may so advise the Office of Export Control in a letter attached to his application, giving the reasons stated by the ultimate consignee or purchaser for failing or refusing to supply the statement. If satisfied by the evidence presented, the Office of Export Control will consider the application for approval.

(c) *Difference in use of Forms FC-842 and FC-843—*(1) *When to use Form FC-842, Single Transaction Statement by Consignee and Purchaser.* Form FC-842 may be used to support an application(s) covering a single purchase order placed with one exporter by one ultimate consignee (and only one purchaser if different from ultimate consignee) for one or more commodities. In the event of an emergency, the statement may be submitted in the form of a cable or wire from the consignee and purchaser, provided the cable or wire contains the same information as required on the form.

(2) *When to use Form FC-843, Multiple Transactions Statement by Consignee and Purchaser—*(1) *Continuing business relationship.* Form FC-843 may be used when the exporter has a continuing and regular business relationship with the ultimate consignee (including but not limited to foreign branches, subsidiaries, or distributors under franchise with the applicant), involving recurring orders from the same consignee and/or purchaser for the same commodity(ies) to the same destinations and for the same end uses. However, an exporter may not

¹ Forms FC-842, and FC-843 may be obtained from all U.S. Department of Commerce Field Offices (see list on page (1) under Field Office Addresses), and from the Office of Export Control (Attention: 852), U.S. Department of Commerce, Washington, D.C. 20230. Foreign importers may obtain copies of these forms from their U.S. exporter or from diplomatic and Consular offices.

² Forms FC-43, FC-143, and FC-1143 may be obtained from all U.S. Department of Commerce Field Offices (see list on page 1 under Field Office Addresses), and from the Office of Export Control (Attention: 852), U.S. Department of Commerce, Washington, D.C. 20230. Foreign importers may obtain copies of these forms from their U.S. exporter or from diplomatic and Consular offices.

submit a Form FC-843 in support of an application for a validated license to export any copper commodity described in § 377.3 of this subchapter to the Republic of Vietnam. Such an application, regardless of value, shall be supported by a Form FC-842, Single Transaction Statement by Consignee and Purchaser.

(i) *Time Limit License*. Form FC-843 must be used with an application for a Time Limit (TL) License (§ 373.6 of this subchapter). A statement must be submitted for each ultimate consignee and purchaser named on the application and will not be accepted on any form other than Form FC-843.

(d) *Responsibility of parties to transaction*—(1) *Applicant responsible for full disclosure*. Submission of a Form FC-842 or FC-843 from the ultimate consignee and foreign purchaser does not relieve the applicant of responsibility for full disclosure of any other information concerning the ultimate destination and end use of which he has knowledge or belief, even if inconsistent with the representations of the consignee or purchaser. In accordance with the provisions of § 387.5, the applicant shall promptly bring to the attention of the Office of Export Control any changes in the facts set forth in the first or any supplementary statement from the ultimate consignee or purchaser which are subsequently brought to his notice by any source.

(2) *Order party must sign in some cases*. If the applicant for license is not named on the consignee/purchaser statement, the order party provisions of § 372.6(c) of this subchapter must be observed.

(3) *Ultimate consignee and purchaser*. In accordance with the certification on the Forms FC-842 and FC-843, the consignee and/or purchaser must submit information that is true and correct to the best of their knowledge and belief and must promptly send a supplemental statement to the U.S. exporter if changes in the facts or intentions as set forth in their statement(s) occur after the statement has been forwarded. Further, no commodities covered by the statement may be disposed of contrary to the representations made in the statement, or contrary to the limitations on countries of distribution indicated on the bill of lading, commercial invoice, or other comparable documents, without obtaining approval of the Office of Export Control, through the U.S. exporter, prior to such disposition. Misrepresentations, either through failure to disclose facts, concealing a material fact, or furnishing false information will subject the ultimate consignee and/or purchaser to administrative action by the Office of Export Control, which may include suspension, revocation, or denial of licensing privileges and denial of other participation in exports from the United States.

(e) *Information required on form*. All of the information required by this § 375.2(e), or by Form FC-842 or Form FC-843, shall be furnished if applicable to the transaction. If such information is unknown, that fact should also be dis-

closed. The printed name, address, or nature of business of the ultimate consignee or purchaser appearing on his letterhead or order form shall not constitute evidence of either his identity, the country of ultimate destination, or end use of the commodities described in the application. Any additional facts which the consignee or purchaser believes will be of value to the Office of Export Control in the consideration of license applications submitted in his behalf by the U.S. exporter should be entered in the item entitled "Additional Information" or on an attachment.

(1) *Assistance in preparing form*. The applicant or his agent may assist in completing the form prior to its being signed by the consignee and purchaser, if necessary and appropriate. If so, the name of the person assisting shall be shown in the item entitled "Assistance in Preparing Statement."

(2) *Commodity description*. The commodities to which the statement applies shall be described in terms which will enable the Office of Export Control to determine readily that the commodities on a license application are adequately covered by the commodity description on the related consignee/purchaser statement. If not, the applicant should add an explanatory note on the application in the item entitled "Commodity Description," or on an attachment, to make the relationship clear. On Form FC-842, the commodities shall be described in detail. If possible, the commodities should be described in accordance with the Commodity Control List (§ 399.1 of this subchapter), giving such particulars as the name, basic ingredients, composition, type, size, gauge, grade, and horsepower. On Form FC-843, the commodity description shall be stated in terms sufficiently definite to identify the commodities clearly but broad enough to include all commodities to which the statement applies; e.g., a commodity description title set forth in a bold-faced capitalized subsection under a main section of the Commodity Control List (also listed in § 399.1 of this subchapter, pages 3 and 4), such as "Medicinal and pharmaceutical products" or "Electrical machinery, apparatus, and appliances," usually would be a satisfactory description for any or all of the commodities included under that subsection.

(3) *Commodities to be reexported*. Forms FC-842 and FC-843 require information as to whether the commodities will be reexported in the form received from the country indicated on the statement as ultimate destination. It is emphasized that acceptance of a Form FC-842 or FC-843 as a supporting document shall not be construed as an authorization by the Office of Export Control to reexport the commodities to which the consignee/purchaser statement applies without the approval of specific countries from the Office of Export Control. Such authorization to reexport is not granted on the basis of information on these forms but as a result of a specific request by the U.S. exporter

on the license application, or upon request of the consignee through the U.S. exporter after the license is issued (see Part 374 of this subchapter on reexports).

(4) *Commodities to be used as components in a foreign manufacture*. Forms FC-842 and FC-843 require information as to the specific end use of the commodities. If the ultimate consignee will use the commodity(ies) to produce other end products, he should show in the item entitled "Specific End Use" the names of the end products, the country(ies) where the production or manufacture will take place, and the country(ies) in which the end product will be distributed, if these facts are known.

(5) *Quantity and value on Form FC-842*. The quantity and (if known) the value of commodities ordered shall be shown in the appropriate items of Form FC-842. If actual value is not known, an estimated value should be shown and labeled "estimate." If it is impossible to determine an estimated value, the word "Unknown" shall be shown, together with an explanation of the reason why an actual or estimated value cannot be provided. If the commodity is licensed in terms of dollar value and the statement indicates that the value is "unknown," the Office of Export Control will consider the approval of one application against the related Form FC-842, provided the applicant states on the license application that the transaction described on the application is the same as that described on the Form FC-842. An application for an export license will not be approved for a quantity significantly in excess of the actual or estimated value shown on the Form FC-842. On Form FC-843, it is not necessary to show either quantity or value since the form will cover all transactions between the named parties for a period of as much as 6 to 18 months.

(6) *Validity period*. A single transaction statement shall be submitted to the Office of Export Control with the first applicable license application. The period within which the statement may be submitted to the Office of Export Control is limited to 90 days after it is signed by the consignee or purchaser, whichever date is later. There is no specific time limit for submitting the multiple transactions statement to the Office of Export Control. However, the period during which such statement may be used to support license applications is limited to June 30 of the year following the year in which the statement is signed by the consignee and purchaser (unless an earlier termination date is specified on the form by the consignee and purchaser). For example, a statement signed any time between January 1, 1970, and December 31, 1970, could be used to support license applications filed on or before June 30, 1971. During its validity period, a multiple transactions statement will be deemed as supporting all exports of the specified commodities from the U.S. exporter to the named

consignee and purchaser for which license applications are submitted to the Office of Export Control, including those that are based on export orders of less than \$500 and would therefore not be subject to this same requirement under the single transaction (FC-842) procedure.

(7) *Number of copies of Form FC-843.* The exporter shall attach to Form FC-843 a list, in original only, of the Office of Export Control licensing divisions responsible for licensing those commodities listed on the multiple transactions statement, and shall submit the original plus one additional copy of the statement for each division on the list. Since there are only three divisions in the Office of Export Control which license commodities, a maximum of an original plus three additional copies of the form will be required. (See § 399.1(e) of this subchapter for list of divisions and commodities licensed.)

(8) *Signatures.* The consignee/purchaser statement must be manually signed either by (i) the ultimate consignee (the person abroad who is actually to receive the material for the designated end use), and by the purchaser (the person abroad who has entered into the export transaction with the applicant to purchase the commodities for delivery to the ultimate consignee) if the purchaser is not the same party as the ultimate consignee, or (ii) by responsible officials representing the ultimate consignee and purchaser, respectively, who have personal knowledge of the information included in the statement, who have authority to bind the ultimate consignee and purchaser for whom they sign, and who have the power and authority to control the use and disposition of the licensed commodities in the country of ultimate destination. The authority to sign this statement may not be delegated to any person (agent, employee, or other) whose authority to sign is not inherent in his official position with the ultimate consignee or purchaser for whom he signs. The official signing the statement may be located in the United States or in a foreign country; his official title shall be included with his signature. Where the purchaser is different from the ultimate consignee, the purchaser may execute a separate statement if more convenient. The purchaser's statement shall meet the same requirements with respect to content, signatures, etc., as are required for the ultimate consignee statement.

(9) *Coded terms and translation requirements.* All abbreviations, coded terms, or other expressions on the Forms FC-842 and FC-843 having special significance in the trade or to the parties to the transaction shall be explained on an attachment to the form. Documents in a foreign language shall be accompanied by an attachment giving an accurate English translation, either made by a translating service or certified by the applicant to be correct. Exporters may provide foreign customers with Forms FC-842 and FC-843 translated into the customers' language but foreign

language copies will not be provided by the Office of Export Control. Do not enter explanations or translations on the consignee/purchaser statement itself, as such action constitutes an alteration of the document (see paragraph (f) of this section on alteration of an export control document).

(10) *Special requirement for Vietnam.* A single transaction statement shall be submitted in support of a license application to export any copper commodity described in § 377.3 of this subchapter to the Republic of Vietnam, regardless of value, and shall be endorsed by the designated representative of the U.S. Agency for International Development Mission, Saigon, Vietnam, as set forth in § 377.3 of this subchapter.

(f) *Corrections, additions, or alterations.* After a consignee/purchaser statement, Form FC-842 or FC-843, has been signed by the consignee or purchaser, no corrections, additions, or alterations may be made by any person other than the consignee or purchaser. (The signing of the exporter's certification on the form is not construed to be a correction, addition, or alteration of the form within the meaning of this § 375.2(f).) If the signed statement is incomplete or incorrect in any respect, the applicant shall obtain a corrected statement from the consignee and/or purchaser. Where the statement contains corrections, additions, or alterations that appeared on the statement at the time of receipt from the ultimate consignee or purchaser, the applicant shall sign the certification in Item 11 of the form or attach the following certification to the statement:

I (We) certify that no corrections, additions, or alterations were made on the attached form FC-842 (FC-843) by me (us) after the form was signed by the (ultimate consignee) (purchaser).

If the applicant or agent makes any corrections, additions, or alterations on the form when assisting in its preparation (as explained in paragraph (e) (1) of this section, the applicant shall advise the Office of Export Control in writing of the change(s) made and reason(s) for making them. The letter shall also include the certification shown above.

(g) *Amendment of consignee/purchaser statement.* Where a consignee/purchaser statement, Form FC-842 or FC-843, is on file in the Office of Export Control, an amendment to the statement may be submitted in the form of an additional Form FC-842 or FC-843 or the original or copy of a wire or cable from the ultimate consignee. Sufficient information shall be submitted with the amendment to permit the Office of Export Control to identify it with the statement already on file, such as form number (Form FC-842 or FC-843); name of consignee or purchaser; date of signing; case number of the license application with which the statement was submitted to the Office of Export Control; applicant's reference number; etc.

(h) *Extension of validity period of Multiple Transactions Statement.* The validity period of a Multiple Transactions Statement may be extended by the sub-

mission of a new Form FC-843 prior to the expiration of a current form.

(i) *License applications supported by consignee statements—(1) Relationship of information on consignee/purchaser statement to license application and export license.* Information supplied by a consignee or purchaser on a consignee/purchaser statement, Form FC-842 or FC-843, cannot be construed as extending or expanding the specific information on a license application or an export license resulting therefrom. With regard to disclosure of facts pertaining to an individual export transaction, the license application covering the transaction must be self-contained. The authorizations contained in the resulting export license are not extended by the general information contained in the consignee/purchaser statement with regard to reexport from the country of destination or with regard to any other facts relative to the transaction as reported on the application.

(2) *Applications supported by a Multiple Transactions Statement.* A license application supported by a Form FC-843, Multiple Transactions Statement by Consignee and Purchaser, shall contain the following statement in the item entitled "Additional Information" or on an attachment:

This application is supported by the Multiple Transactions Statement dated ----- from the named consignee to this applicant.

(3) *Applications supported by Single Transaction Statement.* Where a Form FC-842, Single Transaction Statement by Consignee and Purchaser, covers a purchase order for a commodity(ies) that requires more than one license application, each application supported by the Single Transaction Statement shall contain the following certification by the applicant in the item entitled "Additional Information" or on an attachment:

I (We) certify that the quantities of commodities shown on all export licenses based on the Single Transaction Statement dated -----, when added to the quantities shown on all additional applications pending in the Office of Export Control based on the same Single Transaction Statement, including the present application, do not total more than the quantities shown on that statement. This Single Transaction Statement was submitted in support of application number: (Insert case number, or if case number is unknown, the applicant's reference number, date of submission of the application to which the Single Transaction Statement was attached, and Export Control Commodity Numbers and Processing Number shown on that application.)

(j) *Request for amendment of export license—(1) Change in consignee or purchaser.* A new consignee/purchaser statement, Form FC-842 or FC-843, shall accompany a request for an amendment of an export license that proposes a change in the consignee or purchaser in

¹ Section 372.11(l) of this subchapter contains other provisions applicable to amendments of licenses covered by a consignee/purchaser statement.

the transaction named in the export license if the proposed amendment is not in accordance with the consignee and purchaser statement previously submitted to the Office of Export Control.

(2) *Increase in quantity.* A new Form FC-842, Single Transaction Statement by Consignee and Purchaser, or a letter, wire, or cable from the ultimate consignee and purchaser (if applicable) confirming the change, shall accompany a request for an amendment of an export license that proposes any increase in the quantity set forth in the export license if the proposed amendment is not in accordance with the Single Transaction Statement previously submitted to the Office of Export Control. If a proposed quantitative amendment is in accordance with the previously submitted Single Transaction Statement, the amendment request shall include the following certification:

I (We) certify that this request for amendment of export license number _____, if granted, will not exceed the total quantity covered by the Single Transaction Statement by Consignee and Purchaser against which this export license was issued.

Where the export license is based on a Form FC-843, Multiple Transactions Statement by Consignee and Purchaser, an additional Statement is not required from the consignee or purchaser to support a proposed license amendment for increase in quantity. In lieu thereof, the following certification shall be placed on the amendment request:

I (We) certify that the license listed above is supported by a Multiple Transactions Statement.

§ 375.3 Swiss Blue Import Certificate.

(a) *Requirement*—(1) *Submission of certificate.* A license application for export of commodities to Switzerland or Liechtenstein, regardless of value, must be accompanied by the original Swiss Blue Import Certificate. This certificate is issued to the importer by the Swiss Federal Department of Public Economy, Division of Commerce, Import and Export Control, covering the proposed export from the United States. Where the Swiss Blue Import Certificate includes commodities for which more than one license application is submitted, the original certificate shall be attached to the first such application. Each subsequent application shall include the following certification in the item entitled "Additional Information" or on an attachment:

I (We) certify that the quantities of commodities shown on all export licenses based on the Swiss Blue Import Certificate No. _____, when added to the quantities shown on all additional applications pending in the Office of Export Control based on the same Certificate, including the present application, do not total more than the quantities shown on that Certificate. This Swiss Blue Import Certificate was submitted in support of application number: (Insert case number or, if case number is unknown, the applicant's reference number, date of submission of application to which the Swiss Blue Import Certificate was attached, and Export Control Commodity Numbers and Processing Number shown on that application.)

(2) *Coded terms and translation requirements.* All abbreviations, coded terms, or other expressions in the Import Certificate having special significance in the trade or to the parties to the transaction shall be explained. Commodities shown in quantities other than Commodity Control List units shall be converted into such units. Documents in a foreign language shall be accompanied by an accurate English translation which, if not made by a translating service, shall be certified by the applicant to be a correct translation. Any translation or explanation of a Swiss Blue Import Certificate shall be submitted on an attachment to the Certificate. (See § 387.8 of this subchapter with regard to altering an export control document.)

(3) *Relationship to purchase order.* The Swiss Blue Import Certificate may cover more than one purchase order and more than one commodity. However, it shall relate only to purchase orders placed by a single importer with a single U.S. exporter.

(4) *Applicant's responsibility for full disclosure.* In submitting a Swiss Blue Import Certificate, the applicant is not relieved of his responsibility for full disclosure of any other information concerning the ultimate destination and end use of which he has knowledge or belief, even if inconsistent with the representations set forth in the certificate. In accordance with the provisions of § 387.5 of this subchapter, the applicant shall promptly notify the Office of Export Control of any change in the facts set forth in the certificate which comes to his attention subsequent to the date of issuance of the certificate.

(5) *Certificate as a factor in licensing.* The Office of Export Control reserves the right in all respects to determine to what extent any license shall be issued covering commodities for which the Swiss Government has issued an Import Certificate. Generally, commodities licensed by the Office of Export Control on the basis of dollar value will not be licensed in excess of the dollar value shown on the Swiss Blue Import Certificate, and commodities licensed on the basis of units of measure will not be licensed in excess of the units shown on the certificate. The Office of Export Control will not seek or undertake to give consideration to recommendations from the Government of Switzerland or of Liechtenstein as to the U.S. exporter whose license application should be approved. An Import Certificate will be used by the Office of Export Control as only one of the considerations upon which licensing action will be based, since quotas, end uses, and other considerations are important factors in export licensing.

(b) *Exemptions*—(1) *Grace period.* Whenever the requirement for a Swiss Blue Import Certificate is extended to any commodity by the addition of Country Group V to the column on the Commodity Control List entitled "Validated License Required for Country Groups Shown Below," a license application for such commodity need not conform to this requirement for 45 days from the

date such commodity becomes subject to the requirement.

(2) *Shipments to government agencies.* A license application to export commodities to a Swiss or Liechtenstein Government agency, as defined in § 375.2 (b) (2) (iv), is exempted from the Swiss Blue Import Certificate requirement if the Government agency actually placed the order with the applicant and will accept delivery of the export.

(3) *Approved Form FC-43 or FC-143.* A license application to export commodities to Switzerland or Liechtenstein is exempted from the Import Certificate requirement if such license application is supported by Form FC-43, Statement by Foreign Importer of Aircraft or Vessel Repair Parts; Form FC-143, Request for Authorization To Distribute U.S. Origin Commodities Stocked Abroad to Approved Customers; or the current station number or validation number of either of these forms. However, this exemption does not relieve an exporter or his distributor from the requirement under the Foreign-Based Warehouse Procedure that a Swiss Blue Import Certificate be obtained and held available for inspection. (See § 373.4 of this subchapter.)

(4) *Other exemptions.* Neither a license application to export commodities for temporary exhibition, demonstration, or testing purposes in Switzerland or Liechtenstein (see § 372.8 (c) of this subchapter), nor a request for authorization to make temporary exports of video tape under § 376.11 of this subchapter, require a Swiss Blue Import Certificate.

(c) *Exceptions.* An applicant for an export license subject to the requirement for a Swiss Blue Import Certificate in accordance with the provisions of paragraph (a) of this country may request an exception to this requirement.

(1) *Grounds for exception.* Favorable consideration of a request for exception generally will be given where the Swiss Blue Import Certificate requirement:

(i) Imposes an undue hardship on the applicant and/or ultimate consignee (e.g., the Swiss Government refuses to issue an Import Certificate and such refusal constitutes discrimination against the U.S. exporter);

(ii) Cannot be complied with (e.g., the commodities will be held in a foreign trade zone or bonded warehouse in Switzerland or Liechtenstein for subsequent distribution in one or more countries); or

(iii) Is not actually applicable to the transaction (e.g., the commodities will not be imported for consumption into Switzerland or Liechtenstein).

An exception will not be granted contrary to the objectives of the U.S. export control program.

(2) *Types of requests.* A request for exception may involve either a single transaction or, where the reason necessitating the request is continuing in nature, multiple transactions.

(i) The single transaction exception relates to a single export order and, if granted, will cover the application(s)

which the exporter submits to ship the single export order.

(ii) The multiple transactions exception relates to multiple export orders and, if granted, will cover all applications submitted by the exporter during all or any part of the period ending not later than June 30 of the year following the year during which the request is submitted, unless an earlier termination date is requested.

(3) *How to submit request.* The request for exception shall be submitted with the application to which it relates. Where the request relates to more than one application, it shall be submitted with the first application and referred to in the "Additional Information" item on any subsequent applications. Each request for exception shall be by letter, in duplicate, addressed to the Office of Export Control (Attention: 854), U.S. Department of Commerce, Washington, D.C. 20230. It shall be accompanied by a statement from the ultimate consignee and purchaser in accordance with § 375.2, unless such statement is already on file in the Office of Export Control. As a minimum, the letter request shall include:

- (i) Name and address of ultimate consignee;
- (ii) Name and address of purchaser if different than ultimate consignee;
- (iii) Location of foreign trade zone or bonded warehouse if the commodities will be exported to a foreign trade zone or bonded warehouse in Switzerland or Liechtenstein;
- (iv) Type of request; i.e., whether for a single transaction or multiple transactions;
- (v) Full explanation of the reason(s) for requesting the exception;
- (vi) Nature and duration of the business relationship between the applicant and importer shown on the license application;
- (vii) Whether the exporter has previously submitted to the Office of Export Control any Swiss Blue Import Certificate issued in the name of the importer and a listing of the case numbers to which these certificates applied;
- (viii) Whether a statement from the ultimate consignee and purchaser, in accordance with § 375.2, is on file with the Office of Export Control;
- (ix) Requested date of expiration if a multiple transactions exception is requested and the exporter wishes the exception period to expire before June 30 of the next year; and
- (x) Any other facts to justify an exception.

(4) *Action by Office of Export Control—(i) Single transaction request.* Where a single transaction is involved, the Office of Export Control will act on the request for exception at the same time as the license application with which the request is submitted. In those instances where the related application is approved, the issuance of the export license will serve as an automatic notice to the exporter that the exception is also approved. However, if any restrictions

are placed on the approval, or if the request is disapproved, the Office of Export Control will advise the exporter by letter.

(ii) *Multiple transactions request.* Where multiple transactions are involved, the Office of Export Control will advise the exporter by letter of the action taken on the exception request. The letter will contain any conditions or restrictions which the Office of Export Control finds necessary to impose. In addition, a written acceptance of these conditions or restrictions will be required from the parties to the transaction.

(5) *Additional license applications.* On any additional license application that is subject to an approved request for exception to the Swiss Blue Import Certificate requirement, the following certification shall be inserted on the application in the item entitled "Additional Information" or on an attachment:

I (We) certify that the circumstances shown in the original request for exception to submission of a Swiss Blue Import Certificate also exist with respect to this application. The request for exception was submitted in support of application number: (Insert case number or, if case number is unknown, the applicant's reference number, date of submission of the application to which the request for exception was attached, and Export Control Commodity Numbers and Processing Number shown on that application.)

(6) *Relationship to reexports.* The granting of an exception to the Swiss Blue Import Certificate requirement in no way relieves the applicant or any other party to the transaction from obtaining reexport authorization from the Office of Export Control when so required by the Export Control Regulations.

(d) *Requests for amendments to export licenses.* A new or appropriately amended Swiss Blue Import Certificate shall accompany a request for amendment of an export license that proposes a change in any party to the transaction named in the export license or any increase in the quantity licensed, if the proposed amendment is not in conformity with the Import Certificate previously submitted. If a proposed quantitative amendment is in accordance with the original Certificate, the amendment request shall include the following certification on Form IA-763, Request for and Notice of Amendment Action, or on a signed attachment:

I (We) certify that this request for amendment of export license No. _____, if granted, will not exceed the total quantity authorized under Swiss Blue Import Certificate No. _____.

(e) *Return of Swiss Blue Import Certificate.* The Swiss Blue Import Certificate certifies that the importer has pledged himself to import the commodities directly into Swiss customs territory and that any reexport of these goods is prohibited. If the importer is unable to obtain the commodities covered by a certificate, he is required by the Swiss Government to produce evidence of such inability. Therefore, U.S. exporters may be requested by their foreign importers

to return unused or partially used certificates. In such instances, the U.S. exporter should forward the certificate to his importer as soon as he determines that the certificate will not be used with a new or resubmitted license application or an appeal. To meet such requests, certificates on file in the Office of Export Control will be returned to exporters in accordance with the following procedures:

(1) *Import Certificate quantity more than quantity on application.* When an Import Certificate covers a quantity in excess of the license application(s) submitted against it, the Office of Export Control will retain the Certificate unless the exporter requests its return. To request the return of the Certificate, the exporter should write to the Office of Export Control (Attention: 852), U.S. Department of Commerce, Washington, D.C. 20230, giving the name and address of the importer, the case numbers to which the certificate applies, the certificate number, and a statement that the certificate will not be used in connection with a license application. Appropriate notation will be placed on the Import Certificate by the Office of Export Control before it is returned.

(2) *Import Certificate and license application in same quantities but not licensed in full.* The Office of Export Control will automatically return an Import Certificate to the U.S. exporter whenever a license application covers the same type and amount of the commodity as that shown on the certificate but such application is rejected or approved in a reduced quantity. Appropriate notation will be placed on the Import Certificate by the Office of Export Control.

(3) *Quantities licensed but not shipped.* Where the U.S. exporter does not intend to ship all of the commodities for which a license has been issued and desires the return of the Swiss Blue Import Certificate, he shall submit his request in writing as follows:

(i) *Unexpired export license.* If the license has not expired but no further shipment will be made, the written request for return of the certificate shall either be accompanied by the license or include the name of the port where the license is filed. In the latter event, the exporter shall request the customs office to forward the license to the Office of Export Control for cancellation. If a further shipment(s) is contemplated, the request for return of the certificate should be accompanied by a request to amend the license to show the total quantity to be shipped against it. The amendment request shall be submitted on Form IA-763. (See § 372.11 of this subchapter for regular amendment procedure.)

(ii) *Expired export license.* If the license has expired, the written request shall either be accompanied by the license or include the name of the port where the license is filed, but Form IA-763 need not be submitted. Appropriate notation will be placed on the Import Certificate by the Office of Export Control before it is returned.

§ 375.4 Yugoslav End-Use Certificate.

(a) *Requirement*—(1) *Request for Certificate*. A license application to export commodities to Yugoslavia (including the area of Trieste under Yugoslav civil administration), regardless of value, must be accompanied by the original End-Use Certificate issued to the Yugoslav importer by the Federal Economic Chamber in Belgrade covering the proposed export.¹ Where the certificate includes commodities for which more than one license application is submitted, the original of the certificate shall be attached to the first such application. Each subsequent application shall include the following certification in the item entitled "Additional Information" or on an attachment:

I (We) certify that the quantities of commodities shown on all export licenses based on the Yugoslav End-Use Certificate No. _____, when added to the quantities shown on all additional applications pending in the Office of Export Control based on the same End-Use Certificate, including the present application, do not total more than the quantities shown on that certificate. This End-Use Certificate was submitted in support of application number (Insert case number or, if case number is unknown, the applicant's reference number, date of submission of the application to which the End-Use Certificate was attached, and Export Control Commodity Numbers and Processing Number on that application.)

(2) *Coded terms and translation requirements*. All abbreviations, coded terms, or other expressions in the certificate having special significance in the trade or to the parties to the transaction shall be explained. Commodities shown in quantities other than Commodity Control List units shall be converted into such units. Documents in a foreign language shall be accompanied by an accurate English translation which, if not made by a translating service, shall be certified by the applicant to be a correct translation. Any translation or explanation of a Yugoslav End-Use Certificate shall be submitted on an attachment to the certificate. (See § 387.8 of this subchapter with regard to altering an export control document.)

(3) *Relationship to purchase order*. The Yugoslav End-Use Certificate may cover more than one purchase order and more than one commodity. However, it shall relate only to purchase orders placed by a single importer with a single U.S. exporter.

(4) *Applicant's responsibility for full disclosure*. In submitting a Yugoslav End-Use Certificate, the applicant is not relieved of his responsibility to disclose fully any other information concerning the ultimate destination and end use of which he has knowledge or belief, even if inconsistent with the representations set forth in the certificate. In accordance with the provisions of § 387.5 of this subchapter, the applicant shall promptly notify the Office of Export Control of any

change in the facts set forth in the certificate which comes to his attention after the date of issuance of the certificate.

(5) *Certificate as a factor in licensing*. The Office of Export Control reserves the right in all respects to determine to what extent any license shall be issued covering commodities for which the Yugoslav Government has issued an End-Use Certificate. Generally, commodities licensed by the Office of Export Control on the basis of dollar value will not be licensed in excess of the dollar value shown on the certificate, and commodities licensed on the basis of units of measure will not be licensed in excess of the units shown on the certificate. The Office of Export Control will not seek or undertake to give consideration to recommendations from the Yugoslav Government as to the U.S. exporter whose license application shall be approved. An End-Use Certificate will be used by the Office of Export Control as only one of the considerations upon which licensing action will be based, since quotas, and other considerations are important factors in export licensing.

(b) *Exemptions*—(1) *Grace period*. Whenever the requirement for a Yugoslav End-Use Certificate is extended to any commodity by the addition of Country Group V to the column on the Commodity Control List entitled "Validated License Required for Country Groups Shown Below," a license application for such commodity need not conform to this requirement for a period of 45 days from the date such commodity becomes subject to the requirement.

(2) *Shipments to government agencies*. A license application to export commodities to a Yugoslav Government agency, as defined in § 375.2(b)(2)(iv), is exempted from the Yugoslav End-Use Certificate requirement if the government agency actually placed the order with the applicant and will accept delivery of the export.

(3) *Approved Form FC-43 or Form FC-143*. A license application to export commodities to Yugoslavia is exempted from the requirement for a Yugoslav End-Use Certificate if such application is supported by Form FC-43, Statement by Foreign Importer of Aircraft or Vessel Repair Parts; Form FC-143, Request for Authorization To Distribute U.S. Origin Commodities Stocked Abroad to Approved Customers; or the current station number or validation number of either of these forms. However, this exemption does not relieve an exporter or his distributor from the requirement under the Foreign-Based Warehouse Procedure that a Certificate be obtained and forwarded to the Office of Export Control, as required by § 373.4 of this subchapter.

(4) *Other exemptions*. Neither a license application to export commodities for temporary exhibition, demonstration, or testing purposes in Yugoslavia (see § 372.8(c) of this subchapter), nor a request for authorization to make temporary exports of video tape under the provisions of § 376.11 of this subchapter, require an End-Use Certificate.

(c) *Exceptions*—(1) *Grounds for exception*. The Office of Export Control will consider the granting of an exception to the Yugoslav End-Use Certificate requirement where the ultimate consignee has been unable to obtain the certificate and the granting of an exception will not be contrary to the objectives of the U.S. export control program. The Office of Export Control may also waive the certificate requirement where refusal by the Yugoslav Government to issue the Certificate discriminates against the U.S. exporter, or for any other valid reason of similar importance.

(2) *How to submit request*. Each request for exception shall be by letter, in duplicate, accompanying the license application to which it applies, addressed to the Office of Export Control (Attention: 854), U.S. Department of Commerce, Washington, D.C. 20230. The letter request should include, among other things:

(i) Nature and duration of the business relationship between the applicant and the importer shown on the license application;

(ii) Reason(s) for the foreign importer's inability to obtain the Yugoslav End-Use Certificate from his government;

(iii) A statement as to whether the U.S. exporter has previously submitted to the Office of Export Control any Yugoslav End-Use Certificate issued in the name of the importer and a listing of the case numbers to which these Certificates applied; and

(iv) Any other facts to justify an exception.

The applicant should also attach to his letter request, or have on file in the Office of Export Control, a statement from the consignee and purchaser in accordance with § 375.2. No request will be considered or granted unless such statement is submitted or is on file in the Office of Export Control.

(3) *Request relating to more than one license application*. Where the letter request relates to more than one license application, whether submitted at the same time or later, the original request shall be attached to one application and a copy thereof attached to each additional application to which it is equally applicable. Any application to which a copy of the request is attached shall refer to the application having the original request (cite case number if known, or applicant's reference number).

(d) *Request for amendment of export license*. A new or appropriately amended Yugoslav End-Use Certificate shall accompany a request for an amendment of an export license to show a change in any party to the transaction named in the license or any increase in the quantity originally licensed if the proposed amendment is not in accordance with the original certificate. If a proposed quantitative amendment is in accordance with the previously submitted certificate, the amendment request shall include the following certification on Form IA-763 or on a signed attachment:

¹ Foreign consignees may obtain End-Use Certificates from the Yugoslav Federal Economic Chamber, Knez Mihailova 10, Belgrade.

I (We) certify that this request for amendment of export license No. _____, if granted, will not exceed the total quantity authorized under Yugoslav End-Use Certificate No. _____.

(e) *Return of Yugoslav End-Use Certificate.* In the Yugoslav End-Use Certificate the Yugoslav Federal Economic Chamber certifies that the commodities will be consumed in Yugoslavia and will not be reexported. If the Yugoslav importer is unable to obtain the commodities covered by the certificate, he may be required to produce evidence of such fact by the return of the unused certificate. When a U.S. exporter is requested by a Yugoslav firm to return an unused or partially-used certificate, he should apply to the Office of Export Control for the return of such document in the same manner as established for return of Swiss Blue Import Certificates (see § 375.3(e)).

§ 375.5 Documents accompanying applications.

(a) *Copies in lieu of originals.* A document submitted in support of an application for an individual or other validated license will not be returned to the applicant or his agent, except when the application is returned without action or the provisions of this Part 375 provide for the return of an unused or partially used International Import Certificate, Swiss Blue Import Certificate, or Yugoslav End-Use Certificate. An original document, other than one required by this Part 375, which an exporter may subsequently have need for, does not have to be submitted unless it is specifically required by the provisions of another section of the Export Control Regulations. In lieu thereof, a photocopy or other copy of an original document is acceptable. An individual certification of a copy of an original document is not required by the Office of Export Control. By signing the application, the applicant certifies and represents that any copy of a document submitted with the application, or at any time before or after it is filed, is a true copy of the original document. His signature also certifies and represents that the information contained in such document is true, correct, and complete to the best of his knowledge and belief.

(b) *Availability of original.* The Office of Export Control may demand the original of any copy of a document submitted in support of a license application. Such original shall be kept and made available for inspection in accordance with the provisions of § 387.11 of this subchapter. However, after a year from the beginning of the prescribed detention period, a reproduction of the original document may be substituted.

(c) *Identification of document.* Any document that is submitted separately from the application must be identified clearly as part of that application by the following statement:

This document is to be considered as a part of application number _____
(Case No.)

(Signature of applicant)

Unless a document filed separately from the license application is so identified, it will not be accepted by the Office of Export Control.

(d) *Number of copies required.* A document submitted with an application and ultimately to become a part of the license, such as a proposed list of consignees, must be submitted in duplicate with the application. A copy of such document will become a part of the license, if issued, and must remain affixed thereto. Only one copy is required of a document that will not become a

part of the license; for example, evidence of an order.

(e) *Coded terms, foreign languages.* In the case of an original or copy of a document, all abbreviations, coded terms, or other expressions in the document having special significance in the trade or to the parties to the transaction must be explained. A document in a foreign language must be accompanied by an accurate English translation which, if not translated by a translating service, must be certified by the applicant to be a correct translation.

Supplement No. 1—Authorities Administering Import Certificate/Delivery Verification System in Foreign Countries¹

Country ¹	IC/DV Authorities	System administered ²
Austria	Bundesministerium für Handel und Wiederaufbau Stubenring 1, Vienna I..... Bundesministerium für Handel und Wiederaufbau—Aussenstelle Matternichgasse 4, Vienna III.	IC DV
Belgium	Ministere des Affaires Economiques Office Central des Contingents et Licences 11, Parc du Cinquantenaire, Bruxelles.	IC/DV
Denmark	Handelsministeriets Licenskontor Montergade 21, Copenhagen K..... IC/DV also issued by Danmarks Nationalbank Holmens Kanal 17, Copenhagen K, Custom-houses.	IC/DV DV
France	Ministere de l'Economie et des Finances, Direction General des Douanes et droits indirects, Division des Echanges, Bureau E14 Ordre public—Défense nationale—Santé publique 8, Rue de la Vierge des Dames, Paris 9e.	IC/DV
West Germany (Federal Republic of Germany)	Bundesamt für gewerbliche Wirtschaft, 6000 Frankfurt/Main 1, Bockenheimer Landstr. 38, Postfach 3931.	IC/DV
Western Sectors of Berlin	Der Senator für Wirtschaft, Referat 1 b B (ZGSt), 1000 Berlin 62 (Schöneberg), Martin-Luther-Strasse 195.	IC/DV
Greece	Banque de Greece, Direction des Transactions Commerciales avec l'Etranger, Athens.	IC/DV
Hong Kong	Import Control Branch, Department of Commerce and Industry, Fire Brigade Building, Hong Kong. Department of Commerce and Industry, Connaught Road, Central, Hong Kong.	IC DV
Italy	Ministero del Commercio con l'Estero, Direzione Generale delle Importazioni e delle Esportazioni, Division III, Rome, Dogana Italiana (of the town where the import takes place).	IC DV
Japan	Ministry of International Trade and Industry in Fukuoka, Hiroshima, Kanmon (Kitakyusyu-shi), Kobe, Nagoya, Osaka, Sapporo, Sendai, Shikoku (Takamatsu-shi), Shimizu, Tokyo, and Yokohama.	IC
Luxembourg	Japanese Customs Offices.	DV
Netherlands	Office des Licences, 21, rue Ouessens, Luxembourg-Gare.	IC/DV
Norway	Centrale Dienst voor In- en Uitvoer, van Stolkweg 14, The Hague.	IC/DV
Portugal	Handelsdepartement, Direktoratet for Eksport-og-Importregulering, Fr. Nansens plass 5, Oslo.	IC/DV
Turkey	Reparticao do Comercio Externo, Direcção-Geral do Comercio, Secretaria de Estado do Comercio, Ministerio da Economia, Lisbon.	IC/DV
United Kingdom	Ministry of Commerce, Department of Foreign Commerce, Ankara..... Head Customs Office at the point of entry..... Board of Trade..... Export Licensing Branch, Broadway Building, 54 Broadway, London, S.W. 1. H. M. Customs and Excise, Section 22, King's Beam House, Mark Lane, London, E.C. 3.	IC DV IC DV

¹ Facsimiles of Import Certificates and Delivery Verifications issued by each of these countries may be inspected at any U.S. Department of Commerce Field Office (see list on page 1 under Field Office Addresses) or at the Office of Export Control, Room 2805, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, D.C.

² IC—Import Certificate.
DV—Delivery Verification.

PART 376—SPECIAL COMMODITY POLICIES AND PROVISIONS

Sec.	Purpose.
376.1	Purpose.
376.2	Samples: exports and reexports to Country Groups W and Y.
376.3	Agricultural commodities and manufactures thereof.
376.4	Nickel commodities.
376.5	[Reserved]
376.6	Chemicals.
376.7	Machinery, equipment, and parts.
376.8	Aircraft and equipment, parts, accessories, and components therefor.
376.9	Ship stores, plane stores, supplies, and equipment.
376.10	Electronic computers and related equipment.
376.11	Temporary exports of video tape.
376.12	Parts, components, and materials in foreign-made end products.
376.13	Communications intercepting devices.

AUTHORITY: The provisions of this Part 376 issued under sec. 3, 63 Stat. 7; 50 U.S.C. App. 2023; E.O. 10945, 28 F.R. 4487, 3 CFR 1959-1963 Comp.; E.O. 11038, 27 F.R. 7003, 3 CFR 1959-1963 Comp.

§ 376.1 Purpose.

The special requirements for specific commodities set forth in this Part 376 are in addition to or modify other requirements applicable to exports requiring validated licenses as set forth elsewhere in the Export Control Regulations.

§ 376.2 Samples: exports and reexports to Country Groups W and Y.

(a) *Scope.* A procedure is established under which a person may apply for an export license or reexport authorization covering shipment of samples of certain commodities to Country Groups W and

Y. A license application or reexport request submitted under this sample procedure will be considered without the usual concurrent review to determine whether a commercial quantity of the sample commodity could also be approved. (See paragraph (c) (4) of this section.)

(b) *Applicability*—(1) *Sample*. As used in this § 376.2 the term "sample" means a small quantity of a commodity to be sent to a prospective buyer for examination, evaluation, or comparison in deciding on orders for commercial quantities. A sample shall be valued at \$200 or less, sent in accordance with established business practices, and sent either without charge or at no more than the usual charge.

(2) *Commodities*. This sample procedure applies only to samples of commodities in the following categories:

- (i) Chemicals, drugs, and pharmaceuticals;
- (ii) Synthetic rubber;
- (iii) Petroleum and petroleum products;
- (iv) Lubricants, additives, and operational fluids; and
- (v) Metals and minerals.

(3) *Commercial quantities*. (i) This sample procedure does not apply if the exporter requests an indication of the prospects for approval of a commercial quantity of the same commodity. (See paragraph (c) (4) of this section.)

(ii) Neither an export license nor a reexport authorization issued under this procedure implies that the Office of Export Control intends or is committed to approve an export license application or reexport request for any further quantity of the sample commodity. All persons sending samples under this procedure are advised to include in any contract to sell the commodity a provision relieving themselves of liability in the event an export license or reexport authorization is not approved.

(c) *License application or reexport request*. The following provisions are in addition to the regular requirements for submitting an export license application or reexport request:

(1) *Identification*. The word "Sample" shall be entered across the top of the application, immediately over the printed words "United States of America," or across the top of the reexport request.

(2) *Value*. The value of the sample shall be indicated in each reexport request. On each license application, the value shall be indicated in the space provided for the commodity description if the value is not the same as the selling price.

(3) *Statement*. The following statement shall be entered after the description of the commodity:

The commodity described above is a sample sent without charge or at no more than our usual price for examination, evaluation, or comparison by a prospective purchaser.

(4) *Commercial quantities*. If the exporter wishes an indication of the prospects for approval of a commercial quantity of the sample commodity, he shall (i) request this information specifically;

and (ii) describe the proposed commercial transaction fully, given the quantities, values, end uses, and all other information normally required in considering a license application or reexport request. The Office of Export Control will act upon such a request only where it appears the request is clearly warranted. However, in no case is an indication of the prospects for approval of a license application or reexport request binding on the Office of Export Control. Changing circumstances may require a different decision at the time the license application or reexport request is actually submitted.

(d) *Decision by Office of Export Control*. The Office of Export Control will act on a request to export or reexport a sample as promptly as possible. In some cases, however, the Office of Export Control may find that it is unable to avoid extended deliberation. This is usually necessary when the sample:

- (1) Is not a commodity within any of the categories set forth in paragraph (b) (2) of this section;
- (2) Is valued in excess of \$200;
- (3) Is identified by the symbol "A" in the last column of the Commodity Control List;
- (4) Contains or incorporates unique or advanced extractable technical data that would make a significant contribution to the military potential of the country of destination to the detriment of the national security and welfare of the United States; or
- (5) Is to be sent only upon receipt of an indication from the Office of Export Control that there is a favorable prospect a commercial quantity of the sample commodity would be approved for the same destination.

(e) *Notice to exporter*. An export license or reexport authorization issued under this procedure will be accompanied by a written notice that the license or other authorization is not a commitment by the Office of Export Control to approve a future export license application or reexport request for a commercial quantity of the approved sample. The notice will caution the applicant to include in any sales contract a provision relieving themselves of liability in the event that authorization to export or reexport a commercial quantity is not granted.

§ 376.3 Agricultural commodities and manufactures thereof.¹

(a) *Wheat and wheat flour to Country Group Y*—(1) *Percentage of participation*. Each U.S. exporter participating in the export of wheat and wheat flour to Country Group Y destinations is limited to a maximum of 25 percent of the total quantity expected to be purchased in the United States. License applications which meet all of the requirements for approval will be processed promptly if there is sufficient evidence that the 25 percent participation rule is met.

¹ Exports of tobacco seed and plants are under the jurisdiction of the U.S. Department of Agriculture. (See § 370.10 of this subchapter.)

(2) *License application*—(i) *Certification*. The following certification shall be attached to the license application:

I (We) certify that with respect to the commodities described on this application (1) the price will be on the basis of the prevailing world price at the time the contract is concluded; (2) the payment will be made in United States dollars or gold; (3) the terms of sale will be cash or normal commercial credit; (4) the export from the United States will not be financed under Public Law 490; (5) the commodities were produced in the United States; (6) at least 50 percent of the commodities exported under any export license resulting from this application will be exported in United States flag ocean carriers; and (7) promptly upon entering into a charter or other shipping arrangement for each shipment of commodities to be exported under any export license resulting from this application, the U.S. Maritime Administration will be notified of the name of the ship, the name of the ship operator, the ship's flag of registration, the quantity of such shipment, and the export license number under which the shipment is made.

(Notifications of shipping arrangements, referred to in the above certification should be addressed to the U.S. Maritime Administration, Office of Ship Operations, 441 G Street NW., Washington, D.C. 20235.)

(ii) *Additional information*. The applicant shall enter the following in the "Additional Information" space, or on an attachment:

(a) The proposed shipping date, if known;

(b) The specific terms of sale, i.e., cash, credit and credit terms, if applicable;

(c) Complete details of the financing arrangements, including the names of the financing institutions or facilities participating in the financing. If the financing arrangements are not completed at the time the application is submitted, the applicant shall state that he will forward the information to the Office of Export Control as soon as the financing arrangements are completed. Such notification shall include the application case number, or if the case number is unknown, the license number, the applicant's reference number, and/or the date the application was submitted; and

(d) The name and address of the firm which registered the export sale transaction with the U.S. Department of Agriculture, together with the assigned registration number. If the transaction has not been registered with the U.S. Department of Agriculture at the time the application is submitted, the applicant shall state that he will notify the Office of Export Control as soon as registration is made. Such notification shall include the application case number, or if the case number is unknown, the license number, the applicant's reference number, and/or the date the application was submitted.

(iii) *Supplier's name not required*. The applicant need not complete the space titled "If applicant is not the producer of the commodity to be exported, give name and address of supplier."

(3) *Consignee/purchaser statement*. Each application shall be supported by a

Single Transaction Statement, Form FC-842, completed in accordance with § 375.2 of this subchapter.

(4) *Reexports.* In accordance with Part 374 of this subchapter, reexports of wheat and wheat flour to Country Group Y require specific authorization from the Office of Export Control.

(b) *Agricultural commodities and manufactures thereof, other than wheat or wheat flour, to Country Group Y—*

(1) *License application—(i) Certification.* A certification shall be attached to the license application as follows:

(a) *Certain grains to the U.S.S.R.* For an export of any of the following grains to the Union of Soviet Socialist Republics, the certification in (2) of this subdivision (i) (a) shall be attached.

(1) *Grains.* The following grains, except for seed chemically treated and colored for use as seed, but including inbred seed grain, that require a validated license for Country Group Y.

Export Control Commodity Number and Commodity Description

042	Rice, unmilled or milled.
04300	Barley, unmilled.
04400	Corn, unmilled, except fresh corn.
04510	Rye, unmilled.
04520	Oats, unmilled.
04590	Grain sorghums, unmilled.
04590	Cereal grains, unmilled, n.e.c.

(2) *Certification.*

I (We) certify that with respect to the commodities described on this application (1) the terms of sale will be cash or normal commercial credit; (2) the export from the United States will not be financed under Public Law 480; (3) the commodities were produced in the United States; (4) at least 50 percent of the commodities exported under any export license resulting from this application will be exported in United States flag ocean carriers; and (5) promptly upon entering into a charter or other shipping arrangement for each shipment of commodities to be exported under any export license resulting from this application, the U.S. Maritime Administration will be notified of the name of the ship, the name of the ship operator, the ship's flag of registration, the quantity of such shipment, and the export license number under which the shipment is made.

(b) *Other agricultural exports to Country Group Y.* The following certification shall be attached to a license application covering:

(1) An export to the U.S.S.R. of any agricultural commodity, or manufacture thereof, except for wheat, wheat flour, or a grain listed in (a) (1) of this subdivision; or

(2) An export to any other country in Country Group Y of any agricultural commodity, or manufacture thereof, except for wheat or wheat flour:

I (We) certify that with respect to the commodities described on this application (1) the terms of sale will be cash or normal commercial credit; (2) the export from the United States will not be financed under Public Law 480; and (3) the commodities were produced in the United States.

(ii) *Additional Information.* The following information shall be entered in the "Additional Information" space, or on an attachment:

(a) The specific terms of sale, i.e., cash, credit and credit terms, if applicable; and

(b) Complete details of the financing arrangements, including the names of the financing institutions or facilities participating in the financing. If the financing arrangements are not completed at the time the application is submitted, the applicant shall state that he will forward the information to the Office of Export Control as soon as the financing arrangements are completed. Such notification shall include the application case number, or if the case number is unknown, the license number, the applicant's reference number, and/or the date the application was submitted.

(2) *Consignee/purchaser statement.* Each application shall be supported by a Single Transaction Statement, Form FC-842, completed in accordance with § 375.2 of this subchapter.

(3) *Reexports.* Requests for authority to reexport agricultural commodities, and manufactures thereof, other than wheat or wheat flour, will be considered if:

(i) The export from the United States was not financed under the Public Law 480 program or the Agency for International Development program; and

(ii) The terms of sale of the export from the United States were cash or normal commercial credit.

Such reexport requests shall be submitted in accordance with Part 374 of this subchapter and shall contain the following certification:

I (We) certify that with respect to the commodities described herein (1) the export from the United States was not financed under the Public Law 480 program, or the Agency for International Development program; and (2) the terms of sale of the export from the United States were cash or normal commercial credit.

(Reexport or distribution authority does not relieve any person from complying with foreign laws. See §§ 374.9, 373.1(a), and 379.8(d) of this subchapter.)

§ 376.4 Nickel commodities.¹

(a) *Special provisions—(1) Export order requirement.* An export license application covering any of the following commodities shall be accompanied by a copy of the export order placed, or the contract entered into, by the foreign consignee or purchaser with the U.S. exporter or with his order party (see § 372.5 (b) and (c) of this subchapter for order party provisions):

Export Control Commodity Number and Commodity Description

28200	Iron and steel scrap containing 1 percent or more nickel by weight, including scrap melted into crude forms.
28401	Nickel bearing residues and dross.
28403	Nickel or nickel alloy waste and scrap.
51399	Nickel oxide.
51470	Nickel sulfate.
67150	Ferronickel containing 90 percent or less nickel.

¹ Section 377.4 of this subchapter contains additional provisions regarding applications for licenses to export nickel products.

68310	Nickel based magnetic materials, unwrought.
68310	Other nickel or nickel alloys, unwrought.
68324	Nickel or nickel alloy electroplating anodes.

(2) *Validity period.* All licenses to export the above commodities will be valid for 90 days from the date of issuance.

(3) *Export clearance.* An extra copy of the Shipper's Export Declaration, bearing the code "862" in the upper right corner, shall be filed with the Customs Office for each shipment of the above commodities under a validated license.

(b) *Commodities supplied from the U.S. National Stockpile—(1) Licensing policy.* Except in unusual circumstances, an export license application covering any of the following commodities that are supplied from the U.S. National Stockpile will be denied.

Export Control Commodity Number and Commodity Description

51369	Nickel oxide.
67150	Ferronickel containing 90 percent or less nickel.
68310	Nickel based magnetic materials, unwrought.
68310	Other nickel or nickel alloys, unwrought.

(2) *Information required.* On a license application covering any of the above commodities, the applicant shall include the following information, as appropriate, in the "Additional Information" space or an attachment:

(i) If the commodity has not been or will not be supplied from the National Stockpile, enter the following certification:

I (We) certify that the (name of commodity) described in this application has not been, and will not be supplied from the U.S. National Stockpile.

(ii) If the commodity has been or will be supplied from the National Stockpile, so state, naming the commodity and giving the date it was or will be purchased from the National Stockpile.

(iii) If the applicant does not know or is unable to determine whether the commodity has been or will be supplied from the National Stockpile, so state, naming the commodity and giving the reason(s) why this information is not available.

(c) *Nickel alloy waste and scrap containing 50 percent or more copper.* Nickel alloy waste and scrap containing 50 percent or more copper, irrespective of nickel content (Export Control Commodity No. 28403), is considered for export control purposes to be copper scrap, and therefore is subject to the provisions of § 377.3(b) of this subchapter.

§ 376.5 [Reserved]

§ 376.6 Chemicals.

Export license applications covering chemicals, medicinals, and pharmaceuticals shall state such facts relating to grade, form, concentration, mixtures, or ingredients as may be necessary to identify the commodity accurately.

§ 376.7 Machinery, equipment, and parts.

(a) *Information on license applications.* Export license applications for machinery, equipment, and parts for machinery and equipment shall include the following additional identifying information:

(1) A copy of the manufacturer's current catalog or bulletin, or pertinent pages describing the commodity, unless previously furnished.

(2) The maximum rating of commodities having a rated capacity.

(3) For exports of ball or roller bearings (Export Control Commodity No. 71970) to Country Group W, Y, or Z:

(i) The name of the manufacturer;

(ii) The bearing number as listed in the manufacturer's catalog; and

(iii) The inner bore diameter of the bearing.

(4) For exports of balls for bearings (Export Commodity No. 71970) to Country Group W, Y, or Z:

(i) The type of metal;

(ii) The grade of the ball (in accordance with standards adopted by the Anti-Friction Bearing Manufacturer's Association); and

(iii) The basic size of the ball.

(b) *Validity period of export licenses.* If the production and export of machinery, equipment, or parts cannot be completed within 6 months, the Office of Export Control will consider issuing a license with a validity period of 1 year. The applicant shall enter his request for a longer validity period in the "Additional Information" space on the license application, or on an attachment, explaining the circumstances on which he bases his request and giving the approximate date of availability for export.

§ 376.8 Aircraft and equipment, parts, accessories, and components therefor.

(a) *Spare parts accompanying aircraft.* For an export of aircraft and accompanying spare parts for such aircraft to any destination except Country Group W, Y, or Z, the applicant may:

(1) Include both the aircraft and parts on a single license application even though they do not have the same processing numbers; and

(2) Show the total value of all the accompanying spare parts without indicating the value of each Commodity Control List entry if, at the time the application is submitted, the applicant cannot determine the separate values for the parts under each entry.

The applicant shall, however, classify and describe the commodities in accordance with their respective Commodity Control List entries.

(b) *Loan or sale of aircraft equipment, parts, accessories, and components by*

airlines—(1) *Authority.* Any airline¹ operating abroad which receives commodities from the United States for maintenance, repair, or operation of its aircraft may, for the purpose of maintaining in operation aircraft of another airline lend or sell such commodities to that airline, without written authorization from the Office of Export Control, provided that:

(i) The transaction is subject to an agreement or arrangement (a) that the lender will not receive any monetary profit from the transaction and that either the same or like commodities will be returned to the lender, or (b) that payment for the commodities will be limited to no more than the original purchase price to the lender plus any expenses incurred in handling the commodities, e.g., transportation costs, warehousing costs, etc.;

(ii) The commodities will not be supplied for use on any aircraft registered in, or owned or controlled by, or chartered or leased to, a country in Country Group S, W, Y, or Z, or a national of one of these countries; and

(iii) The commodities will not be supplied for use on any aircraft located in Country Group S, W, Y, or Z.

Transactions meeting the above provisions are authorized notwithstanding any restrictions upon reexport set forth in the applicable destination control statement, on the validated export license, on any supporting documentation, or in the general license provisions relating to the original export from the United States.

(2) *Records.* The airline that provides the U.S. commodities shall maintain records in the detail set forth below, for a period of 3 years from the date of the transaction. These records shall be available for inspection, upon demand, by the U.S. Department of Commerce, a U.S. Foreign Service post, or any other accredited representative of the U.S. Government. In the event the airline is prohibited by foreign government regulation or statute from permitting a U.S. Government representative to inspect its records, the airline shall submit a report of such transactions at the end of each calendar quarter during which one or more transactions occur. The report shall be sent to the Office of Export Control (Attention: 852), U.S. Department of Commerce, Washington, D.C. 20230. As a minimum, the records and reports shall include the following information for each transaction:

(i) Date the commodities are provided;

(ii) Name, business address, and nationality of the airline which received the commodities;

(iii) If the aircraft is leased or chartered, the name, business address, and nationality of the owner of the aircraft which received the commodities.

(iv) Country of the aircraft's registry

¹ See § 370.2 of this subchapter for definition of airline.

and location of the aircraft at time the commodities were installed thereon; and

(v) Description of the commodities provided, including quantity and value thereof.

(For further recordkeeping requirements see § 387.11 of this subchapter.)

§ 376.9 Ship stores, plane stores, supplies, and equipment.

(a) *Exports requiring validated license.* A validated license shall be obtained to cover the export of any commodities (1) to be used on operating vessels and aircraft if the commodities are not authorized for export under the provisions of § 371.9, § 371.10, § 371.11, or § 371.12 of this subchapter; or (2) for vessels under construction if not authorized for export under any general license.

(b) *Preparation of license applications*—(1) *Vessels under construction.* A license application for export of any commodity or technical data, including ship stores, supplies, and equipment, to a vessel under construction shall be prepared on Form FC-419 in accordance with Supplement No. 1 to Part 372 of this subchapter, with the following modifications:

(i) *Country of ultimate destination.* Show country in which vessel is being constructed.

(ii) *Ultimate consignee in foreign country.* Show name and address of shipyard where vessel is being constructed.

(iii) *Commodity description.* For a vessel under 40 feet in length, include a statement as to the length of the vessel. For a vessel 40 feet in length or over, show the following information in this item or on an attachment:

(a) Hull number and name of vessel (if unknown, state "unknown");

(b) Type of vessel;

(c) Name and business address of prospective owner, and his nationality (if unknown, state "unknown");

(d) Country of registry or intended country of registry (if unknown, state "unknown").

(iv) *Identification of parties to transaction.* In each case, all parties to the transaction, including the United States or foreign purchaser, shall be identified with a clear statement of the capacity or function of each, as provided in § 372.3 of this subchapter.

(2) *Aircraft under construction.* A license application for export of any commodity or technical data, including plane stores, supplies, and equipment, to an aircraft under construction shall be prepared on Form FC-419 in accordance with Supplement No. 1 to Part 372 of this subchapter, with the following modifications:

(i) *Country of ultimate destination.* Show country in which the aircraft is being constructed.

(ii) *Ultimate consignee in foreign country.* Show name and address of the plant where the aircraft is being constructed.

² Parts, accessories, and equipment which are to be scrapped are classified as scrap; e.g., Export Control Commodity Nos. 28200, 28402, 28403, 28404, etc. See § 399.2 of this subchapter, Interpretation 10.

(iii) *Commodity description.* Show the following information in this item or on an attachment:

(a) Type of aircraft and model number (if unknown, state "unknown");

(b) Name and business address of prospective owner and his nationality (if unknown, state "unknown");

(c) Country of registry or intended country of registry (if unknown, state "unknown").

(iv) *Identification of parties to transaction.* In each case, all parties to the transaction, including the United States or foreign purchaser, shall be identified with a clear statement of the capacity or function of each, as provided in § 372.3 of this subchapter.

(3) *Operating vessels and aircraft.* A license application for export of commodities or technical data, including ship or plane stores, supplies, and equipment (except as provided in paragraph (c) of this section) to an operating vessel or aircraft, whether in operation or being repaired, shall be prepared on Form FC-419 in accordance with Supplement No. 1 to Part 372 of this subchapter, with the following modifications:

(1) *Country of ultimate destination.* Show country where the vessel or aircraft will take on the commodities or technical data. If, at the time of filing the license application, it is uncertain where the vessel or aircraft will take on the commodities or technical data, but it is known that the commodities or technical data will not be shipped to Country Group S, W, X, Y, or Z, enter the following statement in this item:

Uncertain; however, shipment(s) will not be made to Country Group S, W, X, Y, or Z.

An export license issued under this circumstance will bear the following destination restriction:

Shipment(s) may be made to the named (vessel) (aircraft) at any port in any country except Country Group S, W, X, Y, or Z.

(ii) *Ultimate consignee in foreign country.* Show name of owner and port or place where the commodities or technical data will be taken aboard. Also, if a vessel, show name of vessel. If the port or place where the commodities or technical data will be taken aboard is unknown, enter the statement shown in subdivision (1) of this subparagraph.

(iii) *Commodity description.* For a vessel under 40 feet in length, include a statement as to the length of the vessel. For a vessel 40 feet in length or over, show the following information in this item or on an attachment:

(a) Type of vessel;

(b) Business address of owner and his nationality;

(c) Country of registry; and

(d) Name of charterer and the terms and type of charter, if under charter.

(iv) *Identification of parties to transaction.* In each case, all parties to the transaction, including the United States

or foreign purchaser, must be identified with a clear statement of the capacity or function of each as provided in § 372.3 of this subchapter.

(4) *Subsequent applications.* After the additional information required by subparagraphs (1), (2), and (3) of this paragraph has been supplied to the Office of Export Control, a subsequent application for an additional license to export commodities to the same vessel or hull number under construction or the same operating vessel may incorporate the required additional information by reference to the previous application containing that information. In this event, each subsequent application shall include, in the "Additional Information" space or on an attachment: (i) A certification that the information previously submitted to the Office of Export Control has not changed; and (ii) the appropriate case number of the previously submitted application, or if the case number is unknown, the applicant's reference number, date of submission, and Export Control Commodity Numbers shown on that application. (Whenever possible, the case number should be indicated on the subsequent application, since failure to supply this number may result in delay in processing.)

(5) *Additional information.* Where necessary, the Office of Export Control may require the exporter to submit a letter of confirmation or amplification of the information specified in this § 376.9(b).

(c) *Exports of petroleum and petroleum products, including bunker fuel, for use on vessels and aircraft departing from the United States.* License applications to export petroleum or petroleum products, including bunker fuel, for vessels or fuel for aircraft departing from the United States, may be included on a single Form FC-419. Such application shall indicate, at the top of the form, the word "Bunker" in the case of exports for the use of vessels, or "Plane Fuel" in the case of exports for the use of aircraft. The application shall be prepared in accordance with Supplement No. 1 to Part 372 of this subchapter, with the following modifications:

(1) *Country of ultimate destination.* Show the country in which the carrier is registered.

(2) *Ultimate consignee in foreign country.* Show the name of the carrier and the port or point where petroleum or petroleum products are to be taken aboard.

(3) *Purchaser in foreign country.* Show name and address of owner of carrier. If carrier is under charter to, or under control of, a party other than owner, show names and addresses of both owner and party otherwise in control of carrier.

(4) *Commodity description and ports of call—(i) Ports visited.* In addition to a description of the commodities to be exported, list for each of the carrier's calls at any point under Far Eastern Com-

munist control¹ within 180 days prior to the date of application (or 30 days in the case of aircraft), the dates of each call, and a statement, or a copy of the manifest, showing the cargo loaded or discharged. (If the carrier was in ballast, so state.)

(ii) *Proposed ports of call.* Also submit the carrier's proposed calls at any point under Far Eastern Communist control for the next 120 days in the case of vessels (30 days in the case of aircraft) from the anticipated date of departure from the last port in the United States. If the carrier's itinerary for all of the next 120 days in the case of vessels (or 30 days in the case of aircraft) is not known and cannot be ascertained, the itinerary shall be stated so far as it may be known or ascertainable. In addition, all other available information as to future destinations and areas of operation shall be submitted. If the carrier (a) will call at a point under Far Eastern Communist control within the next 120 days in the case of vessels (30 days in the case of aircraft) from the date of departure, or (b) is registered in Country Group W, Y, or Z, or (c) is under charter to, or under control of, a national of a Group W, Y, or Z country, state whether any commodities not identified by the symbol "B" in the last column of the Commodity Control List (§ 399.1 of this subchapter), included on the U.S. Munitions List (Supplement No. 2 to Part 370 of this subchapter) or subject to the Atomic Energy Act (§ 370.10(e) of this subchapter) are carried on board the vessel or aircraft and destined directly or indirectly to any point under Far Eastern Communist control. If the answer is in the affirmative, indicate where such commodities will be discharged.

(5) *Additional information.* State the reasons why a general license is inapplicable to the proposed export unless the reasons are already indicated elsewhere on the application or on an attachment. If additional space is required, an attachment may be used.

Also state the gross registered tonnage (GRT), type of main engines and rated horsepower, with daily fuel consumption rate, total fuel capacity, and fuel supply on board, indicating specifically the number of days' running supply from the port where additional supplies are requested. In the case of aircraft, state make and model.

¹ "Point under Far Eastern Communist control" means any point in any of the following destinations: (1) China, including Inner Mongolia, the provinces of Tsinghai and Sikang, Sinkiang, Tibet, and Manchuria (including the former Kwantung Leased Territory, the present Port Arthur Naval Base Area and Liaoning Province); but excluding Outer Mongolia and Taiwan (Formosa); (2) Communist-controlled area of Vietnam; and (3) North Korea.

§ 376.10 Electronic computers and related equipment.

(a) *Applications for computers.* An application for a license to export electronic computers (Export Control Commodity No. 71420) to Country Groups W and Y, shall include the following information, as applicable:

(1) *Analog computers.* (i) The quantity and accuracy rating of each type of summer, integrator, multiplier, or function generator employed; and

(ii) The number of integrator time scales and whether or not they are switchable during operation.

(2) *Digital computers.* (i) The quantity, type and specification for each central processor;

(ii) The internal memory read/write cycle time;

(iii) The size of internal memory (bits) to be supplied with the computer being exported;

(iv) The maximum internal memory (designed capability in bits);

(v) The CPU bus rate;

(vi) The I/O bus rate;

(vii) The processing rate;

(viii) The processing data rate; and

(ix) The average number of bits transferred per instruction.

(b) *Applications for peripheral equipment.* An application for a license to export peripheral equipment, magnetic recording equipment, and magnetic recording media (Export Control Commodity Nos. 71430, 71492, and 89120) to Country Groups W and Y, shall include the following information, as applicable:

(1) The quantity, type and specification for each peripheral or magnetic recording device;

(2) The average access time;

(3) The average seek time;

(4) The latency time;

(5) The net capacity;

(6) The total number of accesses; and

(7) The total effective bit transfer rate.

(c) *Applications for terminal devices remote from computer operating area.* An application for a license to export a terminal device (Export Control Commodity No. 71492) to Country Groups W and Y to be located remote from the computer area shall include the following information:

(1) The total effective bit transfer rate (excluding parity, word marker and flag bits) as limited by any communications channel;

(2) The effective bit transfer rate of each terminal device; and

(3) For computers equipped with interface equipment:

(i) The effective bit transfer rate of each interfaced communications channel; and

(ii) The percent of time each interfaced communications channel is dedicated to the given application.

(d) *Definitions of terms.*—(1) *Analog computers.* (i) "Static accuracy" for summers, inverters, and integrators only, applies to the percentage of actual output voltage. All other references to static accuracy apply to the percentage of

full scale voltage, that is from maximum negative to maximum positive reference voltage.

(ii) Total error includes all errors of the unit resulting from, for example, tolerances of resistors and capacitors, tolerances of input and output impedances of amplifiers, the effect of loading, the effects of phase shift, the generating functions, etc. Total error at 1 KHz is to be measured with those resistors incorporated in the inverter, summer or integrator which provide the least error.

(2) *Digital computers.* (i) "CPU bus rate" is the number of bits excluding parity accessed in one memory cycle times the number of read-write cycles per second times the number of independent memories (including interleaved) which can be transferred simultaneously between the main memory and the CPU, as limited by any device normally placed between the main memory and the CPU. For systems with multiple CPUs, the "CPU bus rate" is the sum of the individual CPU bus rates as defined above that can be sustained simultaneously.

(ii) "I/O bus rate" is the number of bits excluding parity accessed in one memory cycle times the number of read-write cycles per second times the number of independent memories (including interleaved) which can be transferred simultaneously between the main memory and the I/O bus (or busses) as limited by any device normally placed between the main memory and the I/O bus, and which can be transferred simultaneously with the CPU bus rate.

(iii) "Total effective bit transfer rate" is the sum of the effective bit transfer rates of all peripheral memory units and data channels provided with the system, which can have simultaneous access to the I/O bus (or busses) as limited by the I/O control units provided with the peripheral units and data channels which would maximize this rate. The effective bit transfer rate (R_e) for magnetic tape transports and for data channels is the maximum bit transfer rate excluding parity. For static memory devices, it is the number of bits transferred per access excluding parity divided by the "average access time." For rotating memory devices it is the product of the maximum bit transfer rate excluding parity (R), the number of independent read-write channels (C) and the rotational period (T_r) divided by the sum of the "minimum seek time" (T_{min}) and the "latency time" (T_L) divided by the number of independent seek mechanisms (S). The mathematical expression is as follows:

$$R_e = \frac{R \times C \times T_r}{T_r + \frac{T_{min} + T_L}{S}}$$

(iv) "Average access time" is the sum of the "average seek time" and the "latency time" divided by the number of independent seek means or mechanisms.

(v) "Average seek time" for moving head and/or moving media devices is the sum of the "maximum seek time" and twice the "minimum seek time" divided

by three. "Maximum seek time" is as rated for the particular device; e.g., for moving head devices the time to move between the two most widely separated tracks. "Minimum seek time" for moving head and/or moving media devices is as rated for the particular device; e.g., for moving head devices the time to move from one track to an adjacent track. "Seek time" for static or fixed head devices is zero.

(vi) "Latency time" for static memory devices is the cycle time of the device; "latency time" for rotating memory devices is the rotational period divided by twice the number of independent read-write heads per track.

(vii) "Processing data rate" is the product of the "average number of bits transferred per instruction" and the "processing rate."

(viii) "Average number of bits transferred per instruction" is the sum of:

(a) The number of bits in a fixed or floating point "instruction,"

(b) 0.40 times the number of bits in a fixed point "operand," and

(c) 0.15 times the number of bits in a floating point "operand."

(ix) "Processing rate" is the reciprocal of the sum of:

(a) 0.85 times the average "execution time" of a fixed point addition,

(b) 0.09 times the average "execution time" of a floating point addition, and

(c) 0.06 times the average "execution time" of a floating point multiplication.

(x) The "instruction" and "operand" lengths and the "execution times" of the operations in subdivisions (vii), (viii), and (ix) of this subparagraph are based on:

(a) A fixed point operand of 24 bits or greater;

(b) A floating point operand length of 30 bits or greater;

(c) The fetching of an instruction word from main memory (for CPUs simultaneously fetching more than one instruction in one memory word, the execution time shall be the average over the possible locations of the instruction within the fetch word);

(d) One operand being in the accumulator(s) or a location in main memory acting as the accumulator(s);

(e) The second operand being in main memory;

(f) The result being left in the same accumulator or a location in main memory acting as the accumulator;

(g) The instruction and operands being in optimum locations in main memory; or

(h) No indexing or indirect operations being included.

(xi) "Net capacity" of a memory device is the total capacity designed to be accessible to the digital computing system excluding parity and error correction.

(xii) "Total number of accesses" is the sum of the number of accesses of all peripheral memory units provided with the system. The number of accesses (per second) to a memory device is the reciprocal of the "average access time."

(xiii) "Terminal devices" are all peripheral devices excluding memory devices and special process control sensing and actuating equipments, capable of transmitting and/or receiving of binary digits or alpha-numeric characters. Normal groupings of such equipment; e.g., combined paper tape reader/punch and printer, connected to a single data or communication channel, shall be considered as single devices.

(xiv) The "computer operating area" is the immediate vicinity of the computer installation where the normal operating, support, and service functions take place.

(xv) "Communications channels" are the transmission paths or circuits and the terminal transmission and receiving equipment (modems) for transferring digital information between distant locations.

(e) *Alternative means of furnishing information.* Instead of including all of the above information with each application, the applicant may furnish the Office of Export Control with technical specifications for his line of commodities described in paragraphs (a), (b), and (c) of this subparagraph, keeping them current by supplementing technical bulletins or other similar publications as they are released, provided that such publications contain all of the applicable required technical information computed in accordance with the definition of terms as set forth in paragraph (d) of this section, and further, that such information which relates to system performance as well as to individual component performance is directly applicable to the specific system configuration for which an application for an export license is made. In such cases, an exporter can comply with the requirements of this § 376.10 by identifying the model number and entering the following statement in the "Commodity Description" space on the application, or on an attachment:

The current technical information relating to the commodity(ies) described on this application, as required by § 376.10 of the Export Control Regulations, has been previously furnished the Office of Export Control.

(f) *Applications for interfaced equipment.* An application for a license to export equipment to Country Groups W and Y, to be interfaced with an existing computer system, should include full particulars of the current system configuration, including make, model number, and quantity of those components which comprise the system. Insofar as is practicable that information which pertains to the current system as is listed in paragraphs (a), (b), and (c) of this section should also be included with the application as well as the applicable data related to the additional equipment that the applicant wishes to export.

§ 376.11 Temporary exports of video tape.

(a) *Scope.* A procedure is established under which blank video tape (raw stock) and video tape containing program material (Export Control Commodity No. 89120) may be temporarily exported,

from any U.S. port, to Country Groups T and V for an indefinite period without obtaining an individual validated license for each shipment. This procedure is restricted to video tape that either (1) is intended for use in recording program material abroad for broadcasting abroad and in the United States, or (2) contains program material recorded in the United States for broadcasting in a foreign country(ies). In any case, such video tape shall be returned to the United States, unless prior authorization to dispose of the tape abroad is obtained from the Office of Export Control.

(b) *Submission of request.*—(1) *Information required.* A request for authority to make temporary exports of video tape under this procedure shall be made by letter, in original and two copies, to the Office of Export Control (Attention: 852), U.S. Department of Commerce, Washington, D.C. 20230, and shall include:

(i) A full description of the nature of the business in which the exporter is engaged;

(ii) A statement as to whether the request covers blank video tape, video tape containing program material, or both;

(iii) A general description of the types of program material, i.e., news events, sports events, entertainment, educational, etc., which will be recorded in the United States or in a foreign country(ies);

(iv) The name(s) and address(es) of the consignee(s) who will use the video tape (if U.S. exporter, so state); and

(v) The following certification:

I (We) certify that if this request is approved, shipments will be made only in accordance with the provisions of § 376.11 of the Export Control Regulations.

(2) *Waiver of supporting documentation.* A request submitted under this procedure need not be supported by: An International Import Certificate; a single transaction statement, Form FC-842; a multiple transactions statement, Form FC-843; a Swiss Blue Import Certificate; or, a Yugoslav End-Use Certificate.

(c) *Action by the Office of Export Control.* The Office of Export Control will:

(1) Stamp an approval letter request with the validation stamp of the U.S. Department of Commerce, return one validated copy to the applicant, and furnish Customs Offices with the names of exporters approved under this procedure; or (2) where the request is not approved, advise the applicant by letter.

(d) *Export clearance.* The exporter shall furnish the Customs Office with an additional copy of the Shipper's Export Declaration covering each shipment made under these provisions. The Declaration shall show the code "864" in the upper right corner; the words "Temporary Export," and the following certification in the commodity description space:

I (We) certify that the video tape described in this Declaration will be returned to the United States or authorization will be obtained from the Office of Export Control before it is disposed of abroad, and (contains program material recorded in the United

States) (will be used to record program material abroad).

§ 376.12 Parts, components, and materials in foreign-made end products.

Parts, components, materials, or other commodities exported from the United States and used abroad to manufacture or produce a foreign-made end product are subject to the export control laws of the United States. The U.S. Department of Commerce exercises vigilance over exports and reexports of these commodities in order to prevent such exports or reexports from being used for a purpose detrimental to the national security or foreign policy of the United States.

§ 376.13 Communications intercepting devices.

(a) *Export license requirements.* A validated export license is required for the export to any destination (including Canada) of any electronic, mechanical, or other device primarily useful for surreptitious interception of wire or oral communications. Any exporter who knows, or has reason to believe, that such commodities will be used for such purpose shall include that information on his application for validated export license. The application shall be on Form FC-419, Application for Export License. The words "Communications Intercepting Device" shall be entered at the top of the form immediately above the printed words "United States of America."

(b) *Qualifications of exporter.* Licenses to export the commodities described in paragraph (a) of this section will be issued only to:

(1) A communications common carrier or an officer, agent, or employee of, or person under contract with, a communications common carrier when engaged in the normal course of such communications common carrier's business; or

(2) Officers, agents, or employees of, or person under contract with the United States, one of the 50 States, or a political subdivision thereof, when engaged in the normal course of government activities.

(c) *Examples of communications intercepting devices.* An electronic, mechanical, or other device that can be used for interception of wire or oral communications is subject to the provisions of this § 376.13 if its design renders it primarily useful for surreptitious listening even though it may also have innocent uses. A device is not restricted merely because it is small or may be adapted to wiretapping or eavesdropping. Some examples of devices to which these restrictions apply are: The martini olive transmitter; the infinity transmitter; the spike mike; and the disguised microphone appearing as a wrist-watch, cufflink, or cigarette pack; etc. The restrictions do not apply to devices such as the parabolic microphone or other directional microphones ordinarily used by broadcasters at sports events, since these devices are not primarily useful for surreptitious listening.

(d) *Effect of other provisions.* (1) If, at the time of export, a validated license is also required under other provisions of the Export Control Regulations, the application shall be submitted in accordance with this § 376.13 as well as all other applicable provisions. The requirements of this § 376.13 are in addition to, rather than in lieu of, other validated license requirements set forth in the Export Control Regulations.

(2) Insofar as consistent with the provisions of this § 376.13, all other provisions of the Export Control Regulations shall apply also to export license applications and export licenses for these commodities.

PART 377—SHORT SUPPLY CONTROLS

Sec.
377.1 General provisions.
377.2 Past participation in exports licensing method.
377.3 Copper and copper products.
377.4 Nickel products.
Supplement No. 1—Commodities Subject to Short Supply Quota Controls.

AUTHORITY: The provisions of this Part 377 issued under sec. 3, 63 Stat. 7; 50 U.S.C. App. 2023; E.O. 10945, 26 F.R. 4487, 3 CFR 1959-1963 Comp.; E.O. 11038, 27 F.R. 7003, 3 CFR 1959-1963 Comp.

§ 377.1 General provisions.

The Export Administration Act requires the control of commodities to the extent necessary to protect the domestic economy from the excessive drain of scarce materials and to reduce the inflationary impact of abnormal foreign demand. Commodities currently subject to short supply quota controls pursuant to the above requirement are listed in Supplement No. 1 to this Part 377. Generally, exporters' shares of any quantitative quota established under a short supply program will be allocated in accordance with the Past Participation in Exports licensing method described in § 377.2.

§ 377.2 Past participation in exports licensing method.

(a) *General.* The Past Participation in Exports licensing method helps to maintain a normal pattern of export trade during periods of short supply and to assure an equitable distribution of the available export quota among exporters. This procedure allocates the bulk of the export quota to firms that have participated in exports during a representative base period, but reserves a small portion of the quota for exporters who do not have this trade history.

(b) *Participation in quota allotments.*—(1) *Restrictions.* A single firm is entitled to participate only once in each quota established for each commodity or category of commodities. For this purpose, the term "single firm" includes all persons or firms associated in business with a person or firm claiming or receiving an allocation from the same export quota. Claiming an additional participation through any device whatsoever, including the transfer or assignment of an export order, is prohibited

and may result in the imposition of sanctions provided for in Parts 387 and 388 of this subchapter.

(2) *Order party.* Generally, any quantity licensed under a quota is charged to the quota share allocated to the licensee. Where the licensee received the export order from another person or firm in the United States (the "order party," as defined in § 372.3 of this subchapter) or from a foreign subsidiary, branch, affiliate, or agent of such order party, any quantity licensed will be charged to the quota share of the order party. Therefore, if the applicant did not receive directly the initial order from the foreign ultimate consignee or purchaser, the signature of the order party is required on his license application in accordance with § 372.3 of this subchapter.

(c) *Submission of statement of past participation.*—(1) *Requirements.* To claim a share of an export quota for a commodity, or category of commodities, an exporter shall submit a statement of his exports of the commodity(ies) during the specified base period. This statement shall be submitted, in duplicate, to the Office of Export Control (Attention: 854), U.S. Department of Commerce, Washington, D.C. 20230. The statement shall include:

(i) All information required by the applicable commodity sections of this Part 377; and

(ii) The name of each person or firm engaged in the export of the commodity (ies) that (a) is directly or indirectly owned or controlled by the exporter submitting the statement, or (b) directly or indirectly owns or controls the operations of the exporter submitting the statement.

(2) *Exports excluded from statement.* The quantity and value of the following types of shipments shall not be included in the statement of past participation, unless specifically required:

(i) Shipments to territories, dependencies, and other possessions of the United States;

(ii) Intransit shipments exported under General License GIT; and

(iii) Shipments to Canada.

(3) *Successors in interest.* Where a successor firm has acquired the business interests of a predecessor and the terms of acquisition preclude the predecessor from claiming past participation in exports, the successor may include its predecessor's record of past participation in exports for the purpose of establishing the successor firm as a historical exporter. The successor firm shall submit a statement of past participation and provide a full explanation of the association between the entities concerned, including the following signed statement:

The terms of acquisition of the business interests of (Name of predecessor firm) preclude the predecessor firm from claiming past participation in exports for the purpose of obtaining export licenses under the historical pattern of export licensing.

(d) *Allocation of quotas.* After evaluating the statements of past participation, the Office of Export Control will inform each exporter of his share of the

export quota based on his shipments during the base period.

(e) *Submission of applications.* For certain commodities licensed under the Past Participation in Exports licensing method, submission of export license applications is subject to published time schedules. These commodities and the filing dates are listed in Supplement No. 1 to this Part 377. Applications covering other commodities listed therein may be submitted at any time, as specified in the Supplement.

§ 377.3 Copper and copper products.

(a) *Copper ores, concentrates, matte, and blister copper.*—(1) *Denial policy.* Export license applications covering any of the following commodities generally are denied:

Export Control Commodity Number and Commodity Description

28311	Copper ores and concentrates.
28312	Copper matte.
68211	Blister copper and other unrefined copper.

(2) *Exception to denial policy.* Export license applications covering the above commodities may be considered for approval if, for technological or economic reasons, the commodities cannot be processed commercially in the United States. Such applications shall include:

(i) A statement describing the commodities with an analysis of the metal content, and an explanation of the difficulty in processing them in the United States;

(ii) The following certification:
I (We) certify that to my (our) best knowledge and belief the commodities described on this application cannot be commercially processed in the United States;

(iii) The identity of the foreign consumer by entering either of the following statements, as appropriate, in the space on the application entitled "Additional Information" or on an attachment:

The foreign consumer of the commodities covered by this application is the same as that shown in the "Ultimate Consignee in Foreign Country" space on this license application;

or, if the foreign consumer is not the same as the ultimate consignee:

The name and address of the foreign consumer is _____;

and

(iv) If the proposed shipment, regardless of value, is destined for the Republic of Vietnam (area not under Communist control), a Single Transaction Statement by Consignee and Purchaser, Form FC-842, submitted in accordance with § 375.2 of this subchapter and bearing the endorsement of the designated representative of the U.S. Agency for International Development (AID) Mission, Saigon. To obtain this endorsement, the consignee and/or purchaser shall submit his Statement, in triplicate, to the U.S. AID Mission, Saigon. Upon endorsement, the original will be returned to the consignee or purchaser, for forwarding to the U.S. exporter; the copies will be retained by the U.S. AID Mission.

(b) *Copper and copper-base alloy waste and certain nickel scrap*—(1) *Scope.* The following commodities are subject to the provisions of this § 377.3(b):

Export Control Commodity Number and Commodity Description

28200	Iron and steel scrap containing 20 percent (by weight) or more copper, including scrap melted into crude forms.
28401	Copper bearing ash and residues.
28402	Copper or copper-base alloy waste and scrap.
28403	Nickel alloy waste and scrap containing 50 percent or more copper irrespective of nickel content.
68212	Refined copper fragments (made by chopping, shredding, or otherwise fragmenting copper wire, tubing, etc.) and unwrought forms of refined copper derived from such fragments.

(2) *Shipments not commercially processable in the United States.* An application for a license to export any of the commodities described in subparagraph (1) of this paragraph that, for any technological or economic reason, cannot be processed commercially in the United States will be considered for licensing without a charge against the copper export quota. If the reason is technological, the application shall be accompanied by (i) a copy(ies) of a letter(s) received by the applicant from a recognized scrap processor(s) who has declined to process the scrap described on the application, and (ii) the documentation required by paragraph (a) (2) of this section. If the reason is economic, the application shall include a statement detailing such reason.

(3) *Other shipments*—(i) *General.* Commodities described in subparagraph (1) of this paragraph that cannot be licensed under subparagraph (2) of this paragraph, will be considered for licensing under the Past Participation in Exports licensing method (see § 377.2). To qualify as a historical exporter, an exporter shall submit a statement, setting forth the quantity (in copper content pounds) and total dollar value, by country of ultimate destination, that he exported:

(a) To all destinations except Canada during calendar year 1964 and during each of the first three quarters of calendar year 1965, as well as the grand total for this period January 1, 1964, through September 30, 1965; and

(b) To Canada during each of the last two quarters of calendar year 1966 and the first two quarters of calendar year 1967, as well as the grand total for this period July 1, 1966, through June 30, 1967.

In addition, an exporter who qualified as a historical exporter of the commodities described in subparagraph (1) of this paragraph during the second half of calendar year 1969 may claim an increase in his quota share, as provided below, for exports of iron and steel scrap containing 20 percent (by weight) or more

copper (including scrap melted into crude forms), Export Control Commodity Number 28200(1c), and exports of refined copper fragments made by chopping, shredding, or otherwise fragmenting copper wire, tubing, etc., and unwrought forms of refined copper derived from such fragments, Export Control Commodity Number 68212(1); and an exporter not previously qualified as a historical exporter may claim a new quota share of these commodities as provided in § 377.2(a) and the provisions of this § 377.3(b) (3) (i) (b). To qualify for the increased share, an exporter shall submit a statement of exports of these two types of commodities as provided by § 377.2, to the Office of Export Control by April 2, 1970. The historical statement shall set forth export activity in these commodities separately for each of the four calendar quarters in 1968 and four calendar quarters in 1969, as well as a grand total for this January 1, 1968–December 31, 1969 period. The statements submitted to qualify as a historical exporter shall not include either the types of shipments covered by § 377.2(c) (2), or those not commercially processable in the United States as explained above. An export license application for commodities covered by this § 377.3(b) shall be submitted in accordance with subdivision (ii), (iii), or (iv) of this subparagraph.

(ii) *Nonhistorical exporter.* An exporter who has not submitted a statement of past participation in exports, or who does not otherwise qualify as a historical exporter, shall submit an application and obtain an individual validated license. The license application shall (a) identify the foreign consumer in the manner explained in paragraph (a) (2) (iii) of this section; and (b) for an export to the Republic of Vietnam, regardless of value, be supported by a single transaction statement, Form FC-842, endorsed by the designated representative of the U.S. Agency for International Development Mission, Saigon, as set forth in paragraph (a) (2) (iv) of this section.

(iii) *Historical exporter.* An exporter who has been informed, in writing, by the Office of Export Control that he qualifies as a historical exporter may apply for and obtain a Bulk Quota License (see subdivision (iv) of this subparagraph).

(iv) *Bulk Quota License*—(a) *Definition.* A Bulk Quota License is a validated license authorizing the export by a historical exporter of his total share of the quota established for a short supply commodity to approved ultimate consignees.

(b) *License application.* Each application for a Bulk Quota License, shall include:

(1) Form FC-420, Application Processing Card, prepared in accordance with § 372.4(a) (5) of this subchapter, except that "Bulk Quota License" shall be entered in the Export Control Commodity Number space.

(2) Form FC-419, Application for Export License, prepared in accordance with Supplement No. 1 to Part 372 of this subchapter, except:

(i) Enter "Bulk Quota License," as well as the date, under "Date of Application";

(ii) Enter, in copper content pounds, the exporter's total quota for all commodities in subparagraph (1) of this paragraph under "Quantity to be Shipped." (The Office of Export Control will inform him of his quota in time for him to complete his application.)

(iii) Enter "copper scrap" under "Commodity Description." Thus, the application covers any or all of the commodities in subparagraph (1) of this paragraph;

(iv) Enter only the processing number under "Export Control Commodity Number and Processing Number." Omit the commodity number;

(v) Where there is more than one ultimate consignee, write "see attached list" in the "Ultimate Consignee in Foreign Country" space and attach to the application a list of the names and addresses of all proposed ultimate consignees; and

(vi) Enter the following certification concerning consignee documentation (see paragraph (3) of this subdivision (iv) (b)) in the "Additional Information" space or on an attachment:

I (We) certify that a currently valid (insert name(s) of the supporting consignee document(s) as appropriate in accordance with § 377.3(b) (3) (iv) (b) (3) below) is on file with the Office of Export Control for each ultimate consignee covered by this application, except (enter either "none" or the names of ultimate consignees for whom new documentation is attached to the application).

(3) Appropriate documentation for each proposed consignee, either currently valid and on file with the Office of Export Control or furnished for approval with the application, as follows:

(i) Except as provided in (ii) and (iii) of this subdivision (iv) (b) (3), a multiple transactions statement, Form FC-843.

(ii) For a consignee in Switzerland or Yugoslavia, a Swiss Blue Import Certificate or Yugoslav End-Use Certificate. Where a currently valid certificate is on file with the Office of Export Control, the application shall include the certification(s) set forth in §§ 375.3(a) (1) and 375.4(a) (1) of this subchapter.

(iii) For a consignee in the Republic of Vietnam, a single transaction statement, Form FC-842, endorsed by the designated representative of the U.S. Agency for International Development Mission, Saigon, as set forth in paragraph (a) (2) (iv) of this section. Where a currently valid statement is on file with the Office of Export Control, the application shall include the certification set forth in § 375.2(i) (3) of this subchapter.

(c) *Consignee quantity restrictions.* The total quantity that may be shipped

to any consignee in Switzerland, Yugoslavia, or the Republic of Vietnam, is limited to the quantity shown on the Swiss Blue Import Certificate, Yugoslav End-Use Certificate, or Single Transaction Statement from that consignee.

(d) *Export license.* The license will be validated and bear the identifying words "Bulk Quota License" below the validation stamp. The list of approved ultimate consignees will also be validated, attached to and become a part of the license.

(e) *Validity period.* Each license will be valid for the quota period to which it applies plus three additional calendar months.

(f) *Export clearance—(1) Notification to Customs Offices.* The Office of Export Control will notify all Customs Offices of the issuance of a Bulk Quota License, including the names and addresses of ultimate consignees, within 15 calendar days after issuance of the license. An exporter should not plan to clear exports earlier unless he verifies that the notification has reached Customs. The license need not be filed with the Customs Office, but the licensee shall, on demand, show to the Customs Officer either the original or a photocopy of the license.

(2) *Tolerance.* In addition to the quantity licensed, a shipping tolerance of five percent of the total quantity licensed is allowed as set forth in § 386.7 (e) of this subchapter.

(3) *Shipper's Export Declaration.* The Shipper's Export Declaration shall be prepared according to standard instructions and presented to the Customs Officer or Postmaster at the place of export. Both the gross weight of the copper scrap and the copper content pounds shall be given. Although the license refers only to "copper scrap," the commodity description on the Declaration shall be specific, conforming to the applicable Commodity Control List description, and incorporating any additional information required by Schedule B, such as type, size, or name of specific commodity. The Schedule B No. shall also be included.

(g) *Reports.* The exporter shall furnish the Office of Export Control, no later than the 15th of each month, a report on all exports made during the preceding month under his Bulk Quota License. As a minimum, the report shall include the license number and, for each commodity exported, the full description as shown on the Commodity Control List, the Export Control Commodity No., quantity exported in both copper content pounds and gross amount, date of shipment, and name and address of ultimate consignee. The report shall be sent to the Office of Export Control (Attention: 862), U.S. Department of Commerce, Washington, D.C. 20230.

(c) *Refined copper—(1) Scope.* As used in this § 377.3(c), the term "re-

fined copper," means any refined copper, including remelted, in cathodes, billets, ingots (except copper-base alloy ingots, for which see paragraph (d) of this section), wire bars, and other crude forms other than (i) refined copper fragments (made by chopping, shredding, or otherwise fragmenting copper wire, tubing, etc.), and (ii) unwrought forms of refined copper derived from such copper fragments (Export Control Commodity No. 68212).

(2) *Copper produced from or shipped as an offset against foreign materials.*

(i) Subject to the provisions of subparagraph (4) of this paragraph, license applications covering refined copper produced from (a) foreign-origin copper raw material or (b) material which was declared as an offset against an equivalent quantity of foreign-origin copper raw materials entered into the United States under a Customs Import Entry, may be considered for licensing without a charge against the refined copper export quota.

(ii) To receive such consideration, the license application shall:

(a) Be submitted to the Office of Export Control within 3 months following the date of the related Customs Import Entry;

(b) Be supported by the following certification:

I (We) certify that the refined copper described in this license application has been or will be (a) produced from foreign-origin copper raw materials, or (b) produced in the United States from copper raw materials against which an equivalent quantity of copper raw materials, originating from (name of country), has been entered into the United States by (name and address of importer) under Customs Import Entry No. (Entry number), on (date), at (location of port), covering (quantity) pounds of copper content.

(If the importer is a customs broker or is otherwise acting as an agent, the above certification shall also include the name of the principal for whom the agent is acting); and

(c) For an export to the Republic of Vietnam, regardless of value, be supported by a Single Transaction Statement (Form FC-842) endorsed by the designated representative of the U.S. Agency for International Development Mission, Saigon, as set forth in paragraph (a) (2) (iv) of this section.

(3) *Copper not produced from foreign materials.* (i) Subject to the provisions of subparagraph (4) of this paragraph, refined copper not meeting the provisions of subparagraph (2) of this paragraph will be licensed under the Past Participation in Exports licensing method (see § 377.2). To qualify as a historical exporter, an exporter shall submit a statement setting forth the quantity (in copper content pounds) and total dollar value that he exported during the base period January 1, 1963, through June 30,

1965, except that the following types of shipments shall not be included:

(a) Refined copper produced from foreign-origin materials; and

(b) Refined copper produced from material that was declared as an offset against an equivalent quantity of foreign materials entered into the United States under a Customs Import Entry.

(ii) A statement submitted by other than a refiner shall be accompanied by a certification from the exporter's refiner, setting forth the quantity of refined copper produced from domestic materials which the refiner delivered to the exporter during the period January 1, 1963, through June 30, 1965. A refiner, unable to state accurately the quantity of domestic-origin refined copper delivered to the exporter during the base period, may certify to an estimated quantity delivered to the exporter based on the ratio of domestic-origin materials to foreign-origin materials used by the refiner for the refiner's total production of refined copper during the period January 1, 1963, through June 30, 1965.

(iii) Each license application shall (a) identify the foreign consumer in the manner set forth in paragraph (a) (2) (iii) of this section; and (b) for an export to the Republic of Vietnam, regardless of value, be supported by a Single Transaction Statement (Form FC-842), endorsed by the designated representative of the U.S. Agency for International Development Mission, Saigon, as set forth in paragraph (a) (2) (iv) of this section.

(4) *Certification regarding U.S. National Stockpile origin.* Except in unusual circumstances, an application for a license to export refined copper supplied from the U.S. National Stockpile will be denied. Therefore, each license application shall specify whether it covers refined copper supplied from the U.S. National Stockpile. This information shall be entered in the "Additional Information" space or on an attachment, as follows:

(i) If the application covers copper not supplied from the U.S. National Stockpile, enter the following certification:

I (We) certify that the refined copper described in this application has not been, and will not be, supplied from the U.S. National Stockpile.

(ii) If the application covers copper supplied from the U.S. National Stockpile, so indicate.

(iii) If the applicant does not know, or is unable to determine, whether the refined copper has been, or will be, supplied from the U.S. National Stockpile, so indicate and include the reason(s) why this information is not available.

(d) *Copper-base alloy ingots—(1) Scope.* As used in this § 377.3(d) the term "copper-base alloy ingots," means any ingots composed essentially of copper

with one or more other metals; for example, beryllium copper ingots, devarda alloy ingots, guinea alloy ingots, ounce metal ingots, etc. (Export Control Commodity No. 68212).

(2) *Licensing method.* Copper-base alloy ingots will be licensed for export under the Past Participation in Exports licensing method (see § 377.2). To qualify as a historical exporter, an exporter shall submit a statement setting forth the quantity (in copper content pounds) and total dollar value exported by the applicant during the base period January 1, 1963, through June 30, 1965. Each license application shall: (i) Identify the foreign consumer in the manner set forth in paragraph (a) (2) (iii) of this section; and (ii) for an export to the Republic of Vietnam, regardless of value, be supported by a Single Transaction Statement (Form FC-842) endorsed by the designated representative of the U.S. AID Mission, Saigon, as set forth in paragraph (a) (2) (iv) of this section.

(e) *Semifabricated copper products and master alloys of copper—*(1) *Scope.* As used in this § 377.3(e), the term "semifabricated copper products and master alloys of copper" includes:

Export Control Commodity Number and Commodity Description

51470	Master alloys of copper containing 8 percent or more phosphor.
68213	Master alloys of copper.
68221	Bars, rods, angles, shapes, sections, and wire of copper or copper-base alloy.
68222	Plates, sheets, and strips (including perforated) of copper or copper-base alloy.
68223	Copper foil.
68224	Copper or copper alloy powders and flakes.
68225	Tubes, pipes, and blanks therefor, and hollow bars of copper or copper-base alloy.
68892	Copper or copper-base alloy castings and forgings.
72310	Wire and cable coated with or insulated with fluorocarbon polymers or copolymers.
72310	Communications cable, as follows: (a) Submarine cable; (b) coaxial cable using a mineral insulator dielectric; or (c) coaxial cable using a dielectric aired by discs, beads, spiral screw, or any other means.
72310	Other communications or coaxial cable.
72310	Other copper or copper-base alloy insulated wire and cable.

(2) *Shipments under military and AID contracts.* Applications for licenses to export any of the above commodities under U.S. military contracts or under contracts financed by the U.S. Agency for International Development (AID), will be considered for licensing without a charge against the copper export quota. Such applications shall include:

(i) A statement that the commodities and quantities described on the application are being shipped pursuant to a U.S. military or AID contract;

(ii) The contract number and date of contract;

(iii) If the shipment is being made pursuant to a U.S. military contract, (a) the branch of the military service executing the contract, and (b) the DO-DX defense priority rating; and

(iv) For an export to the Republic of Vietnam, regardless of value, a Single Transaction Statement (Form FC-842) endorsed by the designated representative of the U.S. AID Mission, Saigon, as set forth in paragraph (a) (2) (iv) of this section.

(3) *Other shipments.* Applications for licenses to export any of these commodities which will not be shipped under U.S. military or AID contracts, generally will be licensed under the Past Participation in Exports licensing method (see § 377.2). A sizable portion of the quota will be reserved for historical and nonhistorical exporters to meet essential export requirements that cannot be satisfied under the Past Participation in Exports method. The Office of Export Control will announce at the beginning of each licensing period the percentage of the quota to be licensed under the Past Participation in Exports method and the percentage to be reserved for essential export requirements. To qualify as a historical exporter, an exporter shall submit a statement setting forth the quantity (in copper content pounds) and total dollar value that he exported during the base period of January 1, 1964, through December 31, 1965, in each of the following categories:

(i) The quantity shipped under U.S. military contracts;

(ii) The quantity shipped under contracts financed by AID; and

(iii) The quantity of other shipments.

If the exporter did not make any shipments during the base period under U.S. military or AID contracts, he shall so indicate. For an export to the Republic of Vietnam, regardless of value, the license application shall be supported by a Single Transaction Statement (Form FC-842) endorsed by the designated representative of the U.S. AID Mission, Saigon, as set forth in paragraph (a) (2) (iv) of this section.

§ 377.4 Nickel products.¹

(a) *Licensing policy.* Except as set forth in paragraph (b) of this section,

¹ Section 376.4 of this subchapter contains additional special requirements regarding applications for licenses to export nickel commodities.

it is the policy of the Office of Export Control not to approve applications for licenses to export the following commodities:

<i>Export Control Commodity Number and Commodity Description</i>	
28200	Iron and steel scrap containing more than 5 percent nickel by weight, including scrap melted into crude forms.
28401	Nickel bearing residues and dross containing more than 20 percent nickel by weight.
28403	Nickel or nickel alloy waste and scrap.
67150	Ferronickel containing 90 percent or less nickel.
68310	Nickel or nickel alloys, unwrought, except nickel based magnetic materials containing 20 percent or less nickel by weight.
68324	Nickel or nickel alloy electroplating anodes.

(b) *Exceptions to licensing policy.* Export license applications covering commodities listed above may be considered for approval if, for technological or economic reasons, the commodities cannot be processed in the United States.

(1) If the commodities cannot be processed in the United States for technological reasons, the application shall include:

(i) A statement describing the commodities, with an analysis of the metal content, and an explanation of the difficulty in processing them in the United States;

(ii) The following certification:

I (we) certify that, to my (our) best knowledge and belief, the commodities described on this application cannot be commercially processed in the United States;

and

(iii) A copy of correspondence with one or more recognized U.S. nickel processors confirming that the commodities described in the application cannot be commercially processed in the United States.

(2) If the commodities cannot be processed in the United States for economic reasons, the applicant shall show that failure to export the commodities will subject him to a definite economic hardship in the form of a substantial financial liability. A mere decrease in an expected profit does not impose a financial liability and does not constitute an economic hardship within the meaning of these provisions. To establish an economic hardship, an applicant shall submit in support of his license application a copy of his sales contract with the foreign purchaser. In addition, he shall disclose the date he purchased the commodities, the price he paid for them, the current U.S. market price, and any other facts in evidence of his potential economic hardship.

Supplement No. 1—Commodities Subject to Short Supply Quota Controls

Export control commodity No.	Commodity description	Export control regulations reference	Submission dates for license applications (no later than date shown below)	
			Nonhistorical applicants	Historical applicants
28200	Iron and steel scrap containing 20 percent (by weight) or more copper, including scrap melted into crude forms.	§ 377.3(b)	Feb. 13, 1970	June 1, 1970.
28311	Copper ores and concentrates	§ 377.3(a)	Any time	Any time.
28312	Copper matte	§ 377.3(a)	do	Do.
28401	Copper metalliferous ash and residues	§ 377.3(b)	Feb. 13, 1970.	June 1, 1970.
28402	Copper or copper-base alloy waste and scrap, including copper-base alloy waste and scrap of less than 40 percent copper content where copper is the component of chief weight.	§ 377.3(b)	do	Do.
28403	Nickel alloy waste and scrap containing 50 percent or more copper irrespective of nickel content.	§ 377.3(b)	do	Do.
51470	Master alloys of copper containing 8 percent or more phosphor	§ 377.3(e)	Any time	Any time.
68211	Bilayer copper and other unrefined copper	§ 377.3(a)	do	Do.
68212	Refined copper of domestic origin, including remelted, in cathodes, billets, ingots (except copper-base alloy ingots), wire bars and other crude forms other than (a) refined copper fragments (made by chopping, shredding, or otherwise fragmenting copper wire, tubing, etc.) and (b) unwrought forms of refined copper derived from such copper fragments.	§ 377.3(c)	Feb. 13, 1970.	June 1, 1970.
68212	Copper-base alloy ingots composed essentially of copper with one or more other metals, for example: beryllium copper ingots, devaria alloy ingots, guinea alloy ingots, ounce metal ingots, etc.	§ 377.3(c)	do	Do.
68212	Refined copper fragments (made by chopping, shredding, or otherwise fragmenting copper wire, tubing, etc.) and unwrought forms of refined copper derived from such fragments.	§ 377.3(b)	do	Do.
68213	Master alloys of copper	§ 377.3(d)	Any time	Any time.
68221	Bars, rods, angles, shapes, sections, and wire of copper or copper-base alloy.	§ 377.3(e)	do	Do.
68222	Plates, sheets, and strips (including perforated) of copper or copper-base alloy.	§ 377.3(e)	do	Do.
68223	Copper foil	§ 377.3(e)	do	Do.
68224	Copper or copper alloy powders and flakes	§ 377.3(e)	do	Do.
68225	Tubes, pipes, and blanks therefor, and hollow bars of copper or copper-base alloy.	§ 377.3(e)	do	Do.
69802	Copper or copper-base alloy castings and forgings	§ 377.3(e)	do	Do.
72310	Wire and cable coated with or insulated with fluorocarbon polymers or copolymers.	§ 377.3(e)	do	Do.
72310	Communications cable, as follows: (a) submarine cable; (b) coaxial cable using a mineral insulator dielectric; or (c) coaxial cable using a dielectric aired by discs, beads, spiral screw, or any other means.	§ 377.3(e)	do	Do.
72310	Other communications or coaxial cable.	§ 377.3(e)	do	Do.
72310	Other copper or copper-base alloy insulated wire and cable.	§ 377.3(e)	do	Do.

PART 378—SPECIAL NUCLEAR CONTROLS

- Sec.
- 378.1 Validated export license requirement.
- 378.2 Advice of manufacturer.
- 378.3 Preparing application.
- 378.4 Effect of other provisions.

Supplement No. 1—Countries adhering to the Limited Nuclear Test Ban Treaty.

AUTHORITY: The provisions of this Part 378 issued under sec. 3, 63 Stat. 7; 50 U.S.C. App. 2023; E.O. 10945, 26 F.R. 4487, 3 CFR 1959-1963 Comp.; E.O. 11038, 27 F.R. 7003, 3 CFR 1959-1963 Comp.

§ 378.1 Validated export license requirement.

A validated license is required for the export to all destinations, including Canada, of the following commodities:

¹ Commodities and technical data specifically designed or specifically modified for use in designing, developing, or fabricating nuclear weapons or nuclear explosive devices are subject to export licensing or other requirements of the Office of Munitions Control, U.S. Department of State, or the licensing or other restrictions specified in the Atomic Energy Commission Act of 1954, as amended. Similarly, commodities and technical data specifically designed or specifically modified for use in devising, carrying out, or evaluating nuclear weapons tests or nuclear explosions (except such items as are in

(a) Any commodity which has not been specifically designed or specifically modified for use in designing, developing, or fabricating nuclear weapons or nuclear explosive devices, but which the exporter knows, or has reason to believe, will be used for one or more of these purposes.

(b) Any commodity which has not been specifically designed or specifically modified for use in devising, carrying out, or evaluating nuclear weapons tests or nuclear explosions, but which the exporter knows or has reason to believe will be used for one or more of these purposes.

(c) Any commodity which is in normal commercial use for other purposes but which has been specifically designed or specifically modified for use in devising, carrying out, or evaluating nuclear weapons tests or nuclear explosions, if the intermediate or ultimate destination is subject to the jurisdiction of any country which, at the time of export, is not an adherent to the "Treaty Banning

normal commercial use for other purposes) are subject to the same requirements.

² Also see § 379.5(e) of this subchapter for special provisions relating to technical data for maritime nuclear propulsion plants and other commodities.

Nuclear Weapons Tests in the Atmosphere, Outer Space, and Under Water," which was signed at Moscow, U.S.S.R., on August 5, 1963. This Treaty is more commonly known as the "Limited Nuclear Test Ban Treaty," and the countries adhering thereto are listed in Supplement No. 1 to this Part 378. The provisions of this § 378.1 do not apply to exports of any commodities described in this § 378.1(c) if the exporter knows they will not be used in devising, carrying out, or evaluating nuclear weapons tests or nuclear explosions.

§ 378.2 Advice of manufacturer.

An exporter who knows the commodities he intends to ship are capable of the uses described above but is not the manufacturer of the commodities and is not sure whether a validated license is required, shall request a written statement from the manufacturer as to whether such manufacturer knows or has reason to believe that the intended export requires a validated export license under the provisions of § 378.1. If the manufacturer believes a validated export license is required, the exporter shall then apply for such license. The exporter shall retain a copy of his letter of inquiry and the manufacturer's reply and make them available for inspection upon demand by the U.S. Department of Commerce, for 3 years in accordance with the recordkeeping requirements of § 382.11 of this subchapter.

§ 378.3 Preparing application.

An application for a license to export commodities subject to the provisions of § 378.1 shall be prepared and submitted on Form FC-419, Application for Export License, with Form FC-420, Application Processing Card,³ attached in accordance with the instructions set forth in § 372.5 of this subchapter with the following modifications:

(a) *Identification of license application.* Enter the words "Nuclear Controls" across the top of the Form FC-419, immediately above the printed words "United States of America";

(b) *Ultimate consignee.* If the ultimate consignee is not also the end user of the commodities, give the name and address of the end user in the "Commodity Description" space of the application or on an attachment thereto, and if known, the specific geographic locations of any installations, establishments, or sites at which the commodities will be used;

(c) *Supplier.* If the applicant is not also the manufacturer of the commodities indicate on the application, in the space entitled "Commodity Description" or on an attachment, whether the advice of the manufacturer has been received regarding the necessity of a validated license;

³ Forms FC-419 and FC-420 may be obtained at all U.S. Department of Commerce Field Offices (see list on page 1 of Field Offices Addresses) and from the Office of Export Control (Attention: 852), U.S. Department of Commerce, Washington, D.C. 20230.

(d) *Commodity description.* If applicable, include a description of any specific features of design or specific modifications which make the commodity capable of the uses described in § 378.1;

(e) *End-use.* Include in the description of the end-use, the specific end-use(s) the commodities will have in designing, developing, fabricating, or testing nuclear weapons or nuclear explosive devices as described in § 378.1. Fully explain the basis for the knowledge or belief that the commodities are intended for the purpose(s) described.

§ 378.4 Effect of other provisions.

If, at the time of export, a validated license is also required under other provisions of the Export Control Regulations, the application shall be submitted in accordance with the provisions of this part as well as other applicable provisions. The requirements of this part are applicable in addition to, rather than in lieu of, any other validated license requirement set forth in the Export Control Regulations. Insofar as consistent with the provisions of this part, all of the other provisions of the Export Control Regulations shall apply equally to applications for licenses and licenses issued under these special provisions.

Supplement No. 1—Countries Adhering to the Limited Nuclear Test Ban Treaty

For purposes of the Export Control Regulations a country will be treated as an adherent to the Limited Nuclear Test Ban Treaty if it has deposited with the U.S. Department of State in Washington, D.C., an instrument of ratification or accession to that Treaty (or an unrestricted notification that it considers itself bound by the ratification or accession of a predecessor government). The following countries are adherents to the Limited Nuclear Test Ban Treaty:

Afghanistan.	Hungary.
Australia.	Iceland.
Austria.	India.
Belgium.	Indonesia.
Bolivia.	Iran.
Botswana.	Iraq.
Brazil.	Ireland.
Bulgaria.	Israel.
Burma.	Italy.
Canada.	Ivory Coast.
Central African Republic.	Japan.
Ceylon.	Jordan.
Chad.	Kenya.
China, Republic of.	Korea, Republic of.
Congo, Democratic Republic of the.	Kuwait.
Costa Rica.	Laos.
Cyprus.	Lebanon.
Czechoslovakia.	Liberia.
Dahomey.	Luxembourg.
Denmark.	Malagasy Republic.
Dominican Republic.	Malawi.
Ecuador.	Malaysia.
El Salvador.	Malta.
Finland.	Mauritania.
Gambia.	Mexico.
Gabon.	Morocco.
West Germany (Federal Republic of Germany).	Nepal.
Ghana.	Netherlands (including Surinam and Netherlands Antilles).
Greece.	New Zealand.
Guatemala.	Nicaragua.
Honduras.	Niger.

Nigeria.
Federation of.
Norway.
Panama.
Peru.
Philippines.
Poland.
Romania.
Rwanda.
San Marino.
Senegal.
Sierra Leone.
Singapore.
Republic of.
South Africa.
Republic of.
Spain.
Sudan.
Sweden.
Switzerland.

Syrian Arab Republic.
Thailand.
Togo.
Trinidad and Tobago.
Tunisia.
Turkey.
Uganda.
Union of Soviet Socialist Republics.
United Arab Republic.
United Kingdom.
United States.
Venezuela.
Western Samoa.
Yugoslavia.
Zambia.

PART 379—TECHNICAL DATA

Sec.	Definitions.
379.1	Definitions.
379.2	Licenses to export.
379.3	General License GTDA: Technical data available to all destinations.
379.4	General License GTDR: Technical data under restriction.
379.5	Validated license applications.
379.6	Exports under a validated license.
379.7	Amendments.
379.8	Reexports of technical data and exports of the product manufactured abroad by use of United States technical data.
379.9	Other applicable provisions.

AUTHORITY: The provisions of this Part 379 issued under sec. 3, 63 Stat. 7; 50 U.S.C. App. 2023; E.O. 10945, 26 F.R. 4487, 3 CFR 1959-1963 Comp.; E.O. 11038, 27 F.R. 7003, 3 CFR 1959-1963 Comp.

§ 379.1 Definitions.¹

(a) *Technical data.*² "Technical data" means information of any kind that can be used, or adapted for use, in the design, production, manufacture, utilization, or reconstruction of articles or materials. The data may take a tangible form, such as a model,³ prototype, blueprint, or an operating manual; or they may take an intangible form such as technical service.

(b) *Export of technical data.*⁴—(1) *Export of technical data.* "Export of

¹ See § 370.2 of this subchapter for definitions of other terms used in this regulation.

² The provisions of this Part 379 do not apply to "classified" technical data, i.e. technical data which have been officially assigned a security classification (e.g. "top secret," "secret," or "confidential") by an officer or agency of the U.S. Government. The export of classified technical data is controlled by the Office of Munitions Control of the U.S. Department of State or the U.S. Atomic Energy Commission, Washington, D.C.

³ Models and prototypes are controlled both as technical data and as commodities. The more restrictive Office of Export Control requirements apply to their export. See Part 399 for the commodity controls.

⁴ License applications for, or questions about, the export of technical data relating to commodities which are licensed by U.S. Government agencies other than the U.S. Department of Commerce shall be referred to such other appropriate U.S. Government agency for consideration (see § 370.10 of this subchapter).

⁵ Patent attorneys and others are advised to consult the U.S. Patent Office, U.S. Depart-

ment of Commerce, Washington, D.C. 20231, regarding the U.S. Patent Office regulations concerning the filing of patent applications or amendments in foreign countries. In addition to the regulations issued by the U.S. Patent Office, technical data contained in or related to inventions made in foreign countries or in the United States, are also subject to the U.S. Department of Commerce regulations covering the export of technical data, in the same manner as the export of other types of technical data.

(2) *Release of technical data.* Technical data may be released for export through:

(i) Visual inspection by foreign nationals of U.S.-origin equipment and facilities;

(ii) Oral exchanges of information in the United States or abroad; and

(iii) The application to situations abroad of personal knowledge or technical experience acquired in the United States.

(c) *Reexport of technical data.* "Re-export of technical data" means an actual shipment or transmission from one foreign country to another, or any release of technical data of U.S. origin in a foreign country with the knowledge or intent that the data will be shipped or transmitted to another foreign country. Technical data may be released for re-export through:

(1) Visual inspection of U.S.-origin equipment and facilities abroad;

(2) Oral exchanges of information abroad; and

(3) The application to situations abroad of personal knowledge or technical experience acquired in the United States.

§ 379.2 Licenses to export.

Except as provided in § 370.3 (a) of this subchapter, an export of technical data must be made under either a U.S. Department of Commerce general license or a validated export license. (See §§ 371.1 and 372.2 of this subchapter for definitions of "general" and "validated" licenses.) General Licenses GTDA and GTDR (see §§ 379.3 and 379.4) apply to specific types of exports of technical data. A validated license is required for any export of technical data where these general licenses do not apply, except in the case of certain exports to Canada.⁵

ment of Commerce, Washington, D.C. 20231, regarding the U.S. Patent Office regulations concerning the filing of patent applications or amendments in foreign countries. In addition to the regulations issued by the U.S. Patent Office, technical data contained in or related to inventions made in foreign countries or in the United States, are also subject to the U.S. Department of Commerce regulations covering the export of technical data, in the same manner as the export of other types of technical data.

⁵ As used in this Part 379, the United States includes its possessions and territories.

⁶ Only the restriction set forth in § 379.4 (c) apply to exports of technical data for use in Canada. In all other cases, an export of technical data for use in Canada may be made without either a validated or a general license.

⁷ Although the Office of Export Control may provide general information or licensing policies regarding the prospects of approval of

§ 379.3 General License GTDA: Technical data available to all destinations.

A General License designated GTDA is hereby established authorizing the export to all destinations of technical data described in paragraph (a), (b), or (c) of this section:

(a) *Data generally available.* Data that have been made generally available to the public in any form, including: (1) data released orally or visually at open conferences, lectures, trade shows, or other media open to the public; and (2) publications that may be purchased without restrictions at a nominal cost or obtained without cost or are readily available at libraries open to the public. The term "nominal cost" as used in subparagraph (2) of this paragraph is intended to reflect realistically only the cost of preparing and distributing the publication and not the intrinsic value of the technical data. If the cost is such as to prevent the technical data from being generally available to the public, General License GTDA would not be applicable.

(b) *Scientific or educational data.* (1) Dissemination of information not directly and significantly related to design, production, or utilization in industrial processes, including such dissemination by correspondence, attendance at, or participation in, meetings; or

(2) Instruction in academic institutions and academic laboratories, excluding information that involves research under contract related directly and significantly to design, production, or utilization in industrial processes.

(c) *Patent applications.* (1) Data contained in a patent application prepared wholly from foreign origin technical data where such application is being sent to the foreign inventor to be executed and returned to the United States for subsequent filing in the U.S. Patent Office; or

(2) Data contained in an application, filed in accordance with the regulations of the U.S. Patent Office, for the foreign filing of a patent application, provided that (i) the patent application has been filed abroad in an "early publication country,"¹ or (ii) the U.S. Patent Office

various types of export control actions, including actions with respect to technical data, normally it will give a formal judgment respecting a specific request for an action only upon the actual submission of a formal application or request setting forth all of the facts relevant to the export transaction and supported by all required documentation.

Advice is always available, however, regarding any questions as to the applicability of a general license. Such questions should be submitted by letter to the U.S. Department of Commerce, Office of Export Control (Attention: 866), Washington, D.C. 20230.

¹The term "early publication country" used in this sentence and in this context only refers to Belgium, Costa Rica, Denmark, Ecuador, Finland, France, Honduras, Iceland, Jamaica, Luxembourg, Netherlands, Nicaragua, Norway, Panama, Portugal, Sweden, Trinidad, Turkey, Republic of South Africa, Uruguay, Venezuela, and West Germany (Federal Republic of Germany).

has issued a notice that the patent has been scheduled for printing and publication in the U.S. Patent Office Official Gazette.

§ 379.4 General License GTDR: Technical data under restriction.

A general license designated GTDR is hereby established authorizing the export of technical data that are not exportable under the provisions of General License GTDA, subject to the provisions, restrictions, exclusions, and exceptions set forth below and subject to the written assurance requirement set forth in paragraph (e) of this section.

(a) *Country Group S and Z restrictions.* No technical data may be exported under this general license to Country Group S or Z.

(b) *Country Group W and Y restrictions.* No technical data may be exported under this general license to Country Group W or Y, except:

(1) Data in such forms as manuals, instruction sheets, or blueprints, provided they are:

(i) Sent as part of a transaction involving, and directly related to, a commodity licensed for export from the United States, or specifically authorized for reexport, to the same consignee and destination to which the commodity was or will be exported;

(ii) Sent no later than 1 year following the shipment of the commodity to which the technical data are related;

(iii) Of a type delivered with the commodity in accordance with established business practice;

(iv) Necessary to the assembly, installation, maintenance, repair, or operation of the commodity; and

(v) Not related to the production, manufacture, or construction of the commodity.

(2) Technical data supporting a prospective or actual quotation, bid, or offer to sell, lease, or otherwise supply any commodity, plant, service or technical data: *Provided, That:*

(i) The commodity, plant, service or technical data, are not (and are not related to) a commodity identified on the Commodity Control List by the symbol "A" or shown on the U.S. Munitions List;

(ii) The technical data are of a type customarily transmitted with a prospective or actual quotation, bid, or offer (in accordance with established business practice); and

(iii) The export will not disclose the detailed design, production, or manufacture, or the means of reconstruction, of either the quoted item or its product. Similarly, a quotation, bid, or offer for technical data or services must not disclose the detailed technical process involved.

NOTE: Neither this authorization nor its use means that the U.S. Government intends, or is committed, to approve an export license application for any commodity, plant, technical data, or service that may be the subject of the transaction to which such quotation,

bid, or offer relates. Exporters are advised to include in any quotations, bids, or offers, and in any contracts entered into pursuant to such quotations, bids, or offers, a provision relieving themselves of liability in the event that an export license (when required) is not approved by the Office of Export Control.

(c) *Technical data restrictions applicable to all destinations.* No technical data¹ (including operating and maintenance instructional material) related to the following may be exported under this general license, and exports of technical data to all destinations, including Canada, require a validated export license:

(1) Commodities to be used for developing or testing nuclear weapons or nuclear explosive devices as described in § 378.1 of this subchapter;

(2) Maritime (civil) nuclear propulsion plants, their land prototypes, and special facilities for their construction, support, or maintenance, including any machine, device, component, or equipment specifically developed or designed for use in such plants or facilities;

(3) Neutron generators employing the electrostatic acceleration of ions and specially designed parts and accessories for neutron generators; and

(4) Porous nickel.

(d) *Restrictions applicable to all destinations except Canada.* No technical data relating to the following commodities other than data described in paragraph (b) of this section,² may be exported under this general License GTDR, and exports of these technical data to all destinations, except Canada,³ require a validated export license:

(1) Civil aircraft, civil aircraft equipment, parts, accessories, or components;

(2) Electrical and electronic instruments, Export Control Commodity Nos. 72952 and 72999, specially designed for testing or calibrating the airborne direction finding, navigational, and radar equipment described in Export Control Commodity Nos. 72499 and 72952;

(3) Airborne electronic transmitters, receivers, and transceivers, Export Control Commodity No. 72499;

(4) Airborne electronic direction finding equipment, Export Control Commodity No. 72499;

(5) Airborne electronic navigation and radar equipment, Export Control Commodity Nos. 72499 and 72952;

¹This restriction does not apply to data included in the foreign filing of a patent provided such foreign filing of a patent application is in accordance with the regulations of the U.S. Patent Office.

²Data included in the foreign filing of a patent is also excluded from the restrictions set forth in this § 379.4(d) if such foreign filing of a patent application is in accordance with the regulations of the U.S. Patent Office.

³Only the restrictions set forth in § 372.4(c), apply to exports of technical data for use in Canada. In all other cases, an export of technical data for use in Canada may be made without either a validated or a general license. For reexport provisions applicable to Canada and other countries, see § 379.8 (b) and (c).

(6) Watercraft of hydrofoil and hovercraft (air bubble) design (Export Control Commodity No. 73550);¹

(7) Submersible watercraft other than military or naval types;² and

(8) Any other commodity under the export control jurisdiction of the Office of Export Control, if such commodity is not covered by an entry on the Commodity Control List.

(e) *Written assurance requirements—*

(1) *Requirement of written assurance for certain data, services, and materials.* No export of technical data of the kind described in subdivisions (i), (ii), and (iii) of this subparagraph may be made under the provisions of this General License GTDR until the exporter has received written assurance from the importer that neither the technical data nor the direct product³ thereof is intended to be shipped, either directly, or indirectly, to Country Group W, Y, or Z except as provided in subdivision (iv) of this subparagraph. The required assurance may be in the form of a letter or other written communication from the importer evidencing such intention, or a licensing agreement which restricts disclosure of the technical data to use only in a country other than Country Group W, Y, or Z, and prohibits shipment of the direct product³ thereof by the licensee to Country Group W, Y, or Z. An assurance included in a licensing agreement will be acceptable for all exports made during the life of the agreement. If such assurance is not received, this general license is not applicable and a validated export license is required. An application for such validated license shall include an explanatory statement setting forth the

reasons why such assurance cannot be obtained. In addition, this general license is not applicable to any export of technical data of the kind described in subdivisions (i), (ii), and (iii) of this subparagraph if, at the time of export of the technical data from the United States, the exporter knows or has reason to believe that the direct product to be manufactured abroad by use of the technical data is intended to be exported or re-exported directly or indirectly to Country Group W, Y, or Z.

(i) Technical data and services listed in (a) of this subdivision for the plants, processes, and equipment listed in (b) of this subdivision:

(a) Types of technical data and services:

(1) Proprietary research and the results therefrom;

(2) Processes developed pursuant to research (including technology with regard to component equipment items);

(3) Catalyst production, activation, utilization, reactivation, and recovery;

(4) Plant and equipment design and layout to implement the processes; and

(5) Construction and operation of plant and equipment.

(b) Types of plants and processes: The following plants or processes usable in the treatment of petroleum or natural gas fractions or of products derived directly or indirectly therefrom:⁴

Alkylation.

Aromatization.

Cracking.

Dehydrogenation.

Desulfurization.

Halogenation.

Hydrogenation.

Isomerization.

Nitration.

Oxidation.

Oxo process.

Ozonolysis.

Polymerization.

Reduction.

Reforming.

Selective

absorption.

Selective

adsorption.

(ii) Technical data relating to the following commodities usable in processes listed in subdivision (i)(b) of this subparagraph:

Export Control Commodity Number and Commodity Description

71120 Heat exchangers having all flow-contact surfaces made of or lined with any of the materials specified in footnote 1;¹ and specially designed parts and accessories.

71913 Burners for carbon black furnaces, continuous combustion, controlled reaction type; and specially designed parts and attachments.

71914 Carbon black furnaces, continuous combustion, controlled reaction type; and specially designed parts and attachments.

71919 Heat exchangers having all flow-contact surfaces made of or lined with any of the materials specified in footnote 1;¹ and specially designed parts and accessories, n.e.c.

⁴This includes plants, or processes for the production, extraction, and purification of petroleum products, petrochemical products, and products derived therefrom. Examples of petrochemical products include methane, ethane, propane, butane and other aliphatics, as well as olefins, aromatics, naphthenes, and elements and other compounds.

71919 Fractionating columns as follows: (a) Having or having provisions for 25 or more trays, or (b) having all flow-contact surfaces made of or lined with any of the materials specified in footnote 1;¹ and specially designed parts and accessories.

71919 Equipment, n.e.c., specially designed for use in the following units: (a) Solvent processing, (b) fractionating, rectifying and dephlegmatizing, (c) hydrogenation, (d) dehydrogenation, (e) isomerization, (f) polymerization, (g) aromatization, (h) alkylation, (i) desulfurization, (j) thermal or catalytic cracking, reforming or platforming; and specially designed parts and accessories therefor, n.e.c.

71921 Industrial pumps as follows: (a) Specially designed for use in the processing of petroleum, petrochemicals, natural gas, or their fractions; or (b) having all flow-contact surfaces made of or lined with any of the materials specified in footnote 1;¹ and specially designed parts and attachments therefor.

71922 Axial flow, mixed flow, and centrifugal air and gas compressors as follows: (a) capable of receiving a power input of 500 horsepower or greater and specially designed for use in the processing of petroleum, petrochemicals, natural gas, or their fractions; or (b) having all flow-contact surfaces made of or lined with any of the materials specified in footnote 1;¹ and specially designed parts and accessories, n.e.c.

71922 Stationary positive displacement air and gas compressors, reciprocating, as follows: (a) Capable of receiving a power input of 500 horsepower or greater and specially designed for use in the processing of petroleum, petrochemicals, natural gas or their fractions; or (b) over 125 horsepower, having all flow-contact surfaces made of or lined with any of the materials specified in footnote 1;¹ and specially designed parts and accessories, n.e.c.

71923 Separators and collectors, industrial process types, n.e.c., having all flow-contact surfaces made of or lined with any of the materials specified in footnote 1;¹ and specially designed parts and accessories, n.e.c.

71980 Mixing and blending machines having all flow-contact surfaces made of or lined with any of the materials specified in footnote 1;¹ and specially designed parts and accessories, n.e.c.

71980 Fractionating columns as follows: (a) Having, or having provisions for 25 or more trays, or (b) having all flow-contact surfaces made of or lined with any of the materials specified in footnote 1;¹ and specially designed parts and accessories, n.e.c.

71980 Other processing vessels, non-mixing, n.e.c., having all flow-contact surfaces made of or lined with any of the materials specified in footnote 1;¹ and specially designed parts and accessories, n.e.c.

71980 Pulsation dampeners having all flow-contact surfaces made of or lined with any of the materials specified in footnote 1;¹ and specially designed parts and accessories, n.e.c.

¹ This commodity is not listed on the Commodity Control List since it is under the export control jurisdiction of the U.S. Maritime Administration. However, technical data relating to this commodity is under the export control jurisdiction of the Office of Export Control.

² Technical data relating to military or naval submersible watercraft are subject to the export licensing authority of the U.S. Department of State.

³ The term "direct product" used in this sentence and in this context only is defined to mean the immediate product (including processes and services) produced directly by use of the technical data, except that petroleum or chemical products other than molecular sieves or catalysts are not included in this definition. The coverage of the term does not extend to the results of the use of such "direct product." An example of the direct product of technical data is reforming process equipment designed and constructed by use of the technical data exported, but the aromatics produced by the reforming process equipment are not immediate or direct products of these technical data. However, if the technical data are a formula for producing aromatics, the aromatics, although they are immediate products of the data, are not included in this definition of direct product, since they are petroleum products. Conversely, if the technical data are a formula for producing either molecular sieves or catalysts, the foreign-produced molecular sieves and catalysts are included in the definition of direct product.

71992 Pipe valves as follows: (a) specially designed for use in the processing of petroleum, petrochemicals, natural gas or their fractions; or (b) having all flow-contact surfaces made of or lined with any of the materials specified in footnote 1;¹ and specially designed parts and accessories, n.e.c.

(iii) Technical data relating to the following materials and equipment:

(a) Molecular sieves (for example, crystalline calcium aluminosilicate; crystalline sodium aluminosilicate; crystalline alkali metal aluminosilicates, etc.) (Export Control Commodity Nos. 51460, 51470, and 59999);

(b) Pyrolytic graphite (i.e., graphite and doped graphites produced by vapor deposition) in any form (Export Control Commodity No. 66363); semifinished or finished materials or products containing pyrolytic graphite as a standing body, a coating, a lining, or a substrate (Export Control Commodity Nos. 59972, 66363, and 72996);

(c) Electric industrial melting and refining furnaces and metal heat-treating furnaces specially designed for the production or processing of vapor deposited (pyrolytic) graphite or doped graphites whether as standing bodies, coatings, lining or substrates (Export Control Commodity No. 72992);

(d) Cementing equipment; sidewall coring equipment; blowout preventers; fishing tools incorporating integral moving parts, casing cutters, and casing pullers; drilling control and surveying instruments; safety joints; jars, back-off tools, slip or telescopic joints; pipe and casing tongs, power type; percussion or vibratory attachments for rotary drilling; and drawworks and rotary tables designed for an input of 150 hp. and over (Export Control Commodity No. 71842);

(e) Rotary drill rigs incorporating rotary tables and with drawworks designed for an input of 150 hp. and over; and work-over rigs (Export Control Commodity Nos. 71842 and 73203);

(f) Rotary rock drill bits (cone or roller types), and specially designed parts and accessories, n.e.c. (Export Control Commodities Nos. 69524 and 71842);

(g) Gravity meters (gravimeters); and specially designed parts and accessories (Export Control Commodity No. 86191);

(h) Casing head and Christmas-tree assemblies, 2,000 p.s.i. and over, chokes and components; perforating equipment; formation and production testers, and packers; gas lift equipment; bottom

hole pumps; and work-over rigs (Export Control Commodity Nos. 71921, 71980, and 71992);

(i) Well logging instruments and equipment and seismograph equipment except observatory type (Export Control Commodity No. 72952);

(j) Acetal resins (Export Control Commodity No. 58110);

(k) Alpha trioxymethylene (trioxane) (Export Control Commodity No. 51208);

(l) Ion exchange resins as follows: (1) Copolymers of styrene and divinyl benzene in which the predominant functional groups are either quaternary ammonium derivatives (basic type), or the sulfonic radical (acidic type), (2) mixed bed formulations consisting principally of resins specified in (1) of this (l) above, (3) ion exchange membranes (all types), and (4) ion exchange liquids (Export Control Commodity Nos. 58110 and 58120);

(m) Rhenium in all forms: Concentrates, oxides and compounds, metal and alloys, and metal powders (Export Control Commodity Nos. 28398, 51369, 51470, 68950, and 69899);

(n) Filament winding machines designed for or modified for the manufacture or rigid structural forms by precisely controlled tensioning and positioning of filament yarns, tapes, or rovings; and specially designed parts, controls, and accessories, n.e.c. (Export Control Commodity No. 71980);

(o) Alumina, all types, 99 percent purity and over (Export Control Commodity No. 51365);

(p) Silicon carbide, all types, 99 percent purity and over (Export Control Commodity No. 51470);

(q) Phosphor compounds specially prepared for lasers, including but not limited to: neodymium-doped calcium tungstate, dysprosium-doped calcium fluoride, eu-trifluoroethenyl acetate, praseodymium-doped lanthanum trifluoride (Export Control Commodity No. 53310);

(r) Voltmeters, with full scale sensitivity of 10 nanovolts or less (Export Control Commodity No. 72952);

(s) Hot or cold isostatic presses; and specially designed parts and accessories (Export Control Commodity No. 71980);

(t) Trimellitic acid and anhydrides; and pyromellitic acid and its dianhydrides (Export Control Commodity No. 51202);

(u) Polyimide-polyamide resins and products made therefrom (Export Control Commodity Nos. 53332, 58120, 59958, 66311, and 89300);

(v) Bonded, brazed, or welded structural sandwich constructions, including cores, face sheets, and attachment materials, manufactured in whole or in part from precipitation hardened stainless steel, beryllium, molybdenum, niobium (columbium), tantalum, titanium, tungsten, and their alloys, or any combination of such materials (Export Control Commodity Nos. 69110 and 69899);

(w) Silica, quartz, carbon, or graphite fibers in all forms (for example, chopped or macerated; filaments, yarns, rovings, and unwoven tapes for winding or weav-

ing purposes; woven fabrics and tapes; non-woven mats and felts); and compounds or compositions (composites) thereof with laminating resins in crude and semifabricated forms, including molding compositions and molded shapes (Export Control Commodity Nos. 58110, 58120, 59972, 65180, 65380, 65543, 66363, 66494, 72996, and 89300);

(x) Nonflexible fused fiber optic plates or bundles in which the fiber pitch (center to center spacing) is less than 30 microns, and devices containing such plates or bundles (Export Control Commodity Nos. 66420, 66492, 66494, 72930, 86111, 86112, and 89300);

(y) Transonic (Mach 0.8 to 1.4), supersonic (Mach 1.4 to 5.5), hypersonic (Mach 5.5 to 15), and hypervelocity (above Mach 15) wind tunnels and devices (including hotshot tunnels, plasma arc tunnels, shock tunnels, gas tunnels, shock tubes, and light gas guns) for simulating environments at Mach 0.8 and above; and specially designed parts and accessories, n.e.c. (Export Control Commodity Nos. 71980, 72952, 86182, 86191, 86193, 86195, 86196, 86197, 86198, and 86199);

(z) Off-shore drilling platforms (except fixed, nonfloating types); specially designed parts and components (Export Control Commodity No. 73593);¹ and

(aa) Watercraft of 65 feet and over in overall length, designed to include motors or engines of 600 horsepower or over and greater than 45 displacement tons (Export Control Commodity No. 73550).¹

(bb) Methyl methacrylate, cross-linked, hot stretched, clear, film, sheeting, or laminates (Export Control Commodity No. 58120).

(iv) The limitations set forth in this paragraph (e)(1) do not apply to the export of:

(a) Technical data included in an application for the foreign filing of a patent provided such foreign filing of a patent application is in accordance with the regulations of the U.S. Patent Office; and

(b) Technical data supporting a price quotation as described in paragraph (b)(2) of this section.

(2) *Requirement of written assurance for certain additional products and destinations.* (1) Except for technical data requiring a written assurance in accordance with the provisions of subparagraph (1) of this paragraph, and except as provided in subdivision (v) of this subparagraph; no export of technical data relating to the commodities described below in this § 379.4(e)(2) may be made under the provisions of this General License GTDR, until the U.S. exporter has received a written assurance from the foreign importer that, unless prior authorization is obtained from the Office of Export Control, the importer will not knowingly:

¹ This commodity is not listed on the Commodity Control List since it is under the export control jurisdiction of the U.S. Maritime Administration. However, technical data relating to this commodity is under the export control jurisdiction of the Office of Export Control.

¹ The materials applicable to the flow-contact surfaces of this equipment are: (a) 90 percent or more tantalum, titanium, or zirconium either separately or combined, (b) 50 percent or more cobalt, molybdenum, nickel or tungsten either separately or combined, (c) 13 percent or more silicon, (d) steel alloys containing any combination of chromium, with either or both molybdenum or tungsten in which the sum of the alloying elements exceeds 3 percent of the total, (e) 2.5 percent or more nickel, (f) fluoro and/or silico resins, (g) glass (acid-, heat-, or shock-resistant), (h) ceramics, (i) carbon, (j) graphite, or (k) acid/heat resistant cement.

(a) Reexport, directly or indirectly, to Country Group W, Y, or Z, any technical data relating to commodities identified by the symbol "W" in the column of the Commodity Control List indicating the country groups for which a validated license is required;

(b) Export, directly or indirectly, to Country Group Z, any direct product¹ of the technical data if such direct product is identified by the symbol "W" in the column of the Commodity Control List indicating the country groups for which a validated license is required; or

(c) Export, directly or indirectly, to any destination in Country Group W or Y any direct product¹ of the technical data if such direct product is identified by the symbol "A" in the last column of the Commodity Control List.

(i) If the direct product¹ of any technical data is a complete plant or any major component of a plant which is capable of producing a commodity identified by the symbol "W" in the column of the Commodity Control List indicating the country group for which a validated license is required, or appears in the U.S. Munitions List, a written assurance by the person who is or will be in control of the distribution of the products of the plant (whether or not such person is the importer) shall be obtained by the U.S. exporter (via the foreign importer), stating that, unless prior authorization is obtained from the Office of Export Control, such person will not knowingly:

(a) Reexport, directly or indirectly, to Country Group W, Y, or Z the technical data relating to the plant or the major component of a plant;

(b) Export, directly or indirectly, to Country Group Z, the plant or the major component of a plant (depending upon which is the direct product¹ of the technical data) or any product of such plant or of such major component if such product of the plant is identified by the symbol "W" in the column of the Commodity Control List indicating the country groups for which a validated license is required, or appears in the U.S. Munitions List; or

(c) Export, directly or indirectly, to Country Group W or Y, the plant or the major component of a plant (depending upon which is the direct product of the technical data) or any product of such plant or of such major component, if such product is identified by the symbol "A" in the last column of the Commodity Control List, or appears in the U.S. Munitions List.

NOTE: Pursuant to the provisions of Current Export Bulletin 891, effective April 1, 1964, §§ 379.4(e)(2)(i)(b) and (c) required certain written assurances relating to the disposition of the products of a complete plant or major component of a plant which is the direct product of unpublished technical data of U.S. origin exported under General License GTDR.

¹ The term "direct product" used in this sentence and in this context only is defined to mean the immediate product (including processes and services) produced directly by use of the technical data.

Except as to items which are identified in the last column of the Commodity Control List by the symbol "A," and items on the U.S. Munitions List, the effective date of the written assurance requirements for plant products as a condition of using General License GTDR for export of this type of technical data is hereby deferred until further notice, subject to the following limitations:

1. The exporter shall, at least 2 weeks before the initial export of the technical data, notify the Office of Export Control, by letter, of the facts required to be disclosed in an application for a validated export license covering such technical data; and

2. The exporter shall obtain from the person who is or will be in control of the distribution of the products of the plant (whether or not such person is the importer) a written commitment that he will notify the U.S. Government, directly or through the exporter, whenever he enters into negotiations to export any product of the plant to any destination covered by § 379.4(e)(2)(i)(b) above, when such product is not identified by the symbol "A" in the last column of the Commodity Control List and requires a validated license for export to Country Group W by the information set forth in the column titled "Validated License Required for Country Group Shown Below." The notification should state the product, quantity, country of destination, and the estimated date of shipment.

Moreover, during the period of deferment, the remaining written assurance requirement of §§ 379.4(e)(2)(i)(b) and (c) as to plant products which are identified by the symbol "A" in the last column of the Commodity Control List, or are on the U.S. Munitions List, will be waived if the plant is located in one of the following Cocom countries: Belgium, Canada, Denmark, the Federal Republic of Germany, France, Greece, Italy, Japan, Luxembourg, The Netherlands, Norway, Portugal, Turkey, and the United Kingdom.

This deferment applies to exports of technical data pursuant to any type of contract or arrangement, including licensing agreements, regardless of whether entered into before or after April 1, 1964.

(iii) The required assurance may be in the form of a letter or other written communication from the importer or, if applicable, the person in control of the distribution of the products of a plant; or the assurance may be incorporated into a licensing agreement which restricts disclosure of the technical data to use only in authorized destinations, and prohibits shipment of the direct product¹ thereof by the licensee to any unauthorized destination. An assurance included in a licensing agreement will be acceptable for all exports made during the life of the agreement. If such assurance is not received this general license is not applicable and a validated export license is required. An application for such validated license shall include an explanatory statement setting forth the reasons why such assurance cannot be obtained.

(iv) In addition, this general license is not applicable to any export of tech-

¹ The term "direct product" used in this sentence and in this context only is defined to mean the immediate product (including processes and services) produced directly by use of the technical data.

nical data of the kind described in this § 379.4(e)(2) if, at the time of export of the technical data from the United States, the exporter knows or has reason to believe that the direct product¹ to be manufactured abroad by use of the technical data is intended to be exported directly or indirectly to any unauthorized destination.

(v) The limitations set forth in this § 379.4(e)(2) do not apply to the export of:

(a) Technical data included in an application for the foreign filing of a patent provided such foreign filing of a patent application is in accordance with the regulations of the U.S. Patent Office; and

(b) Technical data supporting a price quotation as described in paragraph (b)(2) of this section.

NOTE: A written assurance is not required for the export under this General License GTDR of any technical data which do not fall within the description set forth in § 379.4(e)(1) or (2) or (5) above.

§ 379.5 Validated license applications.

(a) *General.* No technical data, other than that exportable without license to Canada or under general license to other destinations, may be exported from the United States without a validated export license. Such validated export licenses are issued by the Office of Export Control upon receipt of an appropriate export application or reexport request. An application for a technical data license shall consist of:

(1) Form FC-419, Application for Export License, accompanied by

(2) Form FC-420, Application Processing Card, as described in paragraph (c) of this section, and

(3) A letter of explanation described in paragraph (d) of this section.

(b) *Application Form FC-419.* Form FC-419 shall be completed as provided in § 372.4 of this subchapter, except that the items for producer or supplier, quantity to be shipped, Export Control Commodity Number, and Processing Number shall be left blank. The commodity description item shall contain a general statement which specifies the technical data (e.g., blueprints, manuals, etc.). In addition, the words "TD License" shall be entered across the top of Form FC-419 immediately above the printed words "United States of America."

(c) *Application Processing Card, Form FC-420.* The Application Processing Card, Form FC-420, shall be completed as provided in § 372.4 of this subchapter except that the Export Control Commodity Number, Processing Number, and commodity description shall be omitted and the symbol "TD" shall be entered in the space provided for the Processing Number.

(d) *Letter of explanation.* Each application shall be supported by a comprehensive letter of explanation in duplicate. This letter shall set forth all the facts required to present to the Office of Export Control a complete disclosure

of the transaction including, if applicable, the following:

(1) The identification of all parties to the transaction;

(2) The exact project location where the technical data will be used;

(3) The type of technical data to be exported;

(4) The form in which the export will be made;

(5) The uses for which the data will be employed;

(6) An explanation of the process, product, size, and output capacity of the plant or equipment; and

(7) The availability abroad of comparable foreign technical data.

(e) *Special provisions*—(1) *Maritime nuclear propulsion plants and related commodities.*¹ These special provisions are applicable to technical data relating to maritime (civil) nuclear propulsion plants, their land prototypes, and special facilities for their construction, support, or maintenance, including any machinery, device, component, or equipment specifically developed or designed for use in such plants or facilities. Every application for license to export technical data relating to any of these commodities shall include the following:

(i) A description of the foreign project for which the technical data will be furnished;

(ii) A description of the scope of the proposed services to be offered by the applicant, his consultant(s), and his subcontractor(s), including all the design data which will be disclosed;

(iii) The names, addresses and titles of all personnel of the applicant, his consultant(s) and his subcontractor(s) who will discuss or disclose the technical data or be involved in the design or development of the technical data;

(iv) The beginning and termination dates of the period of time during which the technical data will be discussed or disclosed and a proposed time schedule of the reports which the applicant will submit to the U.S. Department of Commerce, detailing the technical data discussed or disclosed during the period of the license;

(v) The following certification:

I (We) certify that if this application is approved, I (we) and any consultants, subcontractors, or other persons employed or retained by us in connection with the project thereby licensed will not discuss with or disclose to others, directly or indirectly, any technical data relating to U.S. naval nuclear propulsion plants. I (We) further certify that I (we) will furnish to the U.S. Department of Commerce all reports and information which it may require concerning specific transmittals or disclosures of technical data pursuant to any license granted as a result of this application.

(vi) A statement of the steps which the applicant will take to assure that personnel of the applicant, his consultant(s) and his subcontractor(s) will not discuss or disclose to others technical data relat-

ing to U.S. naval nuclear propulsion plants; and

(vii) A written statement of assurance from the foreign importer that unless prior authorization is obtained from the Office of Export Control, the importer will not knowingly export directly or indirectly to Country Group W, Y, or Z the direct product of the technical data. However, if the U.S. exporter is not able to obtain this statement from the foreign importer, the U.S. exporter shall attach an explanatory statement to his license application setting forth the reasons why such an assurance cannot be obtained.

(2) *Other commodities.*¹ For all applications for licenses to export to any destination other than Country Group W, Y, or Z technical data relating to any of the commodities set forth below, an applicant shall attach to the license application a written statement from his foreign importer assuring that unless prior authorization is obtained from the Office of Export Control, the importer will not knowingly reexport the technical data to any destination or export the direct product of the technical data directly or indirectly to Country Group W, Y, or Z. However, if the U.S. exporter is not able to obtain the required statement from his importer the exporter shall attach an explanatory statement to his license application setting forth the reasons why such an assurance cannot be obtained. The special provisions set forth in this § 379.5(e)(2) are applicable to technical data concerning the following:

(i) Commodities related to nuclear weapons, nuclear explosive devices, or nuclear tests, as described in § 378.1 of this subchapter;

(ii) Neutron generators, employing the electrostatic acceleration of ions and designed for operation without an external vacuum system and specially designed parts and accessories for such neutron generators, Export Control Commodity No. 72970;

(iii) Porous nickel;

(iv) Civil aircraft, civil aircraft equipment, parts, accessories, or components not identified by the symbol "B" in the last column of the Commodity Control List (§ 399.1 of this subchapter);

(v) Electrical and electronic instruments, Export Control Commodity Nos. 72952 and 72999, specially designed for testing or calibrating the airborne direction finding, navigational, and radar equipment described in Export Control Commodity Nos. 72499 and 72952;

(vi) Airborne electronic transmitters, receivers, and transceivers, Export Control Commodity No. 72499;

(vii) Airborne electronic direction finding equipment, Export Control Commodity No. 72499;

(viii) Airborne electronic navigation and radar equipment, Export Control Commodity Nos. 72499 and 72952;

(ix) Watercraft of hydrofoil and hovercraft (air bubble) design (Export Control Commodity No. 73550);

(x) Submersible watercraft other than military or naval types;² and

(xi) Any other commodity under the export control jurisdiction of the Office of Export Control, if such commodity is not covered by an entry on the Commodity Control List.

(f) *Validity period.* Validated licenses covering exports of technical data will generally be issued for a validity period of twelve (12) months.

§ 379.6 Exports under a validated license.

(a) *Use of validated licenses*—(1) *Retention of license.* The validated technical data license need not be presented to the customs office or post office but shall be retained and made available for inspection in accordance with the provisions of § 387.11 of this subchapter.

(2) *Return of license.* Export licenses shall be returned promptly to the Office of Export Control upon revocation, suspension, or expiration of the validity period. Used licenses shall be returned when fully used. Unused and partially used licenses shall be returned when the exporter determines that he will not make any shipment, or any further shipment, thereunder or upon expiration, whichever comes first.

(b) *Reports on exports*—(1) *Country Group S, T, V, or X.* With respect to a license used to export technical data to Country Group S, T, V, or X, when the license is returned, as provided in paragraph (a)(2) of this section, the exporter shall submit a statement indicating:

(i) When the technical data were exported or when the technical services were rendered; and

(ii) Whether the export was total or partial.

(2) *Country Group W or Y.* With respect to a license used to export technical data to Country Group W or Y when the license is returned, the exporter shall submit a statement indicating the following:

(i) When the technical data were exported or when the technical services were rendered;

(ii) Whether the export or service was total or partial;

(iii) The nature of the transaction (e.g., a sale of technical data, performance of technical services, a technical licensing agreement, a technology exchange agreement);

(iv) The nature of the payment received or to be received by the U.S. exporter (e.g., pecuniary or other consideration); and

(v) The actual or estimated price of the technical data exported, or services rendered, or the actual or estimated dollar value of any other consideration

¹ See § 379.8(a) which sets forth provisions prohibiting exports and reexports of certain technical data and products manufactured therefrom.

² See § 379.8(a) which sets forth provisions prohibiting exports and reexports of certain technical data and products manufactured therefrom.

³ Technical data relating to military or naval submersible watercraft are subject to the export licensing authority of the U.S. Department of State. See Supplement No. 2 to Part 370 of this subchapter.

received or to be received. (This should include the payment received or to be received for engineering and for any other services when rendered, as well as for the royalty or other payment received or to be received for a design or process authorized to be used.)

§ 379.7 Amendments.

Requests for amendments shall be made in accordance with the provisions of § 372.11 of this subchapter.

§ 379.8 Reexports of technical data and exports of the product manufactured abroad by use of United States technical data.

(a) *Prohibited exports and reexports.* Unless specifically authorized by the Office of Export Control, or otherwise authorized under the provisions of paragraph (b) of this section, no person in the United States or in a foreign country may:

(1) Reexport any technical data imported from the United States, directly or indirectly, in whole or in part, from the authorized country(ies) of ultimate destination;

(2) Export any technical data from the United States with the knowledge that it is to be reexported, directly or indirectly, in whole or in part, from the authorized country(ies) of ultimate destination; or

(3) Export or reexport to Country Group W, Y, or Z, any foreign produced direct product of U.S. technical data, or any commodity produced by any plant or major component thereof which is a direct product of U.S. technical data, if such direct product or commodity is covered by the provisions of § 379.4(e) or § 379.5(e) (1) or (2).

(b) *Permissive reexports.*—(1) *Exportable under General License GTDA or GTDR.* Any technical data which have been exported from the United States may be reexported from any destination to any other destination provided that, at the time of reexport, the technical data may be exported directly from the United States to the new country of destination under General License GTDA or GTDR and provided that all of the requirements and conditions for use of these general licenses have been met.

(2) *Country Groups W and Y.* When the Office of Export Control has specifically authorized the export of a commodity from the United States to a destination in Country Group W or Y or the reexport of a U.S.-origin commodity from any foreign country to a destination in Country Group W or Y, technical data such as manuals, instructional sheets, or blueprints as described in, and subject to the conditions of, § 379.4(b) (1) may be sent to the same destination as part of the same transaction without separate specific authorization by the Office of Export Control.

(c) *Specific authorization to reexport.* Requests for specific authorization to reexport technical data or to export any product thereof as applicable shall be submitted to the Office of Export Control by letter. The letter shall bear the words "Technical Data Reexport Re-

quest" immediately below the heading or letterhead. The letter shall contain all of the information required under § 379.5 (a) (3). Any request for extension of such authorization shall similarly be submitted by letter. Authorization to reexport, if granted, will be issued with a validity period of 12 months on Form IA-L-71 or by means of a letter from the Office of Export Control. Reexport authorization shall be returned promptly to the Office of Export Control upon revocation, suspension, or expiration of the validity period. Used authorizations shall be returned when fully used. Unused and partially used authorizations shall be returned when the person authorized to reexport determines that he will not make any shipment, or further shipment, thereunder or upon expiration of the authorization, whichever comes first. After the reexport of the technical data has been completed, the Office of Export Control shall also be given a notice in writing indicating:

(1) When the technical data were reexported or when the technical services were rendered; and

(2) Whether the reexport or service was total or partial.

In addition, if the technical data had been reexported to Country Group W or Y, the written notice shall indicate:

(3) The nature of the transaction (e.g., a sale of technical data, performance of technical services, a technical licensing agreement, a technology exchange agreement, or the rendering of technical services);

(4) The nature of the payment received, or to be received, by the U.S. exporter (e.g., pecuniary or other consideration); and

(5) The actual or estimated price of the technical data reexported or services rendered, or the actual or estimated dollar value of any other consideration received or to be received. (This should include the payment received or to be received for engineering and for any other services when rendered, as well as for the royalty or other payment received or to be received for a design or process authorized to be used.)

(d) *Effect of foreign laws.* No authority granted by the U.S. Office of Export Control, or under the provisions of the U.S. Export Control Regulations, to reexport technical data or export a product thereof shall in any way relieve any person from his responsibility to comply fully with the laws, rules, and regulations of the country from which the reexport or export is to be made or of any other country having authority over any phase of the transaction. Conversely, no foreign law, rule, regulation, or authorization in any way relieves any person from his responsibility to obtain such authorization from the U.S. Office of Export Control as may be required by the U.S. Export Control Regulations.

§ 379.9 Other applicable provisions.

As far as may be consistent with the provisions of this Part 379, all of the other provisions of the Export Control Regulations shall apply equally to ex-

ports of technical data and to applications for licenses and licenses issued under this part.

PART 385—SPECIAL COUNTRY POLICIES AND PROVISIONS

Sec.	
385.1	Country Group Z.
385.2	Country Groups W and Y; U.S.S.R. and East European Communist countries.
385.3	Country Group S; Southern Rhodesia.
385.4	Country Group V.
385.5	Canada.

AUTHORITY: The provisions of this Part 385 issued under sec. 3, 63 Stat. 7; 50 U.S.C. App. 2023; E.O. 10945, 26 F.R. 4487, 3 CFR 1959-1963 Comp.; E.O. 11038, 27 F.R. 7003, 3 CFR 1959-1963 Comp.

§ 385.1 Country Group Z.¹

(a) *Asian Communist countries.* The general policy is to deny all applications to export or reexport commodities and technical data to Communist China, North Korea and to the Communist controlled areas of Vietnam.

(b) *Cuba.* The general policy is to deny all applications to export or reexport commodities and technical data to Cuba except for certain humanitarian transactions.

§ 385.2 Country Groups W and Y; U.S.S.R. and East European Communist countries.

The general policy is to deny applications to export or reexport commodities and technical data to the U.S.S.R., Albania, Bulgaria, Czechoslovakia, East Germany, Estonia, Hungary, Latvia, Lithuania, Outer Mongolia, Poland and Romania if the export or reexport makes a significant contribution to the military potential of those nations which would prove detrimental to the national security and welfare of the United States. Generally, applications to export or reexport commodities identified on the Commodity Control List (§ 399.1 of this subchapter), and technical data related thereto, as requiring a validated export license for shipment to all foreign destinations, are denied to the above-named countries unless the U.S. Department of Commerce determines, on a case-by-case basis that the commodities or technical data are for a civilian use or would otherwise not make a significant contribution to the military potential of the country of destination that would be detrimental to U.S. national security and welfare.

§ 385.3 Country Group S; Southern Rhodesia.

The general policy is to deny applications to export or reexport commodities and technical data to Southern Rhodesia, unless the commodities and technical data are intended strictly for (a) medical purposes, (b) use in schools and other educational institutions, (c) the essential needs of recognized charitable

¹ See Supplement 1 to Part 370 of this subchapter for listing of Country Groups.

institutions, or (d) foodstuffs required in special humanitarian circumstances.

§ 385.4 Country Group V.

(a) *Republic of South Africa.* The general policy is to deny applications to export or reexport commodities and technical data to the Republic of South Africa when there is a likelihood of military end use. Otherwise, the policy is the same as for other nations in Country Group V.

(b) *Other countries in Group V.* For other countries in Group V, the general policy is one of approval of all applications. License applications for these countries are required primarily to assure that the commodity or technical data to be exported or reexported is intended for the stated end use and will not be reexported or diverted contrary to the U.S. national interest.

(c) *Yugoslavia.* The general policy is to apply to Yugoslavia the same export licensing criteria as are in effect for other nations in Country Group V; e.g., France, West Germany, Italy, etc. (See § 375.4 of this subchapter for the submission of a Yugoslav End-Use Certificate as a supporting document for license applications.)

(d) *Vietnam.* Any license application (Form FC-419), consignee/purchaser statement (Forms FC-842 and 843; see § 375.2 of this subchapter), and destination control statement; (see § 386.6 of this subchapter) that refers to Vietnam shall specify which of the following areas is referred to:

(1) Communist-controlled areas of Vietnam.

(2) Republic of Vietnam (areas not under Communist control).

(e) *Trieste.* Any license application that refers to Trieste shall specify which of the following areas is referred to:

(1) The area of Trieste under Italian civil administration.

(2) The area of Trieste under Yugoslav civil administration.

§ 385.5 Canada.

Except as indicated below, the general policy is to permit shipments of commodities and technical data to Canada for consumption or use in that country without an export license. When the commodities or technical data are transiting Canada or are intended for reexport from Canada to another foreign destination and such shipment would require a validated license if made directly from the United States to that destination, an export license or reexport authorization is required. The licensing action will be based on the policy applicable to a direct shipment from the United States to such other destination. (See §§ 374.1 and 374.6 of this subchapter for commodities in transit via Canada.) A validated license also is required for export to Canada if the export is (a) for certain copper commodities as described in § 377.3 (b) and (d) of this subchapter; (b) related to nuclear weapons, nuclear explosive devices or nuclear testing as described in § 378.1 of this subchapter, or the technical data described in § 379.4(c) or

§ 379.5(e) of this subchapter; or (c) the Commodity Control List (§ 399.1 of this subchapter) indicates that a validated license is required for export to Canada.

PART 386—EXPORT CLEARANCE

Sec.	
386.1	General export clearance requirements.
386.2	Presentation and use of validated license.
386.3	Shipper's Export Declaration.
386.4	Conformity of documents for validated license shipments.
386.5	General destination control requirements.
386.6	Destination control statements.
386.7	Shipping tolerance.
386.8	Customs clearance at ports of origin.
386.9	Authority of customs offices and postmasters in clearing shipments.
386.10	Return or unloading of cargo at direction of U.S. Department of Commerce.
386.11	Other applicable laws and regulations.

AUTHORITY: The provisions of this Part 386 issued under sec. 3, 63 Stat. 7; 50 U.S.C. App. 2023; E.O. 10945, 26 F.R. 4487, 3 CFR 1959-1963 Comp; E.O. 11038, 27 F.R. 7003, 3 CFR 1959-1963 Comp.

§ 386.1 General export clearance requirements.

(a) *Responsibility of licensee and agent.* Under the Export Control Regulations, the exporter to whom a validated license is issued or who undertakes to export under a general license is legally responsible for the proper use of that license and for the due performance of all its terms and provisions. This responsibility continues even when he acts through a freight forwarder or other forwarding agent.

(b) *Where to clear exports.* A shipment is usually cleared at the customs office at the port of export from which the shipment leaves the United States or at the post office where the parcel is mailed. In some cases, however, shipments may be cleared by the exporting carrier, instead of the customs office, at the port of export (see § 386.3(v)), or cleared at the customs office at the port of origin where the shipment begins its trip abroad (see § 386.8).

(c) *Exports by mail—(1) Validated license shipments.* No export under a validated license may be made by mail, including surface and air parcel post, until the sender complies with the following provisions. (As used in this § 386.1(c), the sender is the exporter.):

(i) Enter the complete validated license number on the address side of the parcel and on the Shipper's Export Declaration;¹

(ii) Present the validated license to the post office at the place of mailing, to-

¹ Shipper's Export Declaration, Form 7525-V, may be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, local customs offices, and U.S. Department of Commerce Field Offices (see list on page (1) under Field Office Addresses). Price of the form is \$1 for a pad of 100.

gether with a duly executed Shipper's Export Declaration covering the commodity to be mailed, whether or not a declaration is required by the Bureau of the Census; or

(iii) (a) If more than one shipment will be made, file the license with a customs office instead of the post office and present a copy of the declaration covering each shipment to that customs office for authentication. Give the authenticated declaration, in addition to the declaration required by subdivision (ii) of this subparagraph, to the post office at the time of mailing.

(b) If a declaration is authenticated before the license expires, but shipment is delayed beyond that time, the licensee shall obtain an extension of the license (or a new license) and shall present a new declaration to the customs office for authentication. The new declaration shall be submitted together with the previously authenticated declaration, which will be retained by the customs office.

(2) *General license shipments and shipments to Canada without an export license—(i) Declaration required.* The sender shall present to the post office at the place of mailing a duly executed declaration for each commercial shipment to Canada without an export license, or to any other destination under a general license, from one business concern to another business concern when the shipment consists of a commodity(ies) valued at \$100 or more, unless otherwise set forth in the Census Bureau Foreign Trade Statistics Regulations. (A declaration is not required for noncommercial shipments.)

(ii) *Designation on declaration and parcel.* The sender shall enter on the declaration the symbol of the applicable general license. Regardless of whether a declaration is required, the general license symbol shall also be written on the address side of the parcel followed by the phrase "Export License Not Required." No notation need be made on the package if the export is made under General License GTDA or GTDR. In addition, for a gift parcel exported under General License GIFT, the word "GIFT" shall be entered on the customs declaration tag. The general license symbol and phrase constitute a certification by the sender to the post office and to the Office of Export Control that the shipment is made under the authority of the general license indicated.

(d) *Exports by means other than mail.* (1) Except as provided for in § 386.3 (u) and (v) no exporter or his agent, including any carrier acting as an agent, shall load or carry or permit loading or carrying onto an exporting carrier, or present to the customs office for inspection and clearance for export, any commodity until:¹

(i) *For validated license shipments.* The validated license and related duly executed Shippers Export Declaration

¹ For shipments to Mexico these provisions must be complied with prior to export, but not necessarily to loading.

have been presented to and authenticated by customs (see § 386.3), and a copy of the authenticated declaration for delivery to the carrier has been returned to the person who presented it to customs.

(ii) *For general license shipments or shipments to Canada without a license.* (a) A duly executed declaration has been presented to and authenticated by customs (see § 386.3), and a copy for delivery to the exporting carrier has been returned to the person who presented it to customs.

(b) If the filing of a declaration is not required by the Office of Export Control or Bureau of the Census, an oral declaration describing the commodity to be exported and identifying the applicable general license shall be made to customs.

(c) A shipment to Canada or to Country Group T, V, or X does not require a declaration if the shipment is valued at \$250 or less. As used in this § 386.1 "shipment" means all commodities classified under a single seven-digit Schedule B number, shipped on the same carrier, from one exporter to one importer.

(d) Other exceptions to the requirement for a declaration are set forth in this Part 386 and in Part 371 of this subchapter. A complete list of such exceptions is set forth in Subpart D of the Census Bureau Foreign Trade Statistics Regulations.

(2) No carrier shall load or carry any commodity onto an exporting carrier, or permit any commodity to be loaded or carried onto an exporting carrier for export by aircraft or vessel, until such carrier has received its copy of the authenticated Shipper's Export Declaration as provided in the Bureau of the Census Foreign Trade Statistics Regulations.

§ 386.2 Presentation and use of validated license.²

(a) *License valid for shipment from any port.* A license may be used for exports from the United States from any port of export, or port of origin listed in § 386.8(c), unless otherwise provided by the Office of Export Control. Commodities or technical data which leave the United States at one port, cross adjacent foreign territory, and reenter the United States at another port before final export to a foreign country will be treated as an export from the last U.S. port of export.

(b) *Signature on license.* The validated export license document, Form FC-628, presented to the customs office or postmaster must bear on the reverse side the following signatures:

(1) *Licensee.* At the top left, on the line reading "signature of licensee," the signature of the licensee, by himself, or for him by a duly authorized officer, employee, or agent.

(2) *Person presenting license.* At the top right, on the line reading "signature

of person presenting license," the signature of the licensee or of an officer or employee of either the licensee or the forwarding agent who is authorized to sign the Declaration accompanying such license.

(c) *Filing of license at time of first shipment.* A validated license (except a Project License, a Distribution License, a Service Supply License, or a Bulk Quota License) must be presented to and filed with the customs office before any commodity is loaded or carried onto an exporting carrier. In the case of a shipment by mail, the validated license shall be presented to the postmaster or to the customs office when the Declaration covering the first partial shipment under that license is presented for export.

(d) *Subsequent shipments from port where license is filed.* If a partial shipment is made, the validated export license will be appropriately endorsed and held by the customs office until shipment is completed or the license expires. On any subsequent shipment under the license, a duly executed Declaration shall be filed.

(e) *Simultaneous or subsequent shipment from another port.*—(1) *Transmittal of approval.* If part of the export is to be made from another port, the licensee shall request the customs office holding the license to transmit to the customs office at the other port of export authorization to clear the requested shipment(s). This request may cover any part of the quantity licensed, and the export may be made in either a single shipment or in any number of partial shipments. The customs office holding the license shall record on the back of the license each additional port of export from which shipment is to be made and the commodity and quantity to be shipped from each additional port of export. If any part of the quantity authorized for shipment from another port is not shipped, the licensee or his agent may request an appropriate modification of the authorization as recorded on the back of the license. Such request shall be submitted as follows:

(i) *License in possession of customs office.* The licensee or his agent shall request the customs office to which the approval was sent to notify the customs office holding the license to amend the previous endorsement of the intended shipment. This applies whether or not the license would have been completed by the intended shipment.

(ii) *License returned by customs office to the Office of Export Control.* A new license application may be submitted covering the unshipped quantity, together with a letter explaining the facts and identifying the customs office to which the approval was sent.

(2) *Transmittal of license.* As an alternative to the above procedure, the customs office holding the license is authorized to transmit the license by mail to the customs office at another port of export, upon written request by the licensee stating that the license will no longer be used at the port at which it is deposited.

(3) *Exceptions.* The above procedures do not apply to a license which specifies that a shipment is authorized for clearance at a particular port of export.

(f) *Shipments against expiring license.*—(1) *Commodities ready for loading or laden.* (i) Commodities which are (a) laden aboard the exporting carrier or (b) ready for lading and located on a pier for lading, and not for storage, prior to midnight of the expiration date of a license, may depart with the vessel even though the vessel does not clear until after the expiration date of the license.

(ii) Further, where the vessel is expected to be available at the pier for loading before the license expires, but exceptional and unforeseen circumstances delay it, the commodities may be exported without an extension of the license, if in the judgment of the customs office undue hardship would otherwise result.

(2) *Commodities in transit to port of export.* Commodities in transit to the port of export prior to midnight of the expiration date of the license, that are delayed by exceptional and unforeseen circumstances may be cleared for export within 5 days following the expiration date of the license, in the discretion of the customs office, if undue hardship would otherwise result. The customs office may require the exporter to submit a bill of lading or other evidence that the shipment was in transit to the port of export prior to the expiration date of the license and was delayed in transit.

(3) *Other shipments.* A shipment not coming within the above provisions may not be exported against an expiring license, unless the license is extended by the Office of Export Control.

(g) *Reshipment of undelivered shipments.* A shipment cleared under a validated export license may not be received by the ultimate consignee because the exporting carrier failed to deliver it. In such cases, the same, or an identical, commodity in the quantity or value shipped may be exported under the same license to the same consignee and destination, if satisfactory evidence of the original export clearance and of the failure to deliver the shipment, together with a satisfactory explanation of the delivery failure, is submitted to the customs office. If a commodity is to be reexported to any person other than the original consignee, the shipment is deemed to be a new export and is subject to all current Export Control Regulations regarding the specific commodity and destination.

§ 386.3 Shipper's Export Declaration.

(a) *Authentication requirement.* All copies of Shipper's Export Declarations that are required to be presented to a customs office shall be authenticated by the customs office at the port of export unless the shipment is eligible for, and the exporter chooses to use, the alternate procedure set forth in paragraph (v) of this section. No customs officer shall authenticate a declaration unless he is satisfied, after comparing it with the applicable validated license or general license and with such other relevant information as he may have, that:

² Provisions relating to the export clearance of technical data under a validated license are set forth in § 379.6 of this subchapter.

(1) Export of the commodity(ies) described in the declaration is authorized under the license;

(2) Statements in the declaration are identical in all respects with the contents of the validated license, or with the terms, provisions, and conditions of the general license;

(3) Statements in the declaration are set forth in a manner that permits customs officers (or other authorized persons to whom the declaration may be shown or delivered) to determine whether the export complies with the contents of the validated license, or the terms, provisions, and conditions of the general license; and

(4) The shipment is or will be available for inspection and has not been loaded on an exporting carrier.

(b) *Authenticated declaration as export control document.* A Shipper's Export Declaration authenticated by the customs office or accepted by a carrier under the alternate procedure set forth in paragraph (v) of this section is a document, issued under the Export Control Regulations, evidencing the existence of a validated export license or permission for an export under an applicable general license. Such document may be used only by the exporter or his duly authorized forwarding agent for the purpose of clearing for export or otherwise facilitating or effecting the export of a commodity(ies) requiring a validated or general license under the Export Control Regulations issued pursuant to the Export Control Law.

(c) *Limitation of effective period of declaration.* No declaration shall be authenticated or used to clear, or otherwise facilitate or effect, an export after the expiration of the applicable validated license or after the termination of the applicable general license, except as provided in §§ 372.9(d) of this subchapter and 386.2(f). The validity period of an export license includes any extension provided by any saving clause or regulation.

(d) *Rejection of Declarations.* The customs office shall reject any declaration which does not comply with the provisions of this Part 386.

(e) *Who may submit Declaration for authentication.* A declaration may be submitted to the customs office for authentication only by the exporter or his carrier or the duly authorized forwarding agent of the exporter. A carrier, not otherwise acting as a forwarding agent, may deliver an executed declaration to the customs office without specific authorization from the exporter.

(f) *Forwarding agent—(1) Definition of "forwarding agent."* For the purpose of this Part 386, a "forwarding agent" means a person authorized by an exporter to perform for the exporter actual services which facilitate the export of the commodities or technical data described in the declaration. These services include, but are not limited to, preparing the declaration and clearing the shipment by submission of documents to the customs officers or export control officers. A "forwarding agent" need not

be a person regularly engaged in the freight forwarding business. A "forwarding agent" shall be designated by the exporter in writing in the power-of-attorney set forth on the declaration or in a general power-of-attorney, or other written form, subscribed and sworn to by a duly authorized officer or employee of the exporter.

(2) *Forwarding agent as true agent.* Unless the exporter states otherwise in the power-of-attorney or other written form, the forwarding agent named by the exporter shall be deemed the true agent of the exporter for export control and customs purposes. However, the power-of-attorney or other authorization designating a forwarding agent does not make such agent the sole and exclusive forwarding agent of the exporter for all exports. Where a forwarding agent is suggested by the foreign buyer in a transaction (rather than by the seller in the United States) a form of designation on the declaration which limits the authority granted to the particular transaction involved would be appropriate. The seller may, however, insist that the agent for the foreign buyer apply for the license. (See § 372.3(b) (1) of this subchapter.)

(3) *Form of powers-of-attorney.* The sample form, "Power-of-Attorney—Designation of Forwarding Agent" (see Supplement S-17 for facsimile) fixes responsibility of the exporter for exports made through a forwarding agent. This suggested form conforms to usual business practice in establishing agency relationship, but its use is not mandatory. The exporter may use any written form of designation, provided it is subscribed and sworn to by a duly authorized officer or employee of the exporter, before a notary public, or other person authorized to administer oaths. Such authorization shall clearly indicate that the party named is authorized to represent the exporter for export control and customs purposes. The extent of the authority, as in the power-of-attorney, may be restricted with respect to time, country, commodity, specific license, or other matter. Such documents may also be used to designate one or more employees, or other persons, such as an export manager or agent, to in turn appoint as many forwarding agents as may be required.

(4) *Redelegation of agent's authority.* If a forwarding agent signs and swears to a Declaration for clearance of an export through a port where he has no office, he shall furnish an authorization in writing to the person who will actually present the Declaration to the customs office. He may also redelegate to another forwarding agent his authority to sign, swear to, and present Declarations for authentication at such port, provided that the authorization from the exporter permits such redelegation or he obtains other written evidence of consent from the exporter. Proof of the authority of any person signing a power-of-attorney, or other authorization may be required. In general, however, such proof will be required only when there is some reason to doubt the authority of the person involved.

(5) *Record and proof of agent's authority.* The power-of-attorney or other authorization from the exporter shall be retained on file in the forwarding agent's office while the authorization is in force and for a period of 3 years after the last action taken by the forwarding agent under the authority. During this retention period, the forwarding agent shall make his delegation of authority from the exporter available for inspection on demand, in accordance with the provisions of § 387.11(f) of this subchapter. This recordkeeping and inspection requirement also applies to any redelegation of the forwarding agent's authority and to any person to whom the forwarding agent redelegates his authority. (For further recordkeeping requirements see § 387.11 of this subchapter.)

(g) *Presentation.* When a declaration is required, it shall be presented to the customs office at the port of export, or to the postmaster at the post office from which the shipment is mailed, in the number of copies specified in paragraph (i) of this section.

(h) *Statements on declaration.* Where a declaration is presented to a customs office or postmaster, the exporter represents that:

(1) All statements and information in the declaration have been furnished by him or on his behalf for the purpose of effecting an export under the Export Control Regulations;

(2) Export of the commodity(ies) described in the declaration is authorized under the general or validated export license therein identified;

(3) Statements contained in the declaration are identical in all respects with the contents of the validated license or the terms, provisions, and conditions of the applicable general license; and

(4) All other terms, provisions, and conditions of the Export Control Regulations applicable to the export have been met.

(i) *Number of copies required—(1) Exports by means other than mail.* Three copies of the declaration are required by the customs office at the port of export, except (i) only two copies are required for shipments to Canada and shipments between the United States and its territories and possessions, or (ii) an additional copy may be required by subparagraph (3) of this paragraph.

(2) *Mail shipments—(1) General.* For a mail shipment, one copy of the declaration shall be presented to the postmaster at the place of mailing when the shipment: (a) is under a validated license, or (b) is of a commercial nature and its value is more than \$250. Two copies shall be presented when an additional copy is required by subparagraph (3) of this paragraph.

(ii) *Partial shipment against a validated license.* In addition, when making a partial shipment by mail against a license on file with a customs office, the sender (exporter) shall present to the postmaster a copy of the declaration authenticated by the customs office with which the license is filed.

(3) *Additional copies of declaration.* For export control purposes, the Office of Export Control, the customs office, or the postmaster may require additional copies of the declaration. In all cases where a declaration is required, an additional copy of the declaration shall be presented for:

(i) Exports under a Project License. The additional copy shall bear the notation "DL" in the upper right corner. (See § 373.2(e) (2) of this subchapter.)

(ii) Exports from the United States to foreign countries made via Canada. (See § 374.6 of this subchapter.)

(iii) Exports of any agricultural commodity under a validated license to Country Group Y or Z. The additional copy shall bear the notation "862" in the upper right corner.

(iv) Exports of any commodity to replace any defective or unacceptable part or equipment under the provisions of General License GLR. The additional copy shall bear the notation "854" in the upper right corner. (See § 371.17(f) (2) of this subchapter.)

(v) Temporary exports of video tape to destinations in Country Groups T and V. The additional copy shall bear the notation "864" in the upper right corner. (See § 376.11(d) of this subchapter.)

(vi) Exports under a validated license of nickel, nickel alloys, and nickel bearing scrap. The additional copy shall bear the notation "862" in the upper right corner. (See § 376.4(a) (2) of this subchapter.)

(vii) Exports made under General License GTF-F for display at a foreign exhibition or trade fair. The additional copy shall bear the notation "854" in the upper right corner. (See § 371.16(e) of this subchapter.)

(viii) Exports under a validated license that contains special requirements for additional documents or information. (See paragraph (s) of this section.)

(j) *Separate declarations required for general license and validated license commodities in same shipment—(1) General.* Separate declarations are required for general license and validated license commodities in the same shipment. They may not be combined on one declaration. However, a shipment made under two or more general licenses or two or more validated licenses may be combined on the same declaration.

(2) *Exception.* For a shipment consisting of commodities and the containers therefor, where either the commodities only or the containers only require a validated license, both the commodities and the containers shall be entered on the same declaration.

(k) *Information required for authentication.* No declaration shall be authenticated by a customs office unless the declaration and all copies show:

(1) Name and address of the exporter (the licensee named in a validated license or a person entitled to export under a general license). On a declaration covering an export under a validated license, the "exporter" item shall correspond to the person or firm named as licensee on the Export License, Form FC-628.

Otherwise, the export license does not cover the proposed export. However, this item may correspond to the name of the foreign principal shown on the validated license if the person or firm that is in fact the exporter is not subject to the jurisdiction of the United States.

(2) Name and address of any duly authorized forwarding agent.

(3) Name and address of any intermediate consignee, whether or not named on the validated license.

(4) Complete validated license number or general license designation authorizing the shipment.

(5) All other data required on the declaration form.

(1) *Schedule B number and commodity description—(1) Schedule B number.* The seven-digit Schedule B number, as shown in Schedule B, Statistical Classification of Domestic and Foreign Commodities Exported from the United States, shall be entered in the designated column of the declaration regardless of whether the shipment is moving under a validated or general license.

(2) *Commodity description for validated license shipment—(i) General.* The commodity description on the declaration for a shipment under a validated license shall be that shown on the related validated license. However, where part of the description on the license is underlined, only the underlined portions need be included on the declaration. The commodity description on the license will be stated in Commodity Control List terms, which may be inadequate to meet Census Bureau requirements. In this event, the commodity description on the declaration shall give enough additional detail to permit verification of the Schedule B number (e.g., size, material, or degree of fabrication).

(ii) *Distinguishing characteristics or specifications.* If a commodity classification in Schedule B has instructions such as "specify by name," "state species," etc., that information shall be furnished in the column of the declaration provided for the commodity description. When a single Shipper's Export Declaration covers more than one item classifiable under a single classification carrying the "specify by name" or similar requirement, each item shall be entered separately in this column. However, if more than five items are involved, all classifiable under one Schedule B number, only the five items of greatest value in the classification need be shown separately. Separate quantities, values, and shipping weights for individual items are not required in either case.

(3) *Commodity description for general license shipments—(i) General.* The commodity description on the declaration for a shipment under a general license shall be in sufficient detail to permit verification of the seven-digit schedule B number entered on the declaration.

(ii) *Distinguishing characteristics or specifications.* When another Commodity Control List entry for the same type of commodity under the same Export Control Commodity Number, has different

specifications, capacities, or other characteristics, the customs office may, at its discretion, require the exporter to enter the following certification on the Declaration:

Commodity not under validated license control to (name of country); Commodity Control List page No. _____ dated _____

(m) *Validated license number or general license designation.* The complete validated license number or general license designation shall be entered in the commodity description column of the declaration, in addition to the commodity description. By entering the license number or designation, the exporter certifies that the terms, conditions, and provisions of that license have been met.

(n) *Statement regarding ultimate destination.* No declaration shall be authenticated by a customs office unless the statement regarding ultimate destination, whenever required, has been entered on all copies of the declaration as provided in § 386.5(a).

(o) *Optional ports of unloading—(1) Applicability.* If, prior to the departure of the exporting carrier, the exporter does not know at what port the shipment will be unloaded, he may designate optional ports of unloading on the declaration and bill of lading, in accordance with this § 386.3(o). In no case does this procedure apply to any shipment destined directly or indirectly to Country Group S, X, Y, or Z. (For shipments to other destinations via Hong Kong, see § 370.8 of this subchapter.)

(2) *General license shipments.* (i) For exports under General License G-DEST, if the exporter does not know which of several countries in Country Groups T, V, and W is the country of ultimate destination, he may name optional ports of unloading in one or more of these countries.

(ii) When an export under any general license is shipped in transit through a country other than the country of ultimate destination, the exporter may designate optional ports of unloading in one or more countries, together with the name and address of the intermediate consignee in each country designated.

(iii) *Optional ports of unloading, in all cases, shall be in a country to which the commodity or technical data may be shipped directly from the United States under the same or another applicable general license.*

(3) *Validated license shipments.* For exports under a validated license, optional ports of unloading are restricted to the country of ultimate destination, unless the export license or amendment designates intermediate consignees in one or more other countries. In the latter case, the optional ports of unloading must be designated as optional intransit points on the declaration and bill of lading.

(4) *Correcting the Declaration.* As soon as the exporter learns at which port the commodities are to be unloaded—whether in the country of ultimate destination or in a country of transit—an Export Declaration Correction Form, Form FT-7403, should be filed with the customs office at the port of export where

the original declaration was filed. The correction form shall specify the actual port of unloading and the name and address of the intermediate consignee, if any, to whom delivery is made. An intermediate consignee must be specified if the port of unloading is located in a country other than the country of ultimate destination. If the export is unloaded at more than one port, the quantity and value unloaded at each port and the name and address of each intermediate consignee should be given. (See paragraph (u) (4) of this section for procedure to file a Form FT-7403.)

(p) *Foreign excess property disposed of by the U.S. Government.* Where a shipment consists of commodities disposed of by U.S. Government agencies under foreign excess property disposal programs, the declaration shall show the following certification in the commodity description space:

These commodities are foreign excess property disposed of by the U.S. Government.

(q) *Signature on declaration.* The signature on the declaration of the person making the declaration shall be that of the exporter or the forwarding agent named in the declaration, or a duly authorized officer or employee of either. In general, it will be deemed that the requisite authority rests with employees who, by their official titles, are apparently vested with power to deal with exports; such as export managers or such corporate officers as the president, vice president, treasurer, and secretary of a corporation, any partner of a partnership, and any responsible head of any other form of private or quasi-governmental organization, and assistance officers. The signature of such person, whether or not that of the exporter or employee, constitutes a representation by the exporter that all statements and information in the declaration are true and correct. In addition, if the signature is that of the forwarding agent, or his duly authorized officer or employee, such signature constitutes a like representation by the forwarding agent.

(r) *Attachment to declaration.* Additional copies of the declaration or copies of the continuation sheet form may be used where more space is required. In such cases, only one declaration form need be signed. The additional sheets shall be numbered in sequence and securely attached to the executed declaration form; and the following statement shall be inserted between the column provided for marks and numbers of the shipment and the column provided for its value:

This Declaration consists of this sheet and ----- continuation sheets.

No portion of any form attached as a continuation sheet shall be torn off or removed.

(s) *Special requirements for additional information and documents.* (1) A validated license may bear on its face a requirement for specified documents or information in addition to that furnished when the application was filed. The licensee shall furnish these either prior

to or when presenting the declaration to the customs office, as follows:

(i) Prepare one copy of the declaration in addition to the number of copies otherwise required.

(ii) Enter the required additional information in the space between the column provided for marks and numbers of the shipment and the column provided for its value on all copies of the declaration.

(iii) Unless otherwise specified on the license, attach the required documents (either original or certified copy) to the extra copy of the declaration.

(2) All such statements and documents will be deemed to constitute representations of material facts within the purview of the regulations prohibiting the making of false representations to the Office of Export Control in any export control matter (see § 387.5(b) of this subchapter).

(3) The customs office will refuse to authenticate a declaration where the exporter fails to comply with the special requirements of a validated license, unless before presenting the declaration (i) the exporter has informed the Office of Export Control of the specific reason for not complying, and (ii) the Office of Export Control has waived the requirement in writing. To clear the shipment through customs, the licensee shall attach to and file with the license any letter of waiver.

(t) *Declaration for shipments moving in transit—(1) Applicability.* The Shipper's Export Declaration for In-Transit Goods, Commerce Form 7513,¹ should be used for the following types of transactions:

(i) Commodities shipped in transit through the United States from one foreign country or area to another, including merchandise destined from one foreign country to another and transhipped in U.S. ports; or

(ii) Foreign merchandise exported from a General Order Warehouse or a Foreign Trade Zone (unless, in the case of a Foreign Trade Zone, the customs office specifically permits the use of the Shipper's Export Declaration, Commerce Form 7525-V¹).

However, in accordance with an alternate procedure under the Customs Regulations, and when a validated license is not required, air cargo shipments in bond transiting the United States for export from any U.S. airport may be cleared without presenting Form 7513. For further information on this procedure, see §§ 6.17 through 6.24 of the Customs Regulations (19 CFR 6.17-6.24), or consult any customs office or the Bureau of Customs, Washington, D.C. 20226.

(2) *Additional information.* The following additional information shall be

¹Forms 7525-V and 7513 may be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, and from local customs offices. Form 7525-V may also be obtained from U.S. Department of Commerce Field Offices (see list on page i under Field Office Addresses).

entered on a Shipper's Export Declaration for In-transit Goods:

(i) The name and address of the intermediate consignee in a foreign destination, if any, shall be shown below the description of the commodities;

(ii) Underneath the name and address of the intermediate consignee, one of the following statements shall be made, whichever is appropriate:

(a) For intransit shipments of foreign-origin merchandise (for definition of "foreign origin," see § 371.4(a) of this subchapter):

The merchandise described herein is of foreign origin.

(b) For intransit shipments of domestic (U.S.) merchandise:

The merchandise described herein is of the growth, production, or manufacture of the United States.

(c) For intransit shipments of commodities of U.S. origin excepted under § 371.4(a)(2) of this subchapter:

The merchandise described herein is of the growth, production, or manufacture of the United States, but comes within the exception granted by § 371.4(a)(2) of the Export Control Regulations.

(iii) The commodities shall be described in terms of Schedule B, including the appropriate Schedule B number.

(u) *Change, alteration, and amendment of Declaration—(1) Changes before authentication.* Customs offices generally shall not authenticate any declaration showing evidence of change, alteration, or amendment, but shall require a clean copy. However, where demonstrated hardship or emergency exists customs offices may approve, at their discretion, specific changes, alterations, or amendments, on the face of the declaration. The exporter's duly authorized forwarding agent or carrier may insert or correct in declarations presented by him required items of information peculiarly within his own knowledge, such as the designation of the actual exporting carrier, date of export, or Schedule B number to which the commodity description clearly refers. The forwarding agent or carrier making the insertion or correction must specifically identify the same in writing on the face of the declaration. Nothing herein shall relieve such forwarding agent or carrier from liability for any misrepresentation of facts inserted or corrected.

(2) *Changes on authenticated declarations.* Except as described below, no declaration shall at any time after authentication by any customs office be changed, altered, or amended in any respect without prior authorization set forth on such authenticated declaration by the customs office.

(i) A duly authorized forwarding agent may change weights, measurements, quantities, etc., unless specifically precluded from doing so by the exporter in his designation. Customs offices may permit such amendments upon written authorization therefor set forth on the authenticated declaration. Customs offices will exercise discretion in allowing

such amendments. Where the amendments change a declaration to cover a substantially different shipment, a new declaration shall be prepared. Unless otherwise limited by the exporter, the power-of-attorney or other authorization given to a forwarding agent also authorizes him to prepare substitute declarations reflecting such changes.

(ii) If an exporting carrier designated in an authenticated declaration cannot receive the shipment on board, the name and date of departure of another exporting carrier may be substituted by the person or firm issuing bills of lading for the carrier originally named. Due and timely notice of such change shall be given to the customs office before loading the shipment onto the substitute carrier, and such change shall be specifically identified in writing on the face of the Declaration by the party making the change.

(iii) Conditions beyond the control of the exporting carrier named on an authenticated declaration may prevent loading the total cargo covered by the declaration. Such carrier is authorized to prepare and present additional declarations covering the remainder of the cargo when shipped if due and timely notice is given to the customs office before loading the remainder. The original declaration shall be amended by the carrier to show the descriptions, quantity, and value of the commodity(ies) actually carried. Subsequent declarations by the carrier shall be completed in all details and shall include the following statement:

These commodities were included, but not shipped, under authenticated Shipper's Export Declaration No. _____ at _____
(Port)
on _____
(Date)

(3) *Declarations showing unauthorized changes.* No person shall take any action to facilitate any export where the authenticated declaration purporting to authorize the export is shown to such person and shows any evidence of change, alteration, or amendment not authorized in writing by the customs office. In such a case, the person requested to facilitate the export shall report the facts to the nearest customs office and surrender the declaration to the customs office, if it is in his possession.

(4) *Correction of authenticated declarations—(i) General.* An authenticated declaration filed with the customs office shall be corrected in accordance with the facts of the export either by use of an Export Declaration Correction Form, Form FT-7403, or directly on the authenticated declaration as described below. Acceptance by the customs office of such corrections does not imply approval of any act involved in the shipment. The signature of the Customs officer in the "Certification" space on the Correction Form does not imply that he is certifying to the truth or correctness of the information on the form.

(ii) *Corrections on declarations.* Corrections shall be made directly on the authenticated declaration where:

(a) The shipment does not require submission of four copies of the declaration; and

(b) The Census Bureau copy of the declaration is still in possession of the customs office.

(iii) *Corrections by use of Correction Form.* In all other instances, corrections shall be made on an Export Declaration Correction Form, Form FT-7403, executed in duplicate by the exporter or his duly authorized agent and submitted to the customs office with which the authenticated declaration was filed. However, the Correction Form shall be submitted in triplicate where the shipment was made under a validated license requiring four copies of the declaration.

(v) *Alternate procedure for filing declaration—(1) Scope.* An alternate procedure for filing declarations covering general license shipments via aircraft or vessel to destinations in Country Groups T, V, and X is established, under which such a declaration may be delivered to the carrier¹ at the port of export without first having been authenticated by the customs office. The carrier, in turn, will examine the information on the declaration for completeness and attach the declaration to his outward foreign manifest for delivery to the customs office. This alternate procedure is restricted to carriers who have previously agreed to participate in the procedure, as provided in subparagraph (4) of this paragraph.

(2) *Action by exporter or his agent under alternate procedure—(i) Preparation of declaration—(a) Information required.* The exporter, or his duly authorized agent, shall prepare the declaration fully and properly in accordance with this § 386.3. In this regard, the responsibility of the exporter (or his agent) includes, but is not limited to, insuring that such items as destination, commodity descriptions, Schedule B numbers, quantities (where required), and values are complete and accurate; and further, that the proper general license designation and destination control statement are entered on the declaration. In addition, the exporter (or his agent) shall enter (1) the notation "NAR" (no authentication required) in the "Customs Authentication" space, and (2) the bill of lading number² (when known to the exporter or his agent) in the "Waybill or Manifest No." or "B/L No." space.

(b) *Number of copies.* The declaration shall be prepared in two copies only. However, where an additional copy is required by paragraph (i) (3) of this section, the declaration shall be prepared in three copies.

(ii) *Filing the declaration.* The exporter (or his agent) shall deliver all

¹ The term "carrier" as used in the context of this § 386.3(v) only, is defined as the "exporting carrier or his shipping agent(s)" at a port of export. Among other things, this means that the alternate procedure does not apply when an inland shipper elects to have his Declaration authenticated under the port-of-origin procedure set forth in § 386.8.

² See § 370.2 for definition.

copies of the declaration to the carrier before the shipment is loaded on board the exporting vessel or aircraft. Such a declaration need not first be authenticated by the customs office.

(3) *Action by carrier under alternate procedure—(i) Examination of declaration before loading.* (a) A carrier accepting unauthenticated Declarations shall, on receipt of such a Declaration and before loading the shipment on board the exporting vessel or aircraft, examine the declaration to see that:

(1) The shipment is declared as being exported under a general license;

(2) The shipment is declared as being made to a destination in Country Group T, V, or X;

(3) A destination control statement is shown on the declaration; and

(4) All other required information is shown completely on the declaration, including but not limited to destination, commodity description, Schedule B Number, shipping weight, quantity (where required), and value.

(5) The information shown on the declaration is not inconsistent with other records and information available to the carrier; and

(6) The following items of information, being peculiarly within the knowledge of the carrier, are accurate: "U.S. Port of Export," "Method of Transportation," "Exporting Carrier," "Foreign Port of Unloading," pier or airport, and bill of lading number.

(b) If a declaration appears incomplete or inconsistent, the carrier may make changes, alterations, and amendments of the type specified in (a) (6) of this subdivision. Otherwise, the carrier shall return it to the exporter or his agent to be checked, completed, or corrected. The exporter shall then give the declaration to the carrier for rechecking before the shipment is loaded.

(c) If the shipment is being exported under a validated license, the carrier shall return the declaration and license to the exporter or his agent for presentation to the customs office for authentication, in accordance with § 386.1(b) (1), before loading the shipment.

(ii) *Verifying entry of bill of lading number and "NAR" notation.* Before submission of the manifest and related Shipper's Export Declarations to Customs, carriers shall see that:

(a) The bill of lading number is entered in the "Waybill or Manifest No." or "B/L No." space on the declaration; and

(b) The notation "NAR" is entered in the "Customs Authentication" space on the declaration.

(iii) *Filing declaration and manifest.* (a) For each shipment covered by an unauthenticated declaration accepted under this procedure, the carrier shall enter on all copies of the outward foreign manifest filed with the customs office the notation "NAR" and the related bill of lading number.

(b) When the manifest is submitted to the customs office, all copies of the declaration shall be attached thereto. The unauthenticated declarations shall be

separated from the authenticated declarations. Where a third copy of the declaration is submitted, in accordance with paragraph (1)(3) of this section, that copy also shall be attached to the manifest.

(c) By filing an unauthenticated declaration with the manifest at the customs office under this procedure, the carrier certifies that he has reviewed the declaration and found it acceptable in accordance with this § 386.3(v).

(4) *Qualification of carrier under alternate procedure*—(1) *Statement by carrier*. A carrier wishing to participate shall send a letter to the Foreign Trade Division, Bureau of the Census, U.S. Department of Commerce, Washington, D.C. 20233. A copy of this letter shall also be sent to the Office of Export Control (Attention: 852), U.S. Department of Commerce, Washington, D.C. 20230. This letter shall:

(a) Propose a date on which the carrier intends to begin participation;

(b) Specify those ports at which the carrier will accept unauthenticated declarations;

(c) List the carrier's shipping agents and ports at which the agents will accept unauthenticated declarations; and

(d) Include a statement of the carrier's willingness to accept unauthenticated declarations and his agreement to comply with the provisions set forth in § 30.42 of this title (Foreign Trade Statistics Regulations) and this § 386.3(v) of the Export Control Regulations.

(ii) *Acceptance of carrier's statement*. The Bureau of the Census, with the advice of the Office of Export Control, will acknowledge and accept the carrier's statement of willingness to accept unauthenticated Declarations, under this alternate procedure. The acknowledgment will confirm the date on which the carrier will begin participating and the ports at which such carrier (and his shipping agents) will participate. This letter shall be retained by the carrier in his office for a period of 3 years from the date of the last action taken by the carrier under this alternate procedure and shall be made available for inspection on demand in accordance with § 387.11(f) of this subchapter. (For further recordkeeping requirements see § 387.11 of this subchapter).

(iii) *Notification to Customs*. Customs offices will be notified of the names of carriers who have agreed to accept unauthenticated declarations under this alternate procedure. Names of participating carriers may be obtained from customs offices.

(iv) *Port restrictions*. Participation by a carrier in this alternate procedure will be restricted to those ports he specifies in his letter to the Bureau of the Census and the Office of Export Control. A carrier may add or delete ports of participation by notifying the Bureau of the Census and the Office of Export Control as set forth in subdivision (1) of this subparagraph.

(5) *Withdrawal of privileges*—(1) *Exporters and agents of exporters*. The privilege of participating in this alternate procedure may be withdrawn from

an exporter or agent of an exporter if it is determined by the Bureau of International Commerce or the Bureau of the Census that such exporter or agent has knowingly or negligently furnished or assisted in furnishing inaccurate, incomplete, or otherwise inadequate information required on the Shipper's Export Declaration.

(ii) *Carriers*. The privilege of participating in this alternate procedure may be withdrawn from a carrier if it is determined by the Bureau of International Commerce or the Bureau of the Census that the carrier has knowingly or negligently failed to perform the functions required thereunder. Under such circumstances no exporter or agent of an exporter may avail himself of this procedure when dealing with such carrier so long as the carrier's privileges have been withdrawn.

(iii) *Reinstatement of privilege*. Any person or firm from whom the privilege of participating in this procedure has been withdrawn may apply for reinstatement of such privilege after a period of 45 days from the effective date of withdrawal.

(iv) *Administrative review and appeal*. Any person or firm from whom the privilege of participating in this procedure has been withdrawn, or whose application for the privilege has been denied, may request administrative review or appeal such withdrawal, as provided in Part 389 of this subchapter.

(v) *Return of unused copies of authenticated Declaration*. All copies of authenticated declarations not used by an exporter for the purposes for which they are authenticated shall be returned to the customs office making the authentication.

(x) *Summary monthly reports in lieu of individual shipper's export declarations*—(1) *Scope*. An alternate procedure for reporting exports to Canada and to Country Groups T, V, and X is established under which qualified exporters may be authorized to file at the end of each month typewritten or handwritten Shipper's Summary Export Declarations (Form 7525-M), or computer tapes compatible with equipment of the Bureau of the Census, punched cards, etc., in lieu of individual Shipper's Export Declarations. Details of the new procedure are set forth in § 30.39 of this title (Foreign Trade Statistics Regulations of the Bureau of the Census). Exporters interested in the procedure should consult § 30.39 of this title to ascertain qualifications, how to apply for the privilege of participating, how to file a monthly report after approval is given, and other pertinent facts. This § 386.3(x) contains only basic information about the procedure and specific requirements relating exclusively to export controls.

(2) *Certification required in application*. A request for the privilege of participating should be forwarded to the Foreign Trade Division, Bureau of the Census, Washington, D.C. 20233, with a copy to the Office of Export Control (Attention: 852), Bureau of International Commerce, U.S. Department of

Commerce, Washington, D.C. 20230. It shall include a certification by the exporter as follows:

I (We) certify that I (we) have established adequate internal procedures and safeguards to assure compliance with the requirements set forth in the U.S. Department of Commerce Export Control Regulations and Foreign Trade Statistics. Among other things, these procedures and safeguards assure:

(1) A proper determination as to whether a validated license is required for a particular export;

(ii) Actual receipt of the validated license, if required, before the shipment is exported;

(iii) Compliance with all the terms of the validated license or general license, as applicable;

(iv) Return of validated licenses to the Office of Export Control, as provided in § 386.3(x)(7) below;

(v) Compliance with the destination control statement provisions of § 386.6;

(vi) Compliance with the prohibition against export transactions that involve parties who have been denied U.S. export privileges;

(vii) Compliance with the recordkeeping requirements of § 387.11; and in addition, I (we) agree that my (our) office records will be made available for inspection by the Bureau of the Census, the Office of Export Control, or the Bureau of Customs, upon request, to verify that a given shipment was properly included in a particular monthly report.

(3) *Exporter's agent*. Where the exporter intends to authorize a forwarding agent to file monthly reports on his behalf, the exporter's request shall include the name and address of each such forwarding agent.

(4) *Authorization by Census to use monthly reporting procedure*. Authorization to file monthly reports in lieu of individual Declarations under this procedure will be granted by the Bureau of the Census with the concurrence of the Office of Export Control.

(5) *Validated license*. Persons or firms authorized to file monthly reports in lieu of individual declarations need not file validated licenses or amendments with the customs office or post office, except on demand. Instead, the licensee or his forwarding agent shall sign the license on the reverse side as provided in § 386.2 (b)(1), fill in the information required by subparagraph (6) of this paragraph, and hold it until time to return it to the Office of Export Control as required by subparagraph (7) of this paragraph.

(6) *Recording shipment on the reverse side of Export License (Form FC-628)*—

(1) *General*. The licensee or his forwarding agent shall record each shipment on the reverse side of the Export License (see Supplement S-3, page 2, for facsimile) as explained below, and include a statement that shipments were made under the "Monthly Shipper's Export Declaration procedure."

(a) *"Quantity"*. Enter total quantity shipped in units shown on the license, including any amounts shipped under the tolerance provisions of § 386.7.

(b) *"Description"*. Enter Export Control Commodity Number and an abbreviated description of the commodity as shown on the license. Where the license covers two or more commodities, indicate

clearly which commodity(ies) is being shipped;

(c) "Value". Enter total value of the commodities (selling price, or cost if not sold, including inland freight, insurance, and other costs to U.S. port of export, to the nearest whole dollar);

(d) "Name of Exporting Carrier". Enter name of vessel or airline on which shipment is exported. If other type of transportation is used, specify; e.g., truck, ferry, rail.

(e) "Port of Exit or Post Office of Mailing". Enter the name of the port from which the shipment leaves the United States or the post office where the shipment is mailed;

(f) "Date". Enter date the shipment leaves the United States (if exact date not known, enter approximate date); and

(g) "Customs Officer or Postmaster". Enter the initials of the person recording the shipment data.

(ii) *Export Clearance Continuation Sheet*. If the reverse side of the export license is filled before shipments are completed, further shipments shall be recorded on Form FC-557, Export Clearance Continuation Sheet (see Supplement S-24 for facsimile).² Continuation sheets shall be affixed to the license and numbered consecutively, and the export license number shall be entered in the "License No." space. Continuation sheets become part of the license and shall be returned with the license to the Office of Export Control as provided in subparagraph (7) of this paragraph.

(iii) *Periodic Requirements (PRL) License*. Shipments under a Periodic Requirements License shall be recorded in accordance with the terms of the license. For example, if the license breaks down quantity and/or value by Export Control Commodity Number, records shall be kept according to Export Control Commodity Number. If the consignee list shows quantities or values for individual consignees, shipments shall be recorded accordingly. In the absence of any of these breakdowns, shipment data shall be recorded as provided in this § 386.3 (x) (6).

(7) *Return of licenses*. Validated export licenses shall be returned to the Office of Export Control promptly after shipment is completed, or when no further shipments are to be made, or when the license has been revoked or canceled, or has expired.

(8) *Export clearance*—(i) *Destination Control Statement*. In addition to his responsibility for assuring that the proper destination control statement is placed on the commercial invoice as required by § 386.6, the exporter or his forwarding agent is responsible for assuring that the carrier places the proper destination control statement on the related bill of lading.

(ii) *Detention and examination*. Shipments being reported under this procedure are subject to detention and examination, as provided in § 386.9, whenever the customs office or postmaster deems such action necessary to assure compliance with the Export Control Regulations.

(9) *Revocation of authorization*. An authorization to file monthly reports in lieu of individual declarations, granted under § 30.39 of the Foreign Trade Statistics Regulations of this title and this § 386.3(x), may be revoked, suspended, or revised at any time.

(10) *Effect of other provisions*. Insofar as consistent with the provisions of this § 386.3(x) that relate specifically to filing monthly reports in lieu of individual declarations, the other provisions of this Part 386 shall apply to exports reported under this procedure.

§ 386.4 Conformity of documents for validated license shipments.

(a) *Applicability*. The following rules of conformity apply to any shipment under a validated export license, except those under a consolidated "master" air waybill (other than air mail or air parcel post). However, these rules do apply to any individual air waybill issued by a consolidator (indirect carrier) for an export included in a consolidated shipment and to any air waybill issued by a carrier or other person covering an export not included in a consolidated shipment.

(b) *Rules of conformity*—(1) *General*. The validated export license, the authenticated declaration, and the outbound bill of lading (including a railroad through bill of lading) covering the same export shipment must be consistent with one another. The bill of lading, whether in negotiable or nonnegotiable form, is not consistent if:

(i) It does not provide for delivery of the shipment (cargo) at a port located in the country of either the ultimate or intermediate consignee named in the authenticated declaration.

(ii) It contains any indication that the shipment is in transit to a country of ultimate destination different from that named in the authenticated declaration, if there is reason to believe that the shipment is not for consumption in the country of ultimate destination. For example, it would be inconsistent to consign such a shipment to the ultimate destination with a qualifying phrase indicating the shipment is "in transit" at that destination, or to consign the shipment to a free zone or free port.

(iii) It names as shipper any person other than the licensee or his duly authorized forwarding agent. Where shipments from more than one licensee are consolidated on a single bill of lading, the shipper named on the bill of lading must also appear as the authorized forwarding agent for each exporter on each declaration.

(iv) The name and address of the ultimate consignee are not shown either in the space provided for "consignee" or in the body of the bill of lading under the caption "ultimate consignee and

notify party" or in the case of the air waybill under the caption "also notify." However, where shipments to more than one ultimate consignee are consolidated on one bill of lading and not all are shown in the body of the bill of lading, the name of the intermediate consignee (customs broker or consolidator's agent in the foreign country) who will receive and distribute the goods to the ultimate consignees must appear on the bill of lading, the validated license(s), and the declaration(s). Where the name of the intermediate consignee in such a consolidated shipment differs from that shown on each validated license, or does not appear on each license, amendment of the license(s) is necessary even though the intermediate consignee is in the same country as the ultimate consignees.

(2) *Negotiable bill of lading*. For a negotiable bill of lading ("order" bill of lading), the bill of lading is deemed consistent only if the consignee or order party named therein is also named in the authenticated declaration. An "order" bill of lading may consign the commodities or technical data covered thereby to the order of the shipper, to the order of an intermediate consignee (whether bank, foreign freight forwarder, or other intermediary), or to the order of the purchaser (if not the same as the ultimate consignee). An "order" bill of lading issued in any of these forms constitutes a representation by the shipper that (i) the commodities or technical data covered by the validated license, authenticated declaration, and bill of lading are ultimately destined to such ultimate consignee; (ii) the document has not been used for the purpose of evading the terms and conditions of the validated license; and (iii) pursuant to the contract of carriage, the commodities or technical data will be delivered at a port located in the country of the ultimate consignee or of the intermediate consignee named in the authenticated declaration.

(3) *Commodity description*. On a bill of lading the commodities or technical data may be described in terms of the freight tariff classification or other type of classification, but may not be inconsistent with the description shown in the authenticated declaration and validated export license. On the authenticated declaration the commodity description shall include the same commodity description as shown on the related validated license, and in addition, it shall include more detailed information where required by the Census Bureau.

(4) *Commodity numbers*. The three-digit or five-digit Export Control Commodity Number shown on the export license shall be the same as the initial digits of the seven-digit Schedule B number entered on the authenticated Declaration.

(5) *Carrier's manifest*. If the carrier's outward foreign manifest filed with the U.S. customs office contains names of shippers or consignees, these names must not be inconsistent with the names

² Form FC-557 may be obtained from all U.S. Department of Commerce field offices (see list on page 1 under Field Office Addresses) and from the Office of Export Control (Attention: 852), U.S. Department of Commerce, Washington, D.C. 20230.

shown on the bill of lading (or authenticated declarations).

(c) *Compliance.* No carrier shall issue, and no licensee, shipper, consignee, exporter, or consignee, or their agents, or any other person, shall prepare or procure, a bill of lading which is contrary to the provisions of this § 386.4. Customs offices are authorized to require any document or to use any other appropriate methods to insure compliance with these provisions.

§ 386.5 General destination control requirements.

(a) *Applicability to validated license shipments.* The following provisions apply to all shipments under a validated license:

(1) *Destination on bill of lading.* No carrier (nor any other person on behalf of any carrier) shall issue a bill of lading providing for delivery of cargo at any foreign port not in the country of (i) the ultimate consignee, or (ii) the intermediate consignee, named in the authenticated Shipper's Export Declaration.

(2) *Delivery of cargo.* No carrier shall deliver cargo to any other country at the request or option of the shipper, consignee, exporter, purchaser, or ultimate consignee, or their agents, or any other person having custody or control of the shipment, without prior written authorization from the Office of Export Control to the carrier or its agent.

(3) *Diversion.* No shipper, consignee, exporter, purchaser or ultimate consignee, or their agents, or any other person, shall without prior written authorization from the Office of Export Control to the carrier or its agent:

(i) Divert any cargo to any country of ultimate destination other than that named in the authenticated declaration or in the bill of lading as described in § 386.6; or

(ii) Request or demand that any carrier or its agent divert cargo from the country of ultimate destination named in any such document.

In addition, no agent of any carrier shall instruct or authorize the master of the vessel to divert any cargo to any other country of ultimate destination without prior written authorization from the Office of Export Control.

(4) *Optional ports on bill of lading.* No carrier shall issue a bill of lading providing for delivery of cargo to the ultimate consignee named in the authenticated declaration at optional ports, where one of such optional ports is not in the country of ultimate destination named on the license or declaration, without written authorization from the Office of Export Control. However, where the authenticated declaration provides for delivery of cargo to optional intermediate consignees located in ports in different countries, the carrier may issue a bill of lading providing for delivery at such optional ports.

(b) *Unloading of cargo at a port in other than intermediate or ultimate country of destination.* (1) Nothing contained in the Export Control Regulations

shall be deemed to prohibit a carrier from unloading cargo at a port outside the intermediate or ultimate country of destination shown on the authenticated Declaration where, for reasons beyond the control of the carrier (as set forth in standard provisions of the carrier's bill of lading; such as, act of God, perils of the sea, damage to the carrier, strikes, war, political disturbances, or insurrection), it is not feasible to deliver the cargo at the licensed port of destination.

(2) Whenever cargo is unloaded at a port in any country other than the intermediate or ultimate destination shown on the declaration, except where the cargo may be exported under a general license directly from the United States to such country:

(i) The carrier shall, within 10 days after date of unloading, report the facts to the nearest American consul and to the agent of the carrier located in the United States. Within 10 days after receipt of such report, the agent shall send a copy of the report to the Office of Export Control. This report shall consist of (a) a copy of the manifest of such diverted cargo, (b) a statement of the place of unloading, and (c) the name and address of the person in whose custody the commodities or technical data were delivered.

(ii) The exporter of such cargo shall, within 10 days of receiving notice of such diversion from the Office of Export Control, notify the Office of Export Control of the proposed disposition of the commodities or technical data.

(iii) No person, including the exporter, licensee, consignee, carrier, or any person acting on the carrier's behalf, shall take any steps to effect delivery or entry of the commodities or technical data into the commerce of the country where unloaded without prior approval of the Office of Export Control. The carrier shall take steps to assure that such commodities or technical data are placed in custody under bond or other guaranty not to enter the commerce of such country or any country other than the countries of the ultimate and intermediate consignees shown on the authenticated declaration without such prior approval.

(c) *Shipper's export declaration number on ship's manifest.* The carrier or its agent shall show on all copies of the outward foreign manifest filed with the U.S. customs office, the applicable declaration number assigned by the customs office to each shipment.

§ 386.6 Destination control statements.

(a) *Requirement for destination control statement.* Except as indicated in paragraph (b) of this section below, the appropriate destination control statement shall be entered on the Shipper's Export Declaration, bill of lading, and commercial invoice for: (1) Any ship-

¹ Bills of lading are not issued for mail shipments; therefore for mail shipments a destination control statement is required only on the declaration and commercial invoice.

ment under a validated license; and (2) any shipment under a general license for which a declaration is required. The same statement shall appear on all copies of all such shipping documents that apply to the same shipment. The primary purpose of this statement is to notify the foreign importer of U.S. re-export provisions applicable to the transaction.

(b) *Exceptions—(1) Shipments.* A destination control statement is not required for shipments of commodities or technical data that are:

(i) Identified by the word "None" in the Commodity Control List column titled "Validated License Required for Country Groups Shown Below"; or

(ii) Exported under General License Baggage, Tools of Trade, GIT, GTDA, or GTDR.

NOTE: 1. Shipments to Puerto Rico, the Panama Canal Zone, and territories, dependencies, and possessions of the United States. The Census Bureau requires Declarations for shipments to these destinations for statistical purposes. However, since such exports are not controlled by the Office of Export Control, a destination control statement is not required for these shipments.

2. Shipments to Canada. No destination control statement is required for shipments to Canada for consumption in Canada, except for the commodities and technical data described in § 370.3(a)(1). However, a destination control statement is required for shipments through Canada to other foreign destinations.

(2) *Documents.* Except as required in in § 373.4 of this subchapter (Foreign-Based Warehouse Procedure), a destination control statement is not required on shipping documents issued outside the United States, or on such documents as consular invoices, inland bills of lading covering movement to port only, letters of credit, ship's manifests, packing lists, dock receipts, and warehouse receipts.

(c) *Statement to be used.* There are three destination control statements (see paragraph (d) of this section) below, any one of which may be used, as follows:

(1) *Shipments under General License GMS.* For a shipment under General License GMS, Statement 1 only shall be used.

(2) *Shipments under a general license other than GMS.* For a shipment under any general license other than General License GMS, any of the three statements may be used.

(3) *Validated license shipments.* For a shipment under a validated license, either Statement 1 or Statement 2 shall be used. Statement 1 should be used where the license shows that the commodities or technical data are licensed for export to the country of ultimate destination only. Statement 2 should be used where the license specifically shows that the commodities or technical data may be distributed or resold to other specified countries.

(d) *Statements—(1) Statement 1.*

These (commodities) (technical data) licensed by the United States for ultimate destination (name of country). Diversion contrary to U.S. law prohibited.

Enter the country of ultimate destination¹ named on the Declaration, and if applicable on the validated license, in the blank country space.

(2) *Statement 2.*

These (commodities) (technical data) licensed by the United States for ultimate destination (name of country) and for distribution or resale in (name of country (ies)). Diversion contrary to U.S. law prohibited.

Complete the country spaces as follows:

(1) *General license shipments.* For a shipment under a general license other than General License GMS:

(a) Enter the country of ultimate destination¹ named on the Declaration in the first space; and

(b) Enter the following in the last space:

Any destination except Soviet Bloc,² Communist China, North Korea, Macao, Hong Kong, Communist controlled areas of Vietnam, Cuba, or Southern Rhodesia, unless otherwise authorized by the United States.

If the export requires a validated license for Poland and Romania, include these countries in the last space. If the export does not require a validated license for a country in the prohibited list, that country may be deleted.

(ii) *Validated license shipments.* For a validated license shipment:

(a) Enter the country of ultimate destination named on the license in the first space; and

(b) Enter the country (ies) shown on the license as approved for distribution or resale in the last space. If no such country is shown on the license, enter the word "none" in the last space.

(3) *Statement 3.*

United States law prohibits disposition of these commodities to the Soviet Bloc,² Communist China, North Korea, Macao, Hong Kong, Communist controlled areas of Vietnam, Cuba, or Southern Rhodesia, unless otherwise authorized by the United States.

Statement 3 permits distribution or resale to any country in the world other than those specifically excepted. If the export does not require a validated license for an excepted country, that country may be deleted. If the export requires a validated license for Poland and Romania, add these countries to the prohibited destinations listed in this statement.

(e) *Preprinted statement.* A destination control statement may be preprinted on Shipper's Export Declarations, bills of lading, or commercial invoices. But in this case, only one of the three destination control statements above may be shown on any one of these documents.

¹ Where the country of ultimate destination is Vietnam, the destination control statement shall be completed as required by § 385.4(d), regardless of the country designation shown on the Declaration and regardless of whether the shipment is under a validated or general license.

² As used in the destination control statement, the term "Soviet Bloc" means all countries in Country Group Y. Neither Poland, Romania, nor Yugoslavia are Y countries.

(f) *Permissive reexports.* If an exporter or his agent uses a more restrictive destination control statement than is necessary, the reexport provisions of Part 374 of this subchapter may nevertheless permit reexport to certain destinations. Where reexport is permitted, the exporter may so advise his foreign importer without obtaining written approval from the Office of Export Control. In all other instances, prior written approval shall be obtained from the Office of Export Control.

(g) *Responsibility for use of statement—(1) Primary responsibility—(i) General.* The exporter has the primary responsibility for assuring entry of an appropriate destination control statement on the declaration and the commercial invoice, regardless of whether he prepares these documents. If a forwarder, a carrier acting as a forwarder, or any other party prepares, presents, and/or executes these documents, the forwarder, carrier, or other party is also responsible for assuring that an appropriate statement is entered on the documents. The carrier, as the party that issues the bill of lading, has the primary responsibility for assuring that the same statement appearing on the corresponding declaration also appears on the bill of lading. Any other party who prepares a bill of lading is also responsible for assuring that an appropriate statement is placed on the document.

(ii) *Appropriate statement.* For a general license shipment, an understanding must be reached between the exporter and forwarder, carrier, or other agent as to which statement shall be used. For a validated license shipment, if a forwarder, carrier, or other agent does not have a copy of the commercial invoice, he can determine the appropriate destination control statement from the export license.

(2) *Statement on bill of lading—(i) General.* No carrier shall issue (and no exporter, licensee, shipper, consignee, agent, or any other person, shall prepare or procure) a bill of lading covering an export for which a declaration with the applicable statement has been authenticated by a customs office, unless all copies of such bill of lading (including all nonnegotiable and office copies) contain the same statement in clearly legible form.

(ii) *Air waybill.* In the case of shipments by air (other than airmail or air parcel post), this requirement applies to any air waybill, including one issued by a consolidator (direct carrier) for an export included in a consolidated shipment. However, these provisions do not apply to a "master" air waybill issued by a carrier to cover a consolidated shipment.

(iii) *More than one statement applicable to bill of lading.* If one bill of lading is issued for two or more individual shipments to which different destination control statements apply, the applicable statement shall be entered beneath each shipment or group of shipments. However, if the bill of lading shows a single freight tariff classification to describe several commodities

which require the use of more than one statement, and it is impracticable to separate the commodities on the bill of lading, the most restrictive statement applicable to any of the groups shall be used. The commercial invoice and Shipper's Export Declaration should, nevertheless, segregate the commodity groups and show the proper statement for each group.

(3) *Statement on commercial invoice—(i) General.* No licensee, shipper, consignee, exporter, agent, or any other person shall prepare or issue a commercial invoice for a shipment subject to the provisions of this § 386.6, unless all copies of the invoice(s) contain the same destination control statement in clearly legible form. This statement shall be an applicable statement as set forth in paragraph (d) of this section.

(ii) *Distribution of copies of statement.* Whenever a commercial invoice is issued containing the prescribed destination control statement, the shipper or other person issuing such invoice shall promptly send copies to:

(a) The ultimate consignee and the purchaser named in the authenticated Declaration;

(b) The intermediate consignee; and

(c) Any other persons named in the invoice who are located in a foreign country.

Nothing contained herein shall be construed to limit the persons or classes of persons to whom such invoices and bills of lading are usually and customarily sent in the course of export trade. The shipper or other person issuing the commercial invoice may omit all reference to price or sales commission from the copy of the invoice sent to any of the above-named persons, provided such invoice otherwise adequately identifies the shipment. As an alternative, in lieu of a copy of the commercial invoice, such person may send a copy of the bill of lading containing the destination control statement.

(iii) *Commercial invoices not containing a statement.* If the forwarding agent receives from the exporter a copy of a commercial invoice without the correct destination control statement, he shall:

(a) Notify the exporter in writing;

(b) Request written assurance from the exporter that (1) the destination control statement has been properly entered on all other copies of the commercial invoice, and (2) any person who received an invoice without the statement has been informed in writing of the restrictions set forth in the statement;

(c) Either (1) enter the appropriate statement on his copy of the invoice, or (2) return it to the exporter for proper completion; and

(d) Keep and make available for inspection, in accordance with § 387.11 of this subchapter, a copy of his notification to the exporter and the original of the exporter's assurance to him. (For further recordkeeping requirements, see § 387.11 of this subchapter.)

(h) *Release of custody by carrier.* No carrier shall release custody of a shipment covered by the provisions of this

§ 386.6 to any party without surrender by that party, to the carrier, of a copy of the bill of lading bearing on its face the applicable destination control statement, unless either:

(1) Simultaneously with the release, the carrier delivers to such party a written copy of the destination control statement, contained in the carrier's copy of the bill of lading for the shipment. The written copy shall identify the shipment by bill of lading number, name of carrier, voyage or flight number, date, and port of arrival. The carrier shall also secure either a signed receipted copy of the written statement or other equivalent written evidence that the statement has been delivered by the carrier; or,

(2) The regulations of the importing country require the carrier to deliver the commodities directly into the physical possession and control of customs or other government agency for delivery to the consignee or his agent. In this case, the carrier need not give to, or receive from, the customs or other government agency, or the consignee or his agent, any document bearing the destination control statement.

(1) *Notice and prohibition against diversion*—(1) *Conduct after receiving notice.* After receiving an invoice, bill of lading, or any other document containing notice of the prohibition against diversion set forth in a destination control statement, or after receiving oral notice of such prohibition, no person so notified including the ultimate consignee, intermediate consignee, or on-forwarding carrier shall divert, transship, or reexport (or cause to be diverted, transshipped, or reexported) any shipment described in the written or oral notice to any country not authorized in such notice.

(2) *Proof of notice.* In any administrative compliance proceeding brought by the Office of Export Control, evidence of the sending of such invoice or bill of lading, or other form of notice of the prohibition against diversion to any person, shall constitute prima facie proof of the person's receipt thereof. This shall also constitute notice that the commodities have been licensed for a particular country of ultimate destination and may not be lawfully diverted to any other country. In addition, proof of the sending of such notice to the intermediate consignee shall be deemed notification of such prohibition to the ultimate consignee and purchaser.

(3) *Effect of foreign laws.* Reexport authority contained in a destination control statement does not relieve any person from complying with foreign laws. (See §§ 374.9, 373.1(a), and 379.8(d) of this subchapter.)

§ 386.7 Shipping tolerance.¹

(a) *When tolerance is allowed.* A shipping tolerance is allowed over the quantity specified on a validated export license or on a customs office release

¹ Also see § 372.11 for amendment procedure if increase does not fall within allowable tolerances.

against the license (as set forth in § 386.2(e)), unless such tolerance is limited or prohibited by the terms of the license or by the following provisions of this § 386.7.

(b) *Amount of tolerance allowed*—(1) *Ten percent tolerance.* With the exceptions in subparagraph (2) of this paragraph below, a shipping tolerance of 10 percent is allowed when the quantity on the license or release is in the terms set forth below. If no quantity is specified on the license or release, the tolerance will be allowed on the total price shown for each entry on the license or release:

Avoirdupois ounce.	M (1,000) board feet.
Bale.	Milligram.
Barrel.	Oxford unit.
Bushel.	Pound.
Content pound.	Proof gallon.
Cubic foot.	Short ton (2,000 pounds).
Gallon.	Square foot.
Gram.	Square yard.
Hundredweight (100 pounds).	Troy ounce.
Linear foot.	U.S.P. unit.
Linear yard.	
Long ton (2,240 pounds).	

(2) *Five percent tolerance.* A shipping tolerance of 5 percent is allowed on the unshipped balance specified on a validated export license or customs release for shipments of all of the commodities listed below except 28401 (first item only), 28402, and 28403 for which the 5 percent applies to the total amount licensed as explained more fully in paragraph (e) of this section.

Export Control Commodity Number and Commodity Description

28200	Alloy steel scrap containing 5 percent or more nickel by weight.
28311	Copper ores and concentrates.
28312	Copper matte.
28401	Copper bearing ash and residues.
28401	Nickel bearing residues and dross.
28402	Copper or copper-base alloy waste and scrap.
28403	Other nickel or nickel alloy waste and scrap.
51369	Nickel oxide.
51470	Nickel sulphate.
51470	Master alloys of copper containing 8 percent or more phosphor.
67150	Ferronickel containing 90 percent or less nickel.
68211	Bilister copper and other unrefined copper.
68212	Refined copper, including remelted, in cathodes, billets, ingots, wire bars, and other crude forms.
68212	Copper-base alloy ingots.
68213	Master alloys of copper.
68221	Bars, rods, angles, shapes, sections, and wire of copper or copper-base alloy.
68222	Plates, sheets, and strips of copper or copper-base alloy.
68223	Copper or copper alloy foil, including paper-backed.
68224	Copper and copper alloy powders and flakes.
68225	Tubes, pipes, and blanks therefor, and hollow bars of copper or copper-base alloy.
68226	Tube and pipe fittings of copper or copper-base alloy.
68310	Nickel based magnetic materials, unwrought.
68310	Other nickel or nickel alloys, unwrought.

68324	Nickel or nickel alloy electroplating anodes.
68892	Copper or copper-base alloy articles: (a) Fabricated anodes, and (b) cores (mold inserts).
68892	Copper or copper-base alloy castings and forgings.
72310	Wire and cable coated with or insulated with fluorocarbon polymers or copolymers.
72310	Communications cable, as follows: (a) Submarine cable; (b) coaxial cable using a mineral insulator dielectric; or (c) coaxial cable using a dielectric aired by discs, beads, spiral screw, or any other means.
72310	Other communications or coaxial cable.
72310	Other copper or copper-base alloy insulated wire and cable.

(3) *Tolerance inapplicable.* The tolerance provisions of this § 386.7 shall not apply to the following units of quantity:

Carat.	Pencil gross.
Cell.	Piece.
Dozen.	Ream.
Gross.	Roll.
Number.	Round.
Pack.	Square.
Pair.	Set.

(c) *Partial shipments.* Whenever one or more partial shipments of the licensed commodity has been made, the tolerance applies only to the unshipped balance, except that for iron and steel products and tin plate, the tolerance is allowed on the basis of the actual quantity approved on the license or release.

(d) *Tolerance inapplicable after total shipped.* Where the quantity (or total price if applicable) stated on the license or the customs office release has been shipped, no further shipment may be made under the license or release.

(e) *Bulk quota license.* For shipments under a Bulk Quota License, a shipping tolerance of 5 percent above the actual quantity stated on the license is allowed. For example, if the quantity shown on the license is "10,000 copper content pounds," up to 10,500 copper content pounds may be exported. However, once an amount equivalent to the quantity stated on the license has been shipped, no further shipment may be made under the license; that is, the 5 percent tolerance may not be used to make a separate shipment after previous shipments have already totalled 10,000 copper content pounds.

§ 386.8 Customs clearance at ports of origin.

(a) *Scope of procedure.* A procedure is established, as an exception to the requirements set forth in § 386.1 (b) and (d), for the export control clearance of certain shipments of commodities and technical data at the ports of origin designated in paragraph (d) of this section, prior to movement of the shipment to, and through, the port of export. Use of the port of origin procedure is optional.

(b) *Types of shipments eligible for clearance at port of origin.* The following types of shipments, except shipments to nonforeign areas and to Canada for

consumption in Canada, are eligible to be considered for clearance at ports of origin:

(1) Air shipments laden aboard a domestic flight for transfer to an international flight at the port of export;

(2) Air shipments laden aboard an international flight for transfer to another international flight of the same airline at the port of export;

(3) Surface shipments, containerized and/or consolidated at freight terminals within the port of origin, provided that distance and/or other factors do not make it impractical for customs officers to travel to and from the site where the shipment is presented for inspection (see paragraph (e) (7) of this section); and

(4) Surface/air shipments; that is, shipments moving by air from the port of origin for transfer to surface transportation at the port of export, and shipments moving by surface transportation from the port of origin for transfer to an aircraft at the port of export.

(c) *Definitions of "port of origin" and "port of export"*. For purposes of this § 386.8:

(1) *Port of Origin* is a city at which the customs office is authorized to clear cargo for export prior to the loading of the cargo on a surface or air carrier for movement to the port of export and transfer to another carrier; and

(2) *Port of Export* is a city where the merchandise is loaded on the aircraft or vessel which carries it abroad; or, in the case of exports moving to Mexico by surface transportation, the port at which the carrier departs from the United States.

(d) *Designated ports of origin*. The cities listed below are designated as ports of origin where customs clearance of air or surface shipments may be effected prior to movement of the shipment to the port of export.

(1) *Ports of origin for clearance of either air shipments or surface shipments*.

Baltimore, Md.	Los Angeles, Calif.
Buffalo, N.Y.	New Orleans, La.
Charlotte, N.C.	New York, N.Y.
Chicago, Ill.	Philadelphia, Pa.
Cleveland, Ohio.	St. Louis, Mo.
Dayton, Ohio.	Salt Lake City, Utah.
Detroit, Mich.	San Francisco, Calif.
Houston, Tex.	Tulsa, Okla.

(2) *Ports of origin for clearance of air shipments only*.

Atlanta, Ga.	Oklahoma City,
Boston, Mass.	Okla.
Dallas, Tex.	Pittsburgh, Pa.
Denver, Colo.	Port Everglades, Fla.
Honolulu, Hawaii	Portland, Oreg.
Kansas City, Mo.	San Diego, Calif.
Memphis, Tenn.	San Juan, P.R.
Miami, Fla.	Seattle, Wash.
Minneapolis, Minn.	Tucson, Ariz.
Newark, N.J.	

(3) *Ports of origin for clearance of surface shipments only*.

Charleston, S.C.	Jacksonville, Fla.
------------------	--------------------

(e) *Clearance at port of origin*—(1) *Presentation for authentication*. A person who wishes to clear an export at a

designated port of origin shall present the Shipper's Export Declaration and a validated export license, when required, to the customs office in accordance with the regulations set forth in this Part 386. The following special provisions must be complied with in addition to, or in lieu of, the usual requirements:

(i) Documents for individual shipments shall be presented sufficiently in advance of containerization or departure of the goods for the port of export, to permit inspection of the merchandise. Surface shipments must be made available for inspection at a freight terminal within port limits; air shipments in an airline cargo room;

(ii) In the space on the Declaration for "Exporting Carrier," show ocean carrier; airline that is to carry the shipment abroad; or "rail," "truck," or "vehicle," etc., as appropriate, for land shipments to Mexico, along with the name of the transportation company that is to carry the merchandise across the border. If the name of the exporting carrier is unknown at the port of origin, this information may be inserted at the port of export by the exporting carrier;

(iii) In the space for "U.S. Port of Export," show port of actual export; not port of origin; and

(iv) Stamp or write "Port-of-Origin Procedure—copy on file at (insert port of origin)," across the bottom of columns (9) through (15).

(2) *Authentication of declaration*. All copies of the declaration which are required by the provisions of § 386.3(d) to be presented to the customs office, will be authenticated at the port of origin. One copy of the authenticated declaration shall be retained by the customs office and the original and duplicate returned to the exporter or his agent. The exporter or his agent is responsible for delivering these declarations to the carrier transporting the cargo to the port of export. This carrier, in turn, is responsible for delivering the copies to the exporting carrier for presentation to the customs office at the port of export with the outward foreign manifest (see paragraph (f) of this section).

(3) *Inspection at port of origin*. When an inspection is ordered at the port of origin the exporter or his agent will be required to provide personnel to open and close packages as necessary.

(4) *Additional copies of declaration*. Additional copies of the declaration, when required, shall be presented to the customs office at the port of origin, and, after authentication, forwarded by the customs office directly to the Department of Commerce.

(5) *Correction forms*. When a Form FT-7403, Export Declaration Correction Form, is required by the provisions of § 386.3(u) (4), the form shall be presented in triplicate to the customs office at the port of origin. The customs office will retain one copy and forward two copies to the customs office at the port of export.

(6) *Outward foreign manifest for shipments laden aboard international flight at port of origin*. Copies of out-

ward foreign manifests for shipments laden aboard an international flight for transfer to another international flight of the same airline at the port of export (see paragraph (b) (2) of this section), shall be prepared and filed with the customs office at the port of origin and the port of export in accordance with the Census Bureau Foreign Trade Statistics Regulations.

(7) *Inconvenient site for inspection*. If it is impractical for the port of origin procedure to be used because of the location of the site where the shipment is presented for inspection, the customs office will so notify the exporter and advise him to either present the merchandise at a more convenient location or have it cleared at the port of export.

(f) *Procedure at port of export*—(1) *Presentation of documents to customs office*. The original and duplicate copies of declarations authenticated at ports of origin and forwarded by the exporter or his agent to the exporting carrier, shall be presented by that carrier to the customs office at the port of export with the outward foreign manifest. Where shipments move to Mexico by land or ferry, the original and duplicate authenticated declarations must be presented to the port of export customs office at the time of, or prior to, movement of the goods across the border. Presentation of the declaration may be made by the exporter, his agent, or the transportation company responsible for carrying the goods abroad. All related documents to be retained at the port of export or to be certified as to completion of the export shall accompany the corresponding copies of the declaration.

(2) *Detention and examination of shipments*. Notwithstanding any other provision of this § 386.8, the customs office at the port of export is authorized to detain any shipment for review of the declaration or for physical examination of the goods whenever the customs office deems such action to be necessary to assure compliance with the Export Control Regulations.

(g) *Change in port of export or exporting carrier*. Where the port of export or the exporting carrier designated in the authenticated declaration is changed after clearance at a port of origin, the carrier that will actually carry the goods abroad may revise the declaration accordingly.

(h) *Effect of other provisions*. Insofar as consistent with the provisions of the section which relate specifically to clearance of export at ports of origin, the other provisions of this Part 386 shall apply to exports cleared at ports of origin.

§ 386.9 *Authority of customs offices and postmasters in clearing shipments*.

(a) *Delegation of authority to customs offices and postmasters*. Customs offices and postmasters, including all customs and post office officials, are authorized and directed to take appropriate action to assure observance of the provisions of the Export Control Regulations and of general and validated licenses issued thereunder. This includes,

but is not limited to inspection of commodities and technical data being exported or about to be exported. Customs offices and postmasters, upon specific authorization by the Office of Export Control, may waive presentation of an export license.

(b) *Types of actions which may be taken by customs offices.* The following types of actions, among others, are authorized to be taken by customs offices:

(1) *Examination of commodities—(i) Purpose of examination.* All commodities and technical data declared for export are subject to examination by customs officials for the purpose of verifying the commodity or technical data specified in the Shipper's Export Declaration, and the value and quantity thereof, and to assure observance of the other provisions of the Export Control Regulations. This authority applies to exports under either a general or a validated export license and also to exports to Canada. This examination may include, but is not limited to, commodity identification, technical appraisal (analysis), or both.

(ii) *Place of examination.* Examination shall be made at the place of lading or where customs officials are stationed for that purpose.

(iii) *Technical identification.* Where, in the judgment of the customs office, the commodity or technical data cannot be properly identified, a sample may be taken for more detailed examination or for laboratory analysis. This shipment will not be delayed after sampling for completion of the analysis.

(a) *Obtaining samples.* The sample will be obtained by the customs official in accordance with the provisions for sampling imported merchandise. The size of the sample shall be the minimum representative amount necessary for identification or analysis. This will depend on such factors as the physical condition of the material (whether solid, liquid, or gas and the size and shape of the container).

(b) *Notification to exporter and consignee.* When a sample is taken, the exporter (or his agent) and ultimate consignee shall be notified on Notice of Retained Samples, Form IT-915 (see Supplement S-16 for facsimile). The customs official shall prepare this form in triplicate, showing the name of the port of export, date of sampling, declaration number, license number (if any), mark and case numbers, amount of sample, manufacturer's number, and description of the commodity. The original Form IT-915 shall be placed in the opened container, the duplicate sent to the exporter or his agent, and the triplicate retained by the customs office.

(c) *Disposal of samples.* Samples will be disposed of in accordance with the customs office procedure for imported commodities.

(2) *Inspection of documents—(i) General.* The customs office is authorized to require exporters or their agents, and owners and operators of exporting carriers or their agents, to produce for inspection or copying: invoices, orders, letters of credit, inspection reports, pack-

ing lists, shipping documents and instructions, correspondence, and any other relevant documents; as well as furnish other information bearing upon a particular shipment intended for export or removal from the United States and the identity and relationships of all participants therein.

(ii) *Cartridge and shell case scrap.* When cartridge or shell cases are being exported as scrap (whether or not they have been heated, flame-treated, mangled, crushed, or cut) the customs office is authorized to require the exporter to produce a copy of the bid offer by the armed services in order to assure that the terms of the Export Control Regulations are being met and that the material being shipped is scrap.

(3) *Questioning of individuals.* The customs office is authorized to question the owner or operator of an exporting carrier and his agent(s), as well as the exporter and his agent(s), concerning a particular shipment exported or intended to be exported.

(4) *Prohibiting lading.* The customs office is authorized to prevent the lading of commodities or technical data on an exporting carrier whenever the customs office has reasonable cause to believe that the export or removal from the United States is contrary to the Export Control Regulations.

(5) *Inspection of exporting carrier.* The customs office is authorized to inspect and search any exporting carrier at any time to determine whether commodities or technical data are intended to be, or are being, exported or removed from the United States contrary to the Export Control Regulations.

(6) *Seizure.* The customs office is authorized, under title 22 of the United States Code, section 401, et seq., to seize and detain any commodities or technical data whenever an attempt is made to export them in violation of the Export Control Regulations, or whenever it knows or has probable cause to believe that commodities or technical data are intended to be, are being, or have been exported in violation of the Export Control Regulations. Seized commodities or technical data are subject to forfeiture.

(7) *Preventing departure of carrier.* The customs office is authorized, under title 22 of the United States Code, section 401, et seq., to seize and detain, either before or after clearance, any vessel or vehicle or air carrier which has been or is being used in exporting or attempting to export any commodity or technical data intended to be, being, or having been exported in violation of the Export Control Regulations.

(8) *Ordering the unloading.* The customs office is authorized to unload, or to order the unloading of commodities or technical data from any exporting carrier, whenever the customs office has reasonable cause to believe such commodities or technical data are intended to be, or are being, exported or removed from the United States contrary to the Export Control Regulations.

(9) *Ordering the return of commodities.* If a carrier departs before a declaration is authenticated or filed under the

alternate procedure or if it departs without affording the customs office an adequate opportunity to examine the shipment, the customs office is authorized to order the owner or operator of an exporting carrier and his agent(s) to return commodities or technical data exported on such exporting carrier and make them available for inspection by the customs office.

§ 386.10 Return or unloading of cargo at direction of U.S. Department of Commerce.

(a) *Exporting carrier.* As used in this § 386.10, the term "exporting carrier" includes a connecting or on-forwarding carrier, as well as the owner, charterer, agent, master, or any other person in charge of the vessel, aircraft, or other kind of carrier, whether such person is located in the United States or in a foreign country.

(b) *Ordering return or unloading of shipment.* Where there are reasonable grounds to believe that a violation of the Export Control Regulations has occurred or will occur with respect to a particular export from the United States, the Office of Export Control or any U.S. Customs Officer may order any person in possession or control of such shipment, including the exporting carrier, to return or unload the shipment. Such person shall, as ordered, either (1) return the shipment to the United States or cause it to be returned, or (2) unload the shipment at a port of call and take steps to assure that it is placed in custody under bond or other guaranty not to enter the commerce of any foreign country without prior approval of the Office of Export Control. For the purpose of this § 386.10, the furnishing of a copy of the order to any person included within the definition of exporting carrier shall be sufficient notice of the order to the exporting carrier.

(c) *Requirements regarding shipment to be unloaded.* The provisions of § 386.5 (b), relating to reporting, notification to the Office of Export Control, and the prohibition against unauthorized delivery or entry of the commodity or technical data into a foreign country, shall apply also to commodities or technical data directed to be unloaded at a port of call, as provided in this § 386.10.

(d) *Notification.* Upon discovery by any person included within the term "exporting carrier," as defined in this § 386.10, that a violation of the Export Control Regulations has occurred or will occur with respect to a shipment on board, or otherwise in the possession or control of the carrier, such person shall immediately notify both (1) the Director, Investigations Division, Office of Export Control (Attention: 848), U.S. Department of Commerce, Washington, D.C. 20230; and (2) the person in actual possession or control of the shipment.

§ 386.11 Other applicable laws and regulations.

The Export Control Regulations contained in this Part 386 apply only to exports regulated by the Office of Export Control, U.S. Department of Commerce.

Nothing contained in this Part 386 shall relieve any person from complying with any other law of the United States or rules and regulations issued thereunder, including those governing declarations and manifests, or any applicable rules and regulations of the Bureau of Customs.

PART 387—ENFORCEMENT

Sec.	
387.1	Sanctions.
387.2	Causing, aiding, and abetting a violation.
387.3	Solicitation, attempt, and conspiracy.
387.4	Acting with knowledge of a violation.
387.5	Misrepresentation and concealment of facts.
387.6	Export, diversion, reexport, transshipment.
387.7	Licensee accountable for use of license.
387.8	Unauthorized use and alterations of export control documents.
387.9	Trafficking and advertising export control documents.
387.10	Transactions with persons subject to denial orders.
387.11	Recordkeeping.

AUTHORITY: The provisions of this Part 387 issued under sec. 3, Stat. 7; 50 U.S.C. App. 2023; E.O. 10945, 26 F.R. 4487, 3 CFR 1959-1963 Comp.; E.O. 11038, 27 F.R. 7003, 3 CFR 1959-1963 Comp.

§ 387.1 Sanctions.

(a) *Criminal*—(1) *Violation of Export Administration Act.* Any person who violates the Export Administration Act or any order, regulation, or license issued thereunder is punishable for each violation by a fine or not more than \$10,000 or by imprisonment for not more than 1 year, or both. For a second or subsequent offense, the violator is punishable by a fine of not more than three times the value of the exports involved or \$20,000, whichever is greater, or by imprisonment for not more than 5 years, or both. In addition, a person who willfully exports any commodities or technical data contrary to any provision of the Act or any regulation, order, or license issued thereunder, with the knowledge that such exports will be used for the benefit of any Communist-dominated nation, is punishable by a fine of not more than five times the value of the exports involved or \$20,000, whichever is greater, or by imprisonment for not more than 5 years, or both.

(2) *Violations of False Statements Act.* The submission of false or misleading information or the concealment of material facts, whether in connection with license applications, Shipper's Export Declarations, investigations, compliance proceedings, appeals, or otherwise, is punishable also under other laws by a fine of not more than \$10,000, or by imprisonment for not more than 5 years, or both, for each violation.

(b) *Administrative*—(1) *Denial of export privileges.* A violator of any law, order, regulation, or license relating to export controls is also subject to administrative action which may result in suspension, revocation, or denial of export

privileges under the Export Administration Act.¹

(2) *Exclusion from practice.* A violator of any law, order, regulation, or license relating to export controls is further subject to administrative action which may result in exclusion from practice before the Bureau of International Commerce.²

(3) *Civil penalty.* A civil penalty not to exceed \$1,000 for each violation of the Export Administration Act or any regulation, order, or license issued thereunder may be imposed, either in addition to, or in lieu of, any other liability or penalty which may be imposed.³ The payment of this penalty may be made a condition for a period not exceeding 1 year after the imposition of such penalty to the granting, restoration, or continuing validity of any export licenses, permission, or privilege granted to the person upon whom such a penalty is imposed. Upon failure of any person to pay such a penalty, civil action for the recovery of the penalty may be brought in the name of the United States, in which action the court shall determine de novo all issues necessary to the establishment of liability. Once a penalty has been paid, no action for the refund thereof may be maintained in any court.⁴

(4) *Seizure.* In addition, commodities or technical data attempted to be, or being, or intended to be, or which have been, exported or shipped from or taken out of the United States in violation of the Export Administration Act or of any proclamation, order, rule, regulation, or license issued thereunder are subject to seizure and forfeiture, as are the vessels, vehicles, and aircraft carrying such commodities or technical data.⁵

§ 387.2 Causing, aiding, and abetting a violation.

No person may knowingly cause, or aid, abet, counsel, command, induce, procure, or permit the doing of any act prohibited by, or the omission of any act required by, the Export Administration Act or any proclamation, order, rule, regulation, or license issued thereunder.

§ 387.3 Solicitation, attempt, and conspiracy.

(a) *Solicitation and attempt.* No person may do any act which solicits the commission of, or which constitutes an

¹ See § 388.1 "Denial of export privileges and imposition of civil penalties."

² See § 390.2(a), "Exclusion of Persons Guilty of Unethical Conduct or Not Possessing Required Integrity and Ethical Standards."

³ The U.S. Department of Commerce is authorized, within its discretion to compromise and settle any administrative proceedings brought with respect to such violations upon payment of a sum not to exceed \$1,000 for each violation.

⁴ The U.S. Department of Commerce is authorized within its discretion, however, to refund the penalty at any time within 2 years of payment if it is found that there was a material error of fact or of law.

⁵ Title 22 U.S.C. 401.

attempt to bring about, a violation of the Export Administration Act or any proclamation, order, rule, regulation, or license issued thereunder.

(b) *Conspiracy.* No person may conspire or act in concert with one or more persons in any manner or for any purpose to bring about or to do any act which constitutes a violation of the Export Administration Act or any proclamation, order, rule, regulation, or license issued thereunder.

§ 387.4 Acting with knowledge of a violation.

No person may order, buy, receive, conceal, store, use, sell, dispose of, transport, finance, forward, or otherwise service, in whole or in part, any commodity or technical data exported or to be exported from the United States, or which is otherwise subject to the Export Control Regulations with knowledge that a violation of the Export Administration Act or any proclamation, order, rule, regulation, or license has occurred, is about to, or is intended to occur with respect to the whole or any part of such transaction.

§ 387.5 Misrepresentation and concealment of facts.

(a) *Representations and concealments.* No person may make any false or misleading representation, statement, or certification, or falsify or conceal any material fact, whether directly to the Office of Export Control, any customs office, or an official of any other U.S. agency, or indirectly to any of the foregoing through any other person or foreign government agency or official:

(1) In the course of an investigation or other action instituted under the authority of the Export Administration Act, as amended;

(2) In connection with the preparation, submission, issuance, use, or maintenance of any export control document¹ or document relating thereto; or

(3) For the purpose of or in connection with effecting an export from the United States, or the reexport, transshipment, or diversion of any such export.

(b) *Scope.* All representations, statements, and certifications shall be deemed to constitute representations, statements and certifications made to, and material facts concealed from, the Office of Export Control and the Bureau of Customs with respect to matters within the jurisdiction of these agencies under the statutes, proclamations, Executive orders, and regulations relating to export control and orders or licenses issued or established thereunder.

(c) *Representations to be continuing in effect; notification.* All representations, statements, and certifications made by any person are deemed to be continuing in effect. Every person who has made any representation, statement, or certification must notify in writing the Office of Export Control of any change of

¹ See § 370.2 for definition of export control document.

any material fact or intention from that previously represented, stated, or certified. Such notification shall be made immediately upon receipt of any information which would lead a reasonably prudent person to believe that a change of material fact or intention has occurred or may occur in the future.

§ 387.6 Export, diversion, reexport, transshipment.

Except as specifically authorized by the Office of Export Control, no person may knowingly export, dispose of, divert, transship, or reexport commodities or technical data to any person or destination or for any use in violation of or contrary to the terms, provisions, or conditions of any export control document, any prior representation, any form of notification of prohibition against such action, or any provision of the Export Administration Act or any proclamation, order, rule, regulation, or license issued thereunder.

§ 387.7 Licensee accountable for use of license.

The applicant to whom the license is issued becomes the licensee and will be held strictly accountable for use of the license. He may not, without prior written approval of the Office of Export Control, permit any other person to facilitate or effect the export of any commodity or technical data described in the license, except under his direction and responsibility as his true agent in fact, regardless of the terms of sale or export or other agreement between him or the order party and the purchaser or ultimate consignee of such commodity or technical data.

§ 387.8 Unauthorized use and alterations of export control documents.

Except as otherwise specifically authorized in the Export Control Regulations or in writing by the Office of Export Control, no person, whether or not the licensee, may obtain, use, alter, or assist in or permit the use or alteration of, any export control document, for the purpose of or in connection with facilitating or effecting any export or reexport other than that set forth in such document or except in accordance with all the terms, provisions, and conditions thereof.

§ 387.9 Trafficking and advertising export control documents.

(a) *Unlawful practices.* No person, without prior written approval of the Office of Export Control, may do any of the following with respect to any export or reexport under any export control document:

(1) *Transfers or changes of authority.* Effect any transfer of, or other change of the authority granted in, such document, whether by sale, grant, gift, loan or otherwise, to any person; or permit any person to use the same otherwise than for the true account of and as true agent in fact for the licensee; or, if such person is not the licensee, to receive or accept a transfer or other change of the authority granted in, or otherwise use, an export control document, except for

the true account of and as true agent in fact for the licensee.

(2) *Change in named parties.* Effect any change of, substitution for, or addition to, the parties named in an export control document; or transfer, obtain, purchase, or create any interest or participation in the transaction described in any export control document.

(3) *Unlawful advertising or soliciting.* Offer or solicit by advertisement, circular, or other communication any transfer or change of any export control document or any interest therein hereinabove prohibited. Such communication shall be deemed unlawful:

(i) Even though coupled with a condition requiring approval by the Office of Export Control of a new consignor or consignee or other change in the export license, by way of transfer, amendment or otherwise;

(ii) Where, in offering or soliciting the sale for export of any commodities or technical data, the communication indicates that the proposed seller of such commodities or technical data holds or will furnish a license or other export control document for the export of such commodities or technical data;

(iii) Where, in offering or soliciting the purchase for export of any commodities or technical data, such communication is addressed by the proposed buyer directly or indirectly to any person on the condition that such person as a seller then holds or will furnish a license or other export control document for the export of such commodities or technical data.

(4) *Other unlawful practices.* Sections 387.7, 387.8, and this 387.9, among other things, make it unlawful:

(i) For a licensee or other person holding an export control document to sell or to offer to sell, or for any person to purchase or to offer to purchase, the commodities or technical data described in such document with the understanding that the document may be used by or for the benefit of the purchaser to effect export of the said commodities or technical data;

(ii) For any person to effect the export of the commodities described in subdivision (i) of this subparagraph for the benefit of or "for the account" of any person other than the licensee, regardless of the device, means, or fiction employed;

(iii) For the licensee fictitiously to act as principal or agent of another person who actually is effecting the export, or for such other person fictitiously to act as the licensee's principal or agent for the same purpose; or

(iv) For the named consignee to act "for the account" of a new unlicensed consignee. Where a licensed transaction has failed of accomplishment for any reason, the license may not, without special authorization of the Office of Export Control, be used for any other transaction. Changes of consignors and consignees will be permitted only under the strict provisions of the Export Regulations.

(b) *Transfer of dock receipts, bills of lading, or liens—*(1) *Use of certain ex-*

port control documents. Paragraph (a) of this section is not to be construed to affect the transfer and other use of dock receipts, bills of lading, or other commercial documents necessary to complete a transaction authorized by the export license, or impair the validity of liens or other security titles or interests created in good faith with respect to commodities or technical data or documents in the course of financing, warehousing, forwarding or transporting commodities or technical data.

(2) *Disposition of export.* Where the person entitled to the foreclosure of any lien or other security title or interest, or where the exercise of any rights by the holder of the lien or other security title or interest, contemplates an export under the license by someone other than the licensee, or to someone other than the purchaser or ultimate consignee designated in the license, such person must apply for a new license or for an amendment in accordance with the provisions of Part 380 of this subchapter.

§ 387.10 Transactions with persons subject to denial orders.

(a) *Prohibited activities.* Without prior disclosure of the facts to, and specific authorization of the Office of Export Control, no person, with knowledge that another person is then subject to an order revoking or denying his export privileges or is then excluded from practice before the Office of Export Control, directly or indirectly, in any manner or capacity:

(1) May apply for, obtain, or use any license, Shipper's Export Declaration, Bill of Lading, or other export control document relating to an export or reexport of commodities or technical data by, to, or for such person denied export privileges; or

(2) May order, buy, receive, use, sell, deliver, store, dispose of, forward, transport, finance, or otherwise service or participate in, any transaction which may involve any commodity or technical data exported or to be exported from the United States, or which is otherwise subject to the Export Control Regulations, whereby such person denied export privileges may obtain any benefit therefrom or have any interest therein, directly or indirectly.

(b) *Definition of "person denied export privileges".* For the purpose of this § 387.10, the term "person denied export privileges" is defined to include:

(1) Any person, firm, corporation, or other business organization whose export privileges are revoked or denied by any order of the Office of Export Control or who is excluded by such order from practice before the Bureau of International Commerce; and

(2) Any other person, firm, corporation, or other business organization also denied export privileges or excluded from practice before the Bureau of International Commerce because of his or its relationship to such person denied export privileges through affiliation, ownership, control, position of responsibility, or other connection in the conduct of trade or related services during

the period of such order, and whether or not named in such order.

(c) *Applicability of orders.* Orders of the Office of Export Control which revoke or deny the export privileges of any person or which exclude any person from practice before the Bureau of International Commerce provide that the terms and prohibitions of such orders apply not only to the persons expressly named therein but also, for the purpose of preventing evasion, to any other person, firm, corporation, or other business organization with which such person may then or thereafter (during the term of the order) be related by affiliation, ownership, control, position of responsibility, or other connection in the conduct of trade or related services. See §§ 388.1 and 390.2, and Supplement No. 1 to Part 388 of this subchapter, "Table of Denial and Probation Orders." This table contains orders issued by the Office of Export Control which currently deny export privileges and/or place the person or firm on probation. This list contains the names and addresses of such persons, the effective and expiration dates of the orders, a brief summary of the export privileges affected, and the citations to the volumes and pages of the FEDERAL REGISTER where complete texts of the orders are published. The publication of such orders in the FEDERAL REGISTER constitutes legal notice of the terms thereof to all persons.

§ 387.11 Recordkeeping.

(a) *Transactions subject to this regulation.* This § 387.11 applies to transactions involving exports of commodities or technical data from the United States and any known reexports, transshipments, or diversions of commodities or technical data originally exported from the United States, regardless of whether the export or reexport is made, or proposed to be made, by any person with or without authorization by a validated license, a general license, or any other export authorization. It includes all negotiations connected with such transactions, except that a mere preliminary inquiry or offer to do business and negative response thereto shall not constitute negotiations, unless the inquiry or offer to do business proposes a transaction which a reasonably prudent exporter would believe likely to lead to a violation of Export Orders or Regulations. It includes as well any exports to Canada, if, at any stage in the transaction, it appears that a person in a country other than the United States or Canada has an interest therein or that the commodity or technical data involved is to be reexported, transshipped, or diverted from Canada to another foreign country.

(b) *Persons subject to this regulation.* Any person in the United States who, as principal or agent (including a forwarding agent), participates in any transaction described in paragraph (a) of this section, and any person in the United States or abroad who is required to make and keep records pursuant to any provisions of the Export Control Regulations, shall keep all the records described in

paragraph (c) of this section which are made or obtained by such person, and shall produce them in the manner provided in paragraph (f) of this section.

(c) *Records to be kept.* The records to be kept pursuant to this § 387.11 shall include memoranda, notes, correspondence, books, export control documents, and other written matter pertaining to the transactions described in paragraph (a) of this section, which may be made or obtained by a person described in paragraph (b) of this section. In addition to the records required to be kept by this § 387.11, the provisions of §§ 372.5, 372.6, 373.3, 373.4, 373.5, 373.6, 373.7, 373.8, 374.7, 376.8, 377.6, 386.3, and 386.6 of the Export Control Regulations in this subchapter require certain records to be made and kept by persons in the United States or abroad in connection with export transactions. The revocation or revision of any such provision of the Export Control Regulations which requires the making and keeping of records shall not be retroactive in effect unless specifically provided and shall not affect the original requirement to keep such records for the prescribed period.

(d) *Reproduction of records.*—(1) *Definition.* "Reproduction" for the purpose of this paragraph is defined to include any photographic, photostatic, microfilm, miniature photographic, or other process which accurately and durably reproduces the original record.

(2) *Use of reproductions.* Reproductions may be substituted for original documents with respect to all categories of records required to be retained under any provision of the Export Control Regulations or of any order: *Provided,* That all of the following conditions are met:

(i) Reproductions may not be substituted for any category of records until 12 months after the beginning of the retention period set forth in paragraph (e) of this section;

(ii) All significant information, marks, and/or other characteristics on the original document must be clearly visible and legibly reproduced; and

(iii) Appropriate facilities must be provided and maintained for the preservation of the reproduced records during the retention period and for the ready location and inspection of the records, including a projector for viewing films if needed.

(e) *Period of retention.* Records required to be kept under this § 387.11 shall be kept for a period of 3 years¹ from, whichever is later, the time of:

(1) The export from the United States; or

¹ Persons subject to this regulation may find it advisable to retain their records longer than the mandatory 3-year retention period because the statute of limitations (Title 18, U.S.C. Sec. 3282) permits criminal actions to be brought under the Export Control Act within 5 years and administrative compliance proceedings may be brought more than 3 years after alleged violations.

(2) Any known reexport, transshipment, or diversion; or

(3) Any other termination of the transaction, whether formally in writing or by any other means.

(f) *Producing and inspecting records.* Every person, whether in the United States or abroad, required to keep records by any provision of the Export Control Regulations or of any order shall produce all records or reproductions of records (see paragraph (d) of this section) required to be kept, and make them available for inspection and copying upon request by any authorized agent, official, or employee of the Bureau of International Commerce, the Bureau of Customs, or a U.S. Foreign Service post, or by any other accredited representative of the U.S. Government, without any charge or expense to such agent, official or employee.

PART 388—ADMINISTRATIVE PROCEEDINGS

Sec.	
388.1	Denial of export privileges and imposition of civil penalties.
388.2	Compliance Commissioner.
388.3	Institution of administrative proceedings.
388.4	Default.
388.5	Answer and demand for oral hearing.
388.6	Subpoenas and interrogatories.
388.7	Hearings.
388.8	Proceedings before and report of Compliance Commissioner.
388.9	Disposition of proceeding.
388.10	Consent orders.
388.11	Temporary denials.
388.12	Rehearings.
388.13	Appeals.
388.14	Proceedings confidential.
388.15	Failure to comply with interrogatories or requests to produce evidence— indefinite denial.
388.16	Orders containing probationary periods.
388.17	Extension of time.
388.18	Publication of orders.

Supplement No. 1—Table of denial and probation orders currently in effect.

Authority: The provisions of this Part 388 issued under sec. 3, Stat. 7; 50 U.S.C. App. 2023; E.O. 10945, 26 F.R. 4487, 3 CFR 1959-1963 Comp.; E.O. 11038, 27 F.R. 7003, 3 CFR 1959-1963 Comp.

§ 388.1 Denial of export privileges and imposition of civil penalties.

(a) *Administrative sanctions.*¹ Any person (respondent) who contravenes or violates any law, order, regulation, license, or other authorization relating to export control is subject to the following administrative sanctions:

(1) *Revocation of validated export licenses.* Any or all outstanding validated export licenses concerned with or affecting any transaction in which such respondent may have any interest, direct or indirect, may be revoked and ordered returned forthwith to the Office of Export Control.

¹ See § 370.7 regarding the unauthorized disposition of foreign excess personal property purchased from the U.S. Armed Forces in foreign countries.

(2) *General denial of export privileges.* Such respondent may be denied the privileges of participating, directly or indirectly, in any manner or capacity, in any transaction involving commodities or technical data exported from the United States in whole or in part, or to be exported, or which are otherwise subject to the Export Control Regulations. Without limitation of the generality of such denial of export privileges, participation prohibited in any such transaction either in the United States or abroad may be deemed to include:

(i) Participation as a party or as a representative of a party to any validated export license application;

(ii) Participation in the preparation or filing of any export license application or reexport authorization, or document to be submitted therewith;

(iii) Participation in the obtaining or using of any validated or general export license or other export control documents;

(iv) Participation in the carrying on of negotiations with respect to, or in the receiving, ordering, buying, selling, delivering, storing, using, or disposing of any commodities or technical data; and

(v) Participation in the financing forwarding, transporting, or other servicing of such commodities or technical data.

(3) *Exclusion from practice.* Such respondent may be excluded from practice before the Bureau of International Commerce.

(4) *Civil penalty.* In addition to the administrative sanctions described above, or in lieu thereof, a civil penalty not to exceed \$1,000 may be imposed for each violation. (See § 387.1(b)(3) of this subchapter.)

(b) *Applicability to related persons.* Any order denying export privileges or excluding persons from practice before the Bureau of International Commerce may be made applicable not only to persons named therein but also, to the extent necessary to prevent evasion, to other persons with whom such named persons may then or thereafter be related by ownership, control, position of responsibility, affiliation, or other connection in the conduct of trade or related services. In addition, the order may contain the substance of § 387.10 of this subchapter.

(c) *Definition of law or regulation relating to export control.* Any statute, proclamation, executive order, regulation, rule, license, or order applicable to any conduct involving an export transaction shall be deemed to be a "law or regulation relating to export control."

NOTE: This procedure in no way restricts the present practice of referring appropriate cases to the U.S. Department of Justice for criminal prosecution. Violations of Export Control Regulations not only may result in denial of export privileges but also are punishable by a fine or imprisonment as described in § 387.1. Violations may result also in seizure and forfeiture of property under title 22, U.S.C.A. 401.

§ 388.2 Compliance Commissioner.

The Director of the Bureau of International Commerce will designate one or more persons to act as Compliance Com-

missioners, who shall have the powers and duties provided herein. Compliance Commissioners shall not be responsible to or subject to the supervision or direction of any officer, employee, or agent engaged in the performance of investigative or prosecuting functions.

§ 388.3 Institution of administrative proceedings.

(a) *Charging letters.* The Investigations Division, Office of Export Control, with the approval of the Office of the General Counsel, may initiate proceedings for the imposition of one or more of the following sanctions against any person who it has reason to believe has violated any law or regulation relating to export control: (1) Denial of export privileges, (2) denial of privileges of practice, or (3) civil penalties. Such proceedings are initiated by service of a charging letter. The charging letter shall allege the essential facts constituting the specific violations charged, including reference to the particular regulatory or other provisions alleged to have been violated, and shall give notice that, if the respondent is found to have committed the alleged violations, his export privileges may be denied, his privilege of practice may be denied, or a civil penalty may be imposed. The charging letter shall inform the respondent that he is required to answer the allegations therein contained within 30 days, as provided in § 388.5, and that if he fails to answer as so provided he will be in default and the allegations will be deemed admitted. It shall inform the respondent that he is entitled to an oral hearing provided that he files a written demand therefor with his answer or within 7 days after service of his answer, and that he may, if he so desires, be represented by counsel of his own choosing. Charging letters may be amended from time to time, upon reasonable notice.

(b) *Service.* A charging letter shall be deemed served upon a respondent: (1) If he is a resident of the United States, when mailed in a wrapper addressed to him at his last known address, or when left with him or his agent or employee, or when left at his dwelling with some person of suitable age and discretion then residing therein; or (2) if he is a nonresident of the United States, when served upon him by any of the foregoing means, or if such method of service is not practicable or appropriate by reason of arrangements or understandings between the U.S. Government and the Government of the country wherein the respondent resides, when it is tendered for service upon him to an official of the Government of the country wherein the respondent resides.

§ 388.4 Default.

(a) *Failure to answer.* If the respondent fails to file an answer to the charging letter in the manner or within the time prescribed in § 388.5, he shall be held in default and the case shall be referred forthwith to the Compliance Commissioner who shall consider the same in such manner and upon such evidence as he may decide is appropriate. Any order thereafter issued shall have the

same effect as an order issued following the disposition of contested charges.

(b) *Application to set aside defaults.* Any respondent against whom an order has been issued upon his default may apply, upon good cause shown, together with evidentiary data in support thereof, to set aside his default and vacate the order entered thereon. Such application shall be duly sworn before an officer qualified to take oaths and shall be submitted in duplicate to the Director, Office of Export Control (Attention: 840), U.S. Department of Commerce, Washington, D.C. 20230, who shall then refer it to the Compliance Commissioner for consideration and recommendation as to what disposition thereof ought to be made. The Compliance Commissioner shall consider the application and may, if he so decides, require the respondent to attend a hearing or submit further evidence in support of his request. The filing of an application to set aside a default does not in any manner affect an order entered upon default and such order continues in full force and effect unless a further order is made modifying or terminating it.

§ 388.5 Answer and demand for oral hearing.

(a) *When to answer.* The respondent shall answer the allegations of the charging letter within 30 days after service of the charging letter upon him.

(b) *Contents of answer.* An answer shall be responsive to the charging letter and shall fully and completely set forth the nature of the respondent's defense or defenses. In addition, it shall, by separate paragraphs, admit or deny specifically and in detail each and every separate allegation of the charging letter, unless the respondent is without knowledge, in which case, his answer shall so state and the statement shall operate as a denial. A failure to deny or controvert any particular allegation shall be deemed an admission thereof. The respondent may, in his answer, set forth such additional or new matter as he may regard as supporting a defense to or claim of mitigation of the charges. Any defenses or partial defenses not specifically set forth in an answer shall be deemed waived, and evidence offered thereon by the respondent at a hearing may be refused unless good cause is shown for its receipt. If the respondent does not demand an oral hearing, he shall transmit, within 7 days after the service of his answer, originals or photocopies of all correspondence, papers, records, affidavits, and other documentary or written evidence having any bearing upon or connection with the matters at issue and, if any such materials are in a language other than English, translations into English shall be submitted at the same time.

(c) *Submission of answer.* The answer, written demand for oral hearing, and supporting evidence required by paragraph (b) of this section shall be in duplicate and mailed or delivered to the Compliance Commissioner, Bureau of International Commerce (Attention: 814), U.S. Department of Commerce, Washington, D.C. 20230.

§ 388.6 Subpoenas and interrogatories.

(a) *Subpoenas.* At the request of any party to a proceeding before him, the Compliance Commissioner may issue subpoenas, returnable before him, requiring the attendance of witnesses and the production of books, records, or other documentary or physical evidence determined by the Compliance Commissioner to be relevant and material to the proceedings, reasonable in scope, and properly obtainable by subpoena.

(b) *Interrogatories and requests for admissions of facts.* In any compliance proceeding, the Investigations Division, Office of Export Control, or the Compliance Commissioner may serve on any respondent or his attorney interrogatories or requests for admissions of facts, and if, without good cause being shown, there is a failure or refusal to respond to the questions or requests for admissions, the Compliance Commissioner, on his own motion or motion of the Investigations Division, and upon such notice to the respondent as the Compliance Commissioner may direct, may strike respondent's answer and declare him in default, or make any other ruling which he deems necessary and just under the circumstances. Interrogatories and requests may be served in the same manner as provided in § 388.3(b) for service of a charging letter.

§ 388.7 Hearings.

(a) A respondent who has not filed a written answer is not entitled to a hearing, and the case against him in such instance shall be considered by the Compliance Commissioner as provided in § 388.4(a). If an answer has been filed and no oral hearing has been demanded, the same shall be deemed waived, and the Compliance Commissioner shall proceed to consider the case upon all the pleadings and evidence available and shall provide for the making of the record in such manner as he deems appropriate. If an answer has been duly filed and an oral hearing has been demanded, the Compliance Commissioner shall set the case for such hearing, and due notice thereof shall be given to the respondent or his attorney. A respondent is not entitled to notice of hearing unless he has answered, raised issues to be determined as provided in § 388.5 and has made demand for hearing. If neither the respondent nor anyone on his behalf shall attend a hearing which has been set after due notice given, the hearing shall nevertheless proceed in his absence, and such absence shall not affect the validity of the hearing or any proceedings or action thereafter.

(b) Hearings shall be conducted by the Compliance Commissioner in a fair and impartial manner. The rules of evidence prevailing in courts of law shall not apply, but all evidentiary material relevant and material to the inquiry shall be received and given appropriate weight.

(c) Because the Export Administration Act of 1969 is concerned with national security and foreign policy, relevant and material evidentiary materials,

bearing on the enforcement of the Act, whether classified or not, must be considered by those making decisions in proceedings under the Export Control Regulations. Diligent effort shall be made, however, to declassify such classified materials or to secure unclassified summaries of or extracts from such classified materials, when not contrary to any statute or security regulation. Whenever an unclassified summary or extract of classified evidentiary materials shall be offered, the Compliance Commissioner shall compare it with the related classified materials. If he finds that the summary or extract is supported by the classified materials and omits only so much as remains classified, he may, subject to the right of the respondent to object on grounds of relevancy and materiality, admit the unclassified summary or extract as part of the open record, to the extent he deems said summary or extract relevant and material. Thereafter, the respondent may submit evidence in explanation or contradiction thereof. In no case shall the respondent or his attorney be entitled to inspect the classified materials.

(d) The Compliance Commissioner may administer oaths and affirmations. Respondent may be represented by counsel but need not be. The proceeding shall be taken by a reporter, transcribed, and filed with the Compliance Commissioner. Respondents shall have an opportunity to examine the transcript and to obtain a copy upon payment of proper costs.

§ 388.8 Proceedings before and report of Compliance Commissioner.

(a) In any situation for which the regulations in this part make no provision, the Compliance Commissioner may, in his discretion, conform the proceedings before him to the Federal Rules of Civil Procedure.

(b) The Compliance Commissioner shall consider the record and shall prepare a written report which shall include findings of fact, including a finding whether or not a violation has occurred, and recommendations. The report, transcript, and exhibits shall be transmitted to the Director, Office of Export Control, Bureau of International Commerce.

§ 388.9 Disposition of proceeding.

If the Compliance Commissioner finds that the evidence is not sufficient to justify the conclusion that a violation has been committed, the Director, Office of Export Control, shall enter an order dismissing the charges. If the Compliance Commissioner finds that a violation has been committed, his recommendation shall be advisory only, and the Director, Office of Export Control, shall review the record, consider the report of the Compliance Commissioner, and determine the disposition of the case. He may then issue an order denying the respondent's export privileges, as provided in § 388.1, or take such other action as he deems appropriate. Any order issued shall be effective for such period of time and shall contain such additional terms and conditions as may be

deemed appropriate and prescribed therein. A copy of the order together with a copy of the Compliance Commissioner's report shall be served upon the respondent, in the same manner as provided in § 388.3(b) for service of a charging letter, or upon his attorney.

§ 388.10 Consent orders.

The Investigations Division of the Office of Export Control, and the respondent, after transmission of a charging letter, may, by agreement, submit to the Compliance Commissioner a proposal for the issuance of a consent order. The Compliance Commissioner shall review the facts of the case and the proposal and, for this purpose, may conduct informal conferences with the parties and may require the informal presentation before him of the evidence in the case. If he does not approve the proposal, he shall so notify the respondent or his attorney and the Investigations Division, and the case shall proceed to hearing. If he approves the proposal, he shall report the facts of the case with his recommendations to the Director, Office of Export Control. The Director, Office of Export Control, may reject the proposal, in which event the case will proceed to hearing, or he may accept the proposal and issue an appropriate order.

§ 388.11 Temporary denials.

(a) *Denial within charging letter.* A charging letter from and after the date of its issuance may deny to any respondent the privilege of participating directly or indirectly in any manner or capacity in any transaction involving commodities or technical data in whole or in part exported or to be exported from the United States to any foreign destination pursuant to any validated export license. The charging letter may also suspend or revoke and require the return for cancellation of outstanding validated licenses, but shall not otherwise deny export privileges to the respondent. Such latter privileges, however, may be denied as provided in paragraph (b) of this section.

(b) *Temporary denial orders—(1) Grounds for issuance.* Any person who is under investigation, or against whom administrative or judicial proceedings are pending, for violation of any law or regulation relating to export control, may be summarily denied export privileges, as set forth in § 388.1, without prior notice or opportunity for hearing, where and to the extent such denial of export privileges is found reasonably necessary to protect the public interest pending final disposition of the investigation or proceedings. Such a temporary denial order shall be issued only for such limited time, ordinarily not exceeding 30 days, as may be required to complete the investigation or the proceedings, but may, on a showing of need for additional time, be extended in the same manner as originally issued.

(2) *Procedure for issuance.* An application for a temporary denial order shall be made by the Investigations Division, Office of Export Control, to the Compliance Commissioner and shall include a

brief recital of the facts and a statement of the grounds for the application and the nature of the order sought. The Compliance Commissioner shall review the application and may require informal presentation of evidence before him. If he does not approve the application, he shall so notify the Investigations Divisions by memorandum, and no further action shall be taken upon it. If he approves it in whole or in part, he shall send his recommendation, together with the application and accompanying documents, to the Director, Office of Export Control, who may issue such temporary denial order as he shall deem appropriate. A copy of the order shall be sent to the respondent in the same manner as provided in § 388.3(b) for service upon him of a charging letter.

(c) *Motions to vacate or modify*—(1) *Motion to vacate.* The respondent may at any time move to vacate or modify any temporary denial of export privileges contained in any charging letter or order. Any such motion shall be filed with the Compliance Commissioner and an oral hearing thereon, if requested, shall be held before the Compliance Commissioner at the earliest convenient date. The Compliance Commissioner shall consider the evidence presented and shall submit his report and recommendations thereon to the Director, Office of Export Control. The latter may issue such order disposing of the motion as he deems appropriate, and a true copy thereof shall be sent promptly to the respondent or his attorney.

(2) *Continuation and extension.* In any case where no motion is made pursuant to subparagraph (1) of this paragraph to vacate or modify a temporary denial, or where, if such motion is made, substantial evidence is not presented to support the granting thereof in whole or in part, such denial or any modification thereof may be continued and extended to and including completion of the proceedings.

(d) *Deferment of action on license applications otherwise prohibited.* Except for the particular application or license which is itself the basis of any investigation or proceeding, and except pursuant to paragraph (a) of this section, no export license application filed by any person shall be returned without action, held without action, or rejected, solely because such person is under investigation, or that proceedings against him are pending, otherwise than in accordance with the terms of a temporary denial order issued under paragraph (b) of this section.

§ 388.12 Rehearings.

The Compliance Commissioner may, upon written request, grant a rehearing or reopen a proceeding at any time for the purpose of hearing any relevant and material evidence which was not known or which was unobtainable at the time of the original hearing. The request for rehearing or reopening shall contain a summary of such evidence, the reasons why it is deemed relevant and material, and the reasons why it could not have been presented at the original hearing.

The Compliance Commissioner shall give prompt notice of the time and place of any further hearing, if one is held, and shall conduct such hearing and submit his report and recommendations thereon to the Director, Office of Export Control for final action in the same manner as provided for the original proceeding as described in § 388.9.

§ 388.13 Appeals.

(a) *Grounds and conditions for appeal*—(1) *Grounds shall be specified.* The respondent may appeal from a denial of export privileges, from a denial of privileges of practice, or from the imposition of a civil penalty, upon the ground (i) that the findings of violation are not supported by any substantial evidence, (ii) that prejudicial error of law was committed, or (iii) that the provisions of the order are arbitrary, capricious, or an abuse of discretion. The appeal must specify upon which of these grounds the appeal is based and must indicate from which provisions of the order the appeal is taken.

(2) *Previous motion for relief.* An appeal from a denial upon default, a temporary denial, or an indefinite denial will not be entertained unless and until the respondent has moved unsuccessfully for relief as provided in § 388.4(b), § 388.11(c), or § 388.15 as the case may be.

(b) *Filing of appeals.* An appeal must be in writing and shall be filed with, and addressed to, the Appeals Board, U.S. Department of Commerce, Washington, D.C. 20230. An appeal from a final order denying export privileges shall be filed within 10 days after receipt of a copy of the order. The provisions of Part 389 of the Export Control Regulations in this subchapter shall govern the procedure and disposition of appeals, except as otherwise provided in this Part 388.

(c) *Matters considered on appeal.* A hearing before the Appeals Board shall not constitute a trial de novo, but the appeal shall be considered upon the basis of the record, consisting of the charging letter, the transcript of the hearing before the Compliance Commissioner, the report of the Compliance Commissioner, the order of the Director, Office of Export Control, and any other relevant documents involved in the proceedings before the Compliance Commissioner. If the respondent has requested and been denied a rehearing or reopening on the basis of new evidence, the Appeals Board may direct that such rehearing or reopening be granted if it finds that such new evidence is relevant and material to the issues and was not known or was not available to the respondent at the time of the original hearing. The Appeals Board shall not consider facts or arguments affecting the merits of the policy embodied in rules or regulations alleged to have been violated.

(d) *Effect of appeal.* The taking of an appeal shall not stay the operation of any order. The decision of the Appeals Board shall be final and shall be transmitted promptly to the respondent or his attorney.

§ 388.14 Proceedings confidential.

Compliance proceedings shall be confidential, excepting any orders issued therein. Reports of the Compliance Commissioner and copies of transcripts of hearings shall be available only to parties to the proceedings and, to the extent of their own testimony as contained in transcripts, to witnesses therein. Any such matters may, however, be made available to any government agency having a proper interest therein.

§ 388.15 Failure to comply with interrogatories or requests to produce evidence—*indefinite denial.*

(a) Whenever the Office of Export Control finds it impracticable, during the course of an investigation or other proceeding or action, to subpoena a person, or his books, records, other writings, or other tangible things bearing upon the matter being investigated, the Office of Export Control may serve upon such person interrogatories, requests for admissions of facts, requests for the production of books, records, and other writings, or requests to produce or make available other tangible things for inspection, including commodities or technical data exported from the United States, as therein specifically set forth. If such person, within 20 days after service thereof, fails or refuses to furnish responsive answers to such interrogatories or requests for admissions, fails to produce the requested books, records and other writings, or fails to produce or make available for inspection other tangible things requested, including commodities or technical data exported from the United States, which are in his possession, custody or control, without good cause being shown, an order may be issued without prior notice, as provided in § 388.1, denying export privileges to such person. This order shall remain in effect until such person shall respond to the interrogatories or requests or shall give adequate reasons for his failure or refusal to so respond. Such interrogatories or requests may be served in the same manner as provided in § 388.3(b) for service of a charging letter.

(b) The procedure regarding applications for indefinite denial orders and motions to vacate or modify such orders shall conform substantially to that provided for temporary denial orders by § 388.11 (b) (2) and (c).

§ 388.16 Orders containing probationary periods.

(a) *Revocation of probationary periods.* An order denying export privileges to any person may provide a probationary period during which such denial order is held in abeyance for all or part of the denial period provided by the order, subject to conditions set forth therein. With or without notice to any person to be affected thereby, the Director, Investigations Division, Office of Export Control, may apply to the Compliance Commissioner for an order revoking such probation period upon a charge that the conditions of such probation have been breached. The facts in support of such application shall be presented to the Compliance Commissioner

who shall report thereon, and make a recommendation as to the action to be taken, to the Director, Office of Export Control. The Director, Office of Export Control shall then determine whether the conditions have been breached and issue such order as he may decide is appropriate.

(b) *Hearing*—(1) *Objections upon notice*. Any person affected by a notice that an application is being made to revoke a probationary period may, within the time specified in the notice, file with the Compliance Commissioner any objections he may have to the application.

(2) *Objections to order without notice*. Any person affected by an order revoking a probationary period without notice may request that such order be set aside by filing with the Compliance Commissioner his objections thereto. Such request will not stay the effective date of the order of revocation.

(3) *Requirements for filing objection*. Objections shall be filed in writing and in duplicate with the Compliance Commissioner. All denials and admissions, as well as the facts of any mitigating circumstances, which the person affected intends to present shall be set forth in or attached to the letter of objection. All contentions must be supported by evidence. A request for an oral hearing may be made at the time of filing such objections.

(4) *Determination*. The application and any objections thereto shall be referred to the Compliance Commissioner and, if an oral hearing is requested, he shall conduct such hearing at the earliest convenient date. Thereafter he shall report the facts and make a recommendation to the Director of the Office of Export Control, who shall then determine whether the application should be granted or denied. After the Director's determination following either an application on notice for revocation or an application to set aside a revocation, a copy of the order and of the Compliance Commissioner's report shall be sent to any person affected thereby.

(c) *Effect of revocation on other actions*. The revocation of a probationary period shall not preclude any other action concerning a violation upon which such revocation is based.

§ 388.17 Extension of time.

A respondent may, on good cause being shown, apply to the Compliance Commissioner for additional time within which to prepare and submit his answer to the charging letter or do any other act required by this Part 388.

§ 388.18 Publication of orders.

All orders denying export privileges and all decisions of the Appeals Board in appeals under § 388.13 shall be published in the FEDERAL REGISTER as soon as practicable after issuance; except that such orders and decisions need not be published where they provide for the imposition of a civil penalty alone or as an alternative to the denial of export privileges and where such civil penalty has been paid before the denial of export privileges becomes effective. Copies of all

orders and decisions that are not published in the FEDERAL REGISTER are available for public inspection at the Office of the Director, Office of Export Control.

Supplement No. 1—Table of Denial and Probation Orders Currently in Effect

(a) *Contents*. This table lists orders issued by the Office of Export Control that currently deny export privileges and/or place persons or firms on probation. Orders are published in full in the FEDERAL REGISTER, as cited in the column entitled, "Federal Register Citation."

(1) *Related parties*. Some of the individuals and firms whose names appear in the column entitled "Name and Address" were not found to have violated any law or regulation, but they have been made subject to denial or probation orders pursuant to § 388.1(b). In such cases, an appropriate note appears in the column entitled "Export Privileges Affected."

(2) *Probation periods*. The basic order denies export privileges to the party or parties named. In some cases, denial of privileges is a combination of immediately effective denial and probation. In other cases, the entire order may be a conditional probation. Probation is always conditioned upon compliance with the law and regulations during the period of probation and it may be revoked summarily in the event of failure to comply. In the column of this table entitled "Expiration Date," the termination date of the period of actual denial appears, and in the event the order contains a probation period, that fact and its expiration date are shown enclosed in parentheses. During the probation period a party is entitled to all export privileges.

(3) *Denial Orders—Temporary and Indefinite*. The rules provide for temporary and indefinite orders. The table shows the expiration date of temporary orders in the "Expiration Dates" column as either a specific date, or "Until Further Notice." An indefinite denial order is issued under § 388.15 because of failure to answer interrogatories or produce evidence. The order remains in effect until there is proper response or adequate reasons are given for failure to do so. The expiration date is shown as "Indefinite."

(4) *Denial Order for "duration" of export controls*. Whenever the word "Duration" is shown in the "Expiration Dates" column of the table it means that a denial order has been issued denying export privileges for the duration of export controls; that is, as long as the Export Administration Act of 1969, or successor legislation that provides for carry-over, is in effect.

(5) *Proceedings confidential*. Proceedings in compliance cases, except for orders which have been published, are confidential.

(6) *Publication of orders*. New or amended denial and probation orders are published in the FEDERAL REGISTER as they are issued, and their issuance announced in Export Control Bulletins.

The table of Denial and Probation Orders is revised and brought up to date semiannually by adding new or amended orders and deleting orders which have expired. An addendum to the table is published in the Export Control Regulations with the list of orders maintained on a current basis between the semiannual revisions of the table.

(b) *Effect of Denial Orders*. Section 387.10 of the Export Control Regulations makes it unlawful, without prior specific authorization from the Office of Export Control, for any person:

(1) To apply for, obtain, or use any license, Shipper's Export Declaration, bill of lading, or other export control document

relating to an export or reexport of commodities or technical data by, to, or for any person subject to a denial order;

(2) To order, buy, receive, use, sell, deliver, store, dispose of, forward, transport, finance, or otherwise service or participate in, any export from the United States or re-export of any commodity or technical data exported or to be exported from the United States, whereby such person denied export privileges may obtain any benefit therefrom or have any interest therein, directly or indirectly.

A denial order applies not only to the persons or firms named in the order, but also to agents and employees and any other person or firm who may be related to them by ownership, control, position of responsibility or other connection in the conduct of trade or related services. Accordingly, if it is known or suspected that a person or firm is related to a party denied export privileges, even though that person or firm is not listed in the denial order, no export transaction may be consummated with or for such person until approval is received from the Office of Export Control.

PART 389—ADMINISTRATIVE REVIEWS AND APPEALS

Sec.

- 389.1 General provisions.
- 389.2 Administrative review.
- 389.3 Appeals.

AUTHORITY: The provisions of this Part 389 issued under sec. 3, Stat. 7; 50 U.S.C. App. 2023; E.O. 10945, 26 FR. 4487, 3 CFR 1959-1963 Comp.; E.O. 11038, 27 FR. 7003, 3 CFR 1959-1963 Comp.

§ 389.1 General provisions.

(a) *Purpose*. This Part 389 sets forth the procedures applicable to: (1) The consideration of requests for administrative review by the Office of Export Control of protested regulations and actions of the Office of Export Control and (2) appeals to the Appeals Board for the U.S. Department of Commerce.

(b) *Definitions*. For purposes of this Part 389:

(1) "Regulation" means any provision of a regulation or order published in the FEDERAL REGISTER or announcement thereof in an "Export Control Bulletin" which is applicable generally to all persons or to a class of persons.

(2) "Administrative action" means any action, including a return without action of a license application, taken by the U.S. Department of Commerce under the Export Administration Act or by a duly authorized employee thereof under a regulation with respect to a particular person.

(3) "Administrative review" means a request for relief, as provided in § 389.2, from the provisions of a regulation or an administrative action as defined above.

(4) "Appeal" means a request for relief, as provided in § 389.3, from the provisions of a regulation or of an administrative action, and includes a request for relief from a decision issued by the Office of Export Control upon a request for administrative review.

(5) "Petitioner" means a person filing a request for an administrative review.

(6) "Appellant" means a person filing an appeal.

(c) *Grounds for requesting administrative review and appeal*. Any person

may request an administrative review as provided in § 389.2 or may appeal to the Appeals Board for the U.S. Department of Commerce as provided in § 389.3, as appropriate, from any regulation, order (excluding denial or probation orders¹), or other administrative action taken by the U.S. Department of Commerce under the Export Administration Act or delegated authority relating thereto, where such regulation, order, or other administrative action works an exceptional and unreasonable hardship upon him, or improperly discriminates against him. However, problems of an over-all nature, affecting exporters as a group, will not be considered within this procedure, but may be referred to Commodity Advisory Panels and Commodity Advisory Committees as provided in § 390.1 of this subchapter.

§ 389.2 Administrative review.

(a) *Scope.* The Office of Export Control will consider a request, submitted in accordance with the provisions of this § 389.2, for an administrative review of any regulation or administrative action (other than a denial or probationary order¹) as specified in § 389.1 (b) and (c).

(b) *Submission of request for administrative review.*—(1) *Request for administrative review must be in writing.* A request for administrative review and accompanying material shall be filed in duplicate, unless otherwise indicated below. If the submission of two copies of all accompanying documents or exhibits would place an undue burden on the petitioner, waiver of this rule may be requested at the time the request is filed. A request for administrative review shall be submitted by letter in accordance with paragraph (c) of this section.

(2) *Information to be contained in request for administrative review.* A request for administrative review shall clearly state (i) the provisions of the regulation or the administrative action which is protested, (ii) the grounds for the request, and (iii) the relief requested by the petitioner. The various grounds for the request shall be separately stated and numbered, with a clear and concise statement of all facts alleged in support of each ground.

(3) *Additional requirements for specified requests for administrative review.* In addition to the above-described letter, the following papers shall be included with requests of the kinds described in this § 389.2(b) (3).

(i) "Request for administrative review of rejection of license application" shall include (a) the Form IA-204A, Notification of Rejection of Export License Application, (b) a new original copy of the rejected license application, Form FC-419, and (c) a Form FC-420, Application Processing Card showing the old case number.

(ii) "Request for administrative review of a multiple commodity or a multi-

ple consignee application disallowed in part" shall include (a) a complete new application covering only the rejected items, and (b) the appropriate Form FC-420, Application Processing Card, showing the old case number.

(iii) "Request for administrative review of rejection of request for extension of license or other amendment" shall include (a) the license unless it has been previously surrendered to the U.S. Department of Commerce or a customs office, and (b) the Form IA-763, Request for and Notice of Amendment Action.

(iv) "Request for administrative review of denial of request to transfer an export license" shall include (a) letter of request for transfer from the transferor and transferee, (b) the original license unless the license is on file with the Office of Export Control or has been surrendered to a customs office, and (c) the Form IA-763, Request for and Notice of Amendment Action, if this form was submitted to the Office of Export Control.

(c) *When and where to file a request for administrative review.* A request for administrative review shall be filed not later than 45 days after the publication date of a regulation, or the date of notification of administrative action. A request for administrative review shall be filed with and addressed to the Office of Export Control, Reference: "Administrative Review," Bureau of International Commerce, U.S. Department of Commerce, Washington, D.C. 20230.

(d) *Decisions.* A request for relief may be granted or denied, in whole or in part. If the decision in an administrative review of a licensing action is favorable to the petitioner, the license or amendment will be granted in answer to the petition. Decisions on other types of administrative reviews will be furnished to the petitioner in writing. If the decision is unfavorable, he may appeal to the Appeals Board in accordance with the provisions of § 389.3.

§ 389.3 Appeals.

(a) *Establishment and scope of Appeals Board.* The Appeals Board for the Department of Commerce has been established as an impartial body in the Office of the Secretary to consider appeals and render final decisions thereon. The Board consists of a Chairman and two members. Any person may appeal to the Appeals Board, upon the grounds indicated in § 389.1(c), in accordance with the following provisions of this § 389.3.

(b) *Preparation of appeals.*—(1) *General requirements.* An appeal shall be clearly marked "Ref: Appeals Board for the U.S. Department of Commerce" and shall be in letter form. The appeals letter shall be prepared in accordance with § 389.2(b) and shall be accompanied by the same information and documents specified therein. Where an appeal is

filed from a decision on an administrative review, the appellant may request the Office of Export Control, in writing, to transmit to the Appeals Board the documentation originally submitted to the Office of Export Control in accordance with § 389.2(b) as the required initial documentation.

(2) *Request for oral presentation.* A request for an oral presentation before the Appeals Board, as provided in paragraph (d) (3) of this section, must be in writing and should be included with the appeal.

(c) *When and where to file appeals.*—(1) *When to file.* Appeals, other than appeals from denial or probationary orders,¹ may be filed with the Appeals Board by means of a written notice filed not later than 45 days after the appellant received notice from the U.S. Department of Commerce of any regulation or administrative action.² Appellant may also appeal from undue delay in acting on appellant's license application.

(2) *Where to file.* All appeals shall be addressed to the Appeals Board, U.S. Department of Commerce, Washington, D.C. 20230.

(d) *Consideration of appeals.*—(1) *Initial referral to the Office of Export Control.* Customarily, any appeal which has not already been considered under administrative review (see § 389.2) is initially referred by the Appeals Board to the Office of Export Control. After appropriate action, the Office of Export Control will submit its recommendation to the Board for consideration.

(2) *Referral by the Office of Export Control.* Where unusual circumstances warrant, the Office of Export Control on its own initiative may request the Appeals Board to consider an application for an export license at the Appeals level. In such case, the Appeals Board will so notify the appellant.

(3) *Oral presentation.* In a case where the appellant so requests or the Appeals Board believes it necessary for a proper determination, the appellant may be granted an opportunity to present orally further facts and arguments. A date will be set and notice of the time and place (in Washington, D.C.) will be given the appellant by the Appeals Board at least 10 days before the date set for the oral presentation unless waived by appellant. Such presentation will be heard informally; generally, no oaths will be administered to witnesses; and the Appeals Board will not necessarily abide by the rules of evidence. An appellant need not be represented by counsel unless he so wishes.

(4) *Records.* Records concerning an appeal may be made available for inspection and copying by persons properly concerned, upon written application. Such application shall be addressed to the Appeals Board, U.S. Department of

¹ See §§ 388.4, 388.11, 388.13, and 388.15 for the appeals procedure regarding administrative proceedings.

² A rejection of an export license application on the ground that the proposed export is contrary to the national interest may be appealed.

¹ See §§ 388.4, 388.11, 388.13, and 388.15 for the appeals procedure regarding administrative proceedings.

² A rejection of an export license application on the ground that the proposed export is contrary to the national interest may be appealed.

Commerce, Washington, D.C. 20230, and shall set forth the applicant's interest, a description of the material or information contained in the record to be inspected or copied, and the purposes for which it is sought.

(e) *Decisions.* All appeals will be considered and decided within a reasonable time after they are filed. An appeal may be granted or denied, in whole or in part, or dismissed at the request of the appellant. The decision on an appeal signed by the Chairman of the Appeals Board will be communicated to the appellant in writing.

PART 390—GENERAL ORDERS

Sec.	
390.1	Commodity advisory panels and committees.
390.2	Conduct of business and practice in connection with export control matters.
390.3	Export control authority to be exercised by U.S. Department of Commerce Field Office Directors in the event of enemy attack on the United States.
390.4	Disclosure of license issuance and other information.

AUTHORITY: The provisions of this Part 390 issued under sec. 3, Stat. 7; 50 U.S.C. App. 2023; E.O. 10945, 26 F.R. 4487, 3 CFR 1959-1963 Comp.; E.O. 11038, 27 F.R. 7003, 3 CFR 1959-1963 Comp.

§ 390.1 Commodity advisory panels and committees.

(a) *Purpose.* (1) The purpose of this § 390.1 is to establish a procedure whereby the Office of Export Control may consult with the export trade and obtain advice and recommendations concerning export licensing policies and procedures under the Export Administration Act.

(2) The provisions of this § 390.1 are not to be construed as prohibiting individuals or groups of individuals from seeking discussions with employees of the Office of Export Control.

(b) *Organization of panels and committees.*—(1) *Representation by commodities.* It is intended, for convenient operation and size, to provide representation of the export trade by commodities. Wherever practicable, segments of the trade handling different commodities (or groups of commodities) will be represented by separate panels or committees. Where a panel is formed, the membership may be called upon to meet as a whole, or committees may be organized from among the members to consider specific problems as they arise. The panels and committees will be selected by the Office of Export Control.

(2) *Standards of selection.* As the purpose of the panel or committee is to give advice and make recommendations to the Office of Export Control affecting the trade as a whole, or segments thereof, the members of the panel or committee will be selected in an effort to obtain advice and recommendations which will represent the viewpoint of all parts of the trade involved. The panel or committee will be formed of the minimum number of persons necessary to repre-

sent a fair cross-section of the trade in the commodity (or groups of commodities) from the standpoints of (i) large, medium, and small-sized companies, (ii) geographical distribution, (iii) segments of the export trade involved—e.g., by types of exporters (such as manufacturers, manufacturers' representatives, merchant exporters, combination export managers, etc.), (iv) types of commodities and (v) trade association membership and nonmembership.

(3) *Special conferences.* If export trade advice is sought on a special problem and there is no foreseeable need to seek the continuing advice of the trade, a special conference may be called. Except for omission of formal establishment of a panel or committee, the procedure for calling and conducting a special conference shall be the same as set forth under the provisions of this § 390.1.

(4) *Representation of small business.* In forming a commodity advisory panel or committee, the Office of Export Control will be governed by the principles of Senate Concurrent Resolution 14 (80th Congress) and the President's memorandum to heads of Executive departments and agencies of December 12, 1947, with respect to the representation of small business on Government committees.

(5) *No compensation allowed.* Members of the panels and committees pay their own expenses and are entitled to no compensation for their services.

(c) *Functions of panels and committees.*—(1) *Authorized activities.* The functions of a commodity advisory panel or committee formed by the Office of Export Control under this § 390.1 are to give advice and make recommendations through one or more commodity advisory committees to the Office of Export Control, at committee meetings, on export licensing policies and procedures affecting those parts of the export trade represented by the committee. Where deemed appropriate, in view of the nature of a specific licensing policy or procedure, the Office of Export Control will authorize the holding of full panel meetings.

(2) *Unauthorized activities.* (i) No other activities by a commodity advisory panel or committee or by its members is sponsored or authorized by the U.S. Department of Commerce or the Office of Export Control. No meeting of the commodity advisory panel or committee, or any part thereof, is sponsored or authorized by the U.S. Department of Commerce or the Office of Export Control unless such meeting is called and conducted by appropriate officials of the Office of Export Control in accordance with the provisions of this § 390.1.

(ii) The panel or committee is not authorized to determine policies for the export trade nor is it authorized to compel or coerce any person to comply with any request, order, or regulation made by the U.S. Department of Commerce or the Office of Export Control.

(d) *Meetings of panels and committees.*—(1) *Calling of meetings.* (i) Commodity advisory panel meetings and commodity advisory committee meetings will be called by the Office of Export Control in connection with the promul-

gation of export licensing policies or procedures affecting the parts of the export trade represented by the panel or committee, as the case may be, except where the necessary timing or other public exigency does not permit such prior consultation.

(ii) A meeting of a trade advisory panel or committee may be proposed by any three of its members. Such proposal should be addressed to the Government presiding officer and state the reasons for proposing the meeting. The Government presiding officer is responsible for determining whether a meeting should be called.

(2) *Agenda and presiding officer.* (i) The agenda of the meeting will be prepared by the Office of Export Control. A representative of the Office of Export Control will preside at every panel meeting and every committee meeting.

(ii) Prior to a meeting, members of a panel or committee may propose subjects for the agenda to the Government presiding officer, but during a meeting may not introduce any subject not included on the agenda.

(3) *Attendance at meetings.* (i) Attendance at meetings shall be limited to duly appointed members and invited Government representatives. The attendance of other persons at meetings, such as industry or trade observers or alternates for accredited members, is not authorized. If it is essential for the purpose of a particular meeting to invite a nonmember expert or technician who can provide advice concerning a specialized subject, a special written invitation from the Office of Export Control will be required requesting the attendance of such person at the meeting.

(ii) A meeting of a segment or segments of an advisory panel or committee may be called to discuss subjects of interest to only that part of the trade, provided the segment of the trade is representative or additional representatives are appointed in order to make it representative.

(4) *Conduct during meetings.* During a meeting, members are restricted to expressions of advice and recommendations, and may not make resolutions nor submit or request submission of a vote regarding a recommendation under discussion.

(5) *Minutes.* The Office of Export Control will keep minutes of each meeting and, where practicable, will make summaries available to members of the commodity advisory panel, the committee, the export trade, and the press.

§ 390.2 Conduct of business and practice in connection with export control matters.

(a) *Exclusion of persons guilty of unethical conduct or not possessing required integrity and ethical standards.*—(1) *Who may be excluded.* Any person, whether acting on his own behalf or on behalf of another, who shall be found guilty of engaging in any unethical activity or who shall be demonstrated not to possess the required integrity and ethical standards, may be excluded from (denied) export privileges on his own

behalf, or may be excluded from practice before the Bureau of International Commerce of the U.S. Department of Commerce on behalf of another, in connection with any export control matter, or both, as provided in Part 388 of this subchapter.

(2) *Grounds for exclusion.* Among the grounds for exclusion are the following:

(i) Inducing or attempting to induce by gifts, promises, bribes, or otherwise, any officer or employee of the Bureau of International Commerce of the U.S. Department of Commerce or any customs or post office official, to take any action with respect to the issuance of licenses or any other aspects of the administration of the Export Administration Act, whether or not in violation of any regulation;

(ii) Offering or making gifts or promises thereof to any such officer or employee for any other reason;

(iii) Soliciting by advertisement or otherwise the handling of business before the Bureau of International Commerce on the representation, express or implied, that such person, through personal acquaintance or otherwise, possesses special influence over any officer or employee of the Bureau of International Commerce;

(iv) Charging, or proposing to charge, for any service performed in connection with the issuance of any license, any fee wholly contingent upon the granting of such license and the amount or value thereof. This provision will not be construed to prohibit the charge of any fee agreed to by the parties; provided that the out-of-pocket expenditures and the reasonable value of the services performed, whether or not the license is issued and regardless of the amount thereof, are fairly compensated; and

(v) Knowingly violating or participating in the violation of, or an attempt to violate, any regulation with respect to the export of commodities or technical data, including the making of or inducing another to make any false representations to facilitate any export in violation of the Export Administration Act or any order or regulation issued thereunder.

(3) *Definition.* As used in this § 390.2, the terms "practice before the Bureau of International Commerce" and "appear before the Bureau of International Commerce" include:

(i) The submission on behalf of another of applications for export licenses or other documents required to be filed with the Bureau of International Commerce, or the execution of the same;

(ii) Conferences or other communications on behalf of another with officers or employees of the Bureau of International Commerce for the purpose of soliciting or expediting approval by the Bureau of International Commerce of applications for export licenses or other documents, or with respect to quotas, allocations, requirements or other export control actions, pertaining to matters within the jurisdiction of the Bureau of International Commerce.

(iii) Participation on behalf of another in any proceeding pending before the Bureau of International Commerce; and

(iv) The submission to a customs official on behalf of another of a license or Shipper's Export Declaration or other export control document.

(4) *Proceedings.* All proceedings under this § 390.2 shall be conducted in the same manner as provided in Part 388 of this subchapter.

(b) *Employees and former employees.* Persons who are or at any time have been employed on a full-time or part-time, compensated or uncompensated, basis by the U.S. Government are subject to the provisions of title 18, United States Code, sections 203, 205 and 207 (Public Law 87-849, 87th Congress) in connection with representing a private party or interest before the U.S. Department of Commerce in connection with any export control matter.

§ 390.3 *Export control authority to be exercised by U.S. Department of Commerce Field Office Directors in the event of enemy attack on the United States.*

(a) *Delegation to field office director.* In the event of an enemy attack on the United States, each Director of a U.S. Department of Commerce field office is authorized to exercise control over exports from the area assigned to him for purposes of this regulation.

(b) *Areas for which field office directors may control exports.* The area of jurisdiction assigned to each Director will be his area of jurisdiction at the time of an attack.

(c) *Orders from U.S. Department of Commerce.* The authorization set forth in paragraph (a) of this section shall be subject to any orders or directives transmitted from the U.S. Department of Commerce.

§ 390.4 *Disclosure of license issuance and other information.*

By order of the Secretary of Commerce, the Office of Export Control will make available daily, for each export license granted on the previous business day:

(a) A general description of the commodity or technical data licensed for export;

(b) The total value of the licensed commodity; and

(c) The country of destination of the export.

No other specific information regarding any validated export license will be made available to the public by the Office of Export Control, except with the approval of the Secretary of Commerce.

PARTS 391-398 [RESERVED]

PART 399—COMMODITY CONTROL LIST AND RELATED MATTERS

- Sec.
399.1 Commodity Control List; incorporation by reference.
399.2 Commodity Interpretations; incorporation by reference.

Authority: The provisions of this Part 399 issued under sec. 3, 63 Stat. 7, 50 U.S.C. App. 2023; E.O. 10945, 26 F.R. 4487, 3 CFR 1959-1963 Comp; E.O. 11038, 27 F.R. 7003, 3 CFR 1959-1963 Comp.

§ 399.1 Commodity Control List; incorporation by reference.

(a) The text of the current edition of the Commodity Control List as published in the U.S. Department of Commerce Export Control Regulations which is referred to and invoked by provisions in this subchapter B, is hereby incorporated by reference pursuant to 4 U.S.C. 522(a)(1) and 1 CFR Part 20.

(b) The Commodity Control List is available at the following places:

- Superintendent of Documents, Government Printing Office, Washington, D.C. 20402.
- Exporters Service Section, Office of Export Control, Bureau of International Commerce, Department of Commerce, Washington, D.C. 20230.
- Field Offices of the Bureau of International Commerce, Department of Commerce.

(c) Revisions, amendments, revocations, deletions, recodifications, redesignations, and corrections will be issued in Export Control Bulletins from time to time by the Office of Export Control, Bureau of International Commerce, Department of Commerce, Washington, D.C. 20230, in the form of replacement pages or insert sheets, and an official historic file will be maintained by the Office of Export Control.

§ 399.2 Commodity Interpretations; incorporation by reference.

(a) The text of the current edition of the Commodity Interpretations as published in the Export Control Regulations which is referred to and invoked by provisions in this Subchapter B, is hereby incorporated by reference pursuant to 4 U.S.C. 522(a)(1) and 1 CFR Part 20.

(b) The Commodity Interpretations are available at the following places:

- Superintendent of Documents, Government Printing Office, Washington, D.C. 20402.
- Exporters Service Section, Office of Export Control, Bureau of International Commerce, Department of Commerce, Washington, D.C. 20230.
- Field Offices of the Bureau of International Commerce, Department of Commerce.

(c) Revisions, amendments, revocations, deletions, recodifications, redesignations, and corrections will be issued in Export Control Bulletins, from time to time by the Office of Export Control and an historic file will be maintained by the Office of Export Control.

[F.R. Doc. 70-7085; Filed, June 11, 1970; 8:45 a.m.]

Title 21—FOOD AND DRUGS

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

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

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

Malathion

No comments or requests for referral to an advisory committee were received

in response to the notice published in the FEDERAL REGISTER of March 13, 1970 (35 F.R. 4518), proposing establishment of a tolerance of 1 part per million for residues of malathion in or on hops. The Commissioner of Food and Drugs concludes that the proposal should be adopted.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(e), 68 Stat. 514; 21 U.S.C. 346a(e)) and under authority delegated to the Commissioner (21 CFR 2.120), § 120.111 is amended by revising the paragraph "From preharvest application: 1 part per million * * *" to read as follows:

§ 120.111 Malathion; tolerances for residues.

From preharvest application: 1 part per million in or on almonds, chestnuts, filberts, hops, macadamia nuts, papayas, sugar beets (roots), and sweetpotatoes.

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6-62, 5600 Fishers Lane, Rockville, Md. 20852, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

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

(Sec. 408(e), 68 Stat. 514; 21 U.S.C. 346a(e))

Dated: June 5, 1970.

R. E. DUGGAN,
Acting Associate Commissioner
for Compliance.

[F.R. Doc. 70-7320; Filed, June 11, 1970; 8:45 a.m.]

PART 121—FOOD ADDITIVES

Subpart C—Food Additives Permitted in Feed and Drinking Water of Animals or for the Treatment of Food-Producing Animals

SULFADIMETHOXINE

The Commissioner of Food and Drugs has evaluated a supplemental new animal drug application (31-205V) filed by Hoffmann-La Roche, Inc., Nutley, N.J. 07110, proposing that the preslaughter withdrawal period for the use of sulfadimethoxine in the drinking water of turkeys be reduced from 10 days to 5 days. The supplemental application is approved.

Pending recodification of previously established regulations in Part 121 under regulations to be established under the provisions of section 512(i) of the Federal Food, Drug, and Cosmetic Act, this order is issued in accordance with § 3.517 *New animal drugs; transitional provisions re section 512 of the act.*

Therefore, pursuant to provisions of the act (sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i)), in accordance with § 3.517, and under authority delegated to the Commissioner (21 CFR 2.120), § 121.311 *Sulfadimethoxine* is amended in paragraph (a), table 1, item 2, by changing under "Limitations" the specification "10 days" to "5 days".

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6-62, 5600 Fishers Lane, Rockville, Md. 20852, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

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

(Sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i))

Dated: June 3, 1970.

R. E. DUGGAN,
Acting Associate Commissioner
for Compliance.

[F.R. Doc. 70-7323; Filed, June 11, 1970; 8:45 a.m.]

PART 121—FOOD ADDITIVES

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

SURFACE LUBRICANTS USED IN MANUFACTURE OF METALLIC ARTICLES

The Commissioner of Food and Drugs, having evaluated data in a petition (FAP 0B2456) filed by Quaker Chemical Corp., Elm and Sandy Streets, Conshohocken, Pa. 19428, and other relevant material, concludes that the food additive regulations should be amended to provide for the safe use of diethyl phthalate and di(2-ethylhexyl) phthalate in surface lubricants used in the manufacture of metallic food-contact articles under conditions such that the total residual lubricant does not exceed 0.015 milligram per square inch of food-contact surface.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786; 21

U.S.C. 348(c)(1)) and under authority delegated to the Commissioner (21 CFR 2.120), § 121.2531(a)(2) is amended by alphabetically inserting in the list of substances two new items, as follows:

§ 121.2531 Surface lubricants used in the manufacture of metallic articles.

(a) * * *	
(2) * * *	
List of substances	Limitations
Di(2-ethylhexyl) phthalate
Diethyl phthalate

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

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

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

Dated: June 5, 1970.

R. E. DUGGAN,
Acting Associate Commissioner
for Compliance.

[F.R. Doc. 70-7321; Filed, June 11, 1970; 8:45 a.m.]

PART 121—FOOD ADDITIVES

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

SANITIZING SOLUTIONS

The Commissioner of Food and Drugs, having evaluated the data in a petition (FAP 9H2324) filed by Wyandotte Chemicals Corp., 1609 Biddle Avenue, Wyandotte, Mich. 48192, and other relevant material, concludes that the food additive regulations should be amended to provide for the safe use of an additional sanitizing solution, as set forth below, on food-processing equipment and utensils and on glass bottles and other glass containers intended for holding milk.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic

Act (sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1)) and under authority delegated to the Commissioner (21 CFR 2.120), § 121.2547 is amended by adding a new subparagraph to paragraph (b) and another to paragraph (c), as follows:

§ 121.2547 Sanitizing solutions.

(b) * * *

(12) An aqueous solution containing the sodium salt of sulfonated oleic acid, polyoxyethylene-polyoxypropylene block polymers (having an average molecular weight of 2,000 and 27 to 31 moles of polyoxyethylene), and components generally recognized as safe. In addition to use on food-processing equipment and utensils, this solution may be used on glass bottles and other glass containers intended for holding milk. All equipment, utensils, glass bottles, and other glass containers treated with this sanitizing solution shall have a drainage period of 15 minutes prior to use in contact with food.

(c) * * *

(9) The solution identified in paragraph (b) (12) of this section shall provide not more than 200 parts per million of sulfonated oleic acid, sodium salt.

Any person who will be adversely affected by the foregoing order may, at any time within 30 days after its date of publication in the FEDERAL REGISTER, file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6-62, 5600 Fishers Lane, Rockville, Md. 20852, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

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

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

Dated: June 2, 1970.

R. E. DUGGAN,
Acting Associate Commissioner
for Compliance.

[F.R. Doc. 70-7322; Filed, June 11, 1970;
8:45 a.m.]

SUBCHAPTER C—DRUGS

PART 146—ANTIBIOTIC DRUGS; PROCEDURAL AND INTERPRETATIVE REGULATIONS

Fee Surcharge

Since the fee schedule for antibiotic drug certification service was adjusted on July 1, 1969 (34 F.R. 11090), several

developments have increased the costs making a 20 percent surcharge necessary. Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463, as amended; 21 U.S.C. 357) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120), § 146.8 is amended by revising the introductory text of paragraph (b) to read as follows:

§ 146.8 Fees.

(b) The fee for such services with respect to each batch of a drug, certification of which is provided by the regulations in this chapter, including those published hereafter, is the sum of the fees for all tests required for certification of each batch plus an additional 20 percent of whatever that sum may be. The minimum tests for each batch shall be those prescribed in the section relating specifically to such drug.

Since the fee surcharge is necessary to provide, equip, and maintain an adequate antibiotic drug certification service, notice and public procedure and 30-day delay in effective date are not prerequisites to this promulgation.

Effective date. This order shall become effective July 1, 1970; the fee for testing all batches of antibiotic drugs on or after July 1, 1970, shall be computed to include the 20 percent surcharge.

(Sec. 507, 59 Stat. 463, as amended; 21 U.S.C. 357)

Dated: June 4, 1970.

SAM D. FINE,
Acting Associate Commissioner
for Compliance.

[F.R. Doc. 70-7340; Filed, June 11, 1970;
8:47 a.m.]

Title 49—TRANSPORTATION

Chapter III—Federal Highway Administration, Department of Transportation

SUBCHAPTER B—MOTOR CARRIER SAFETY REGULATIONS

[Docket No. MC-20]

PART 389—RULEMAKING PROCEDURES—MOTOR CARRIER SAFETY REGULATIONS

The purpose of this amendment is to revise Part 389 of the regulations of the Federal Highway Administration in order to delegate the functions, powers, and duties of the Federal Highway Administrator to issue, amend, and revoke rules under sections 204, 220, and 224 of Part II of the Interstate Commerce Act to the Director of the Bureau of Motor Carrier Safety.

Since this amendment relates only to the internal management of the Federal Highway Administration, notice and public procedure thereon are not required and the amendment can be made effective in less than 30 days.

In consideration of the foregoing, effective June 12, 1970, Part 389 of Title 49, Code of Federal Regulations is amended to read as set forth below.

Issued in Washington, D.C., on June 8, 1970.

F. C. TURNER,
Federal Highway Administrator.

Subpart A—General

- Sec. 389.1 Applicability.
- 389.3 Definitions.
- 389.4 Delegation of authority.
- 389.5 Regulatory docket.
- 389.7 Records.

Subpart B—Procedures for Adoption of Rules

- 389.11 General.
- 389.13 Initiation of rule making.
- 389.15 Contents of notices of proposed rule making.
- 389.17 Participation by interested persons.
- 389.19 Petitions for extension of time to comment.
- 389.21 Contents of written comments.
- 389.23 Consideration of comments received.
- 389.25 Additional rule making proceedings.
- 389.27 Hearings.
- 389.29 Adoption of final rules.
- 389.31 Petitions for rule making.
- 389.33 Processing of petition.
- 389.35 Petitions for reconsideration.
- 389.37 Proceedings on petitions for reconsideration.
- 389.38 Saving provision.

AUTHORITY: The provisions of this Part 389 issued under secs. 204, 220, 224, 49 Stat. 546, 563, 566, as amended; sec. 6, 80 Stat. 931; 49 U.S.C. 304, 320, 324, 1655; 49 CFR 1.45(b), 1.48.

Subpart A—General

§ 389.1 Applicability.

This part prescribes rule making procedures that apply to the issue, amendment, and revocation of rules under sections 204, 220, and 224 of Part II of the Interstate Commerce Act.

§ 389.3 Definitions.

"Act" means Part II of the Interstate Commerce Act.

"Bureau" means the Bureau of Motor Carrier Safety, Federal Highway Administration.

"Director" means the Director of the Bureau of Motor Carrier Safety.

"Rule" includes any order or regulation issued under the Act.

§ 389.4 Delegation of authority.

The functions, powers, and duties of the Federal Highway Administrator to issue, amend, and revoke rules under sections 204, 220, and 224 of the Act are delegated to the Director.

§ 389.5 Regulatory docket.

(a) Information and data deemed relevant by the Director relating to rule making actions, including notices of proposed rule making; comments received in response to notices; petitions for rule making and reconsideration; denials of petitions for rule making and reconsideration; records of additional rule making proceedings under § 389.25; and final rules are maintained at Headquarters, Bureau of Motor Carrier Safety, Room 5306, Nassif Building, 400

Seventh Street SW., Washington, D.C. 20591.

(b) Any person may examine docketed material, at any time during regular business hours after the docket is established, except material ordered withheld from the public under section 552(b) of title 5 of the United States Code, and may obtain a copy of it upon payment of a fee.

§ 389.7 Records.

Records of the Bureau relating to rule making proceedings are available for inspection as provided in section 552(b) of title 5 of the United States Code and Part 7 of the regulations of the Secretary of Transportation (Part 7 of this title; 32 F.R. 9284 et seq.).

Subpart B—Procedures for Adoption of Rules

§ 389.11 General.

Unless the Director, for good cause, finds that notice is impractical, unnecessary, or contrary to the public interest, and incorporates that finding and a brief statement of the reasons for it in the rule, a notice of proposed rule making is issued, and interested persons are invited to participate in the rule making proceedings involving rules under sections 204, 220, 224 of the Act.

§ 389.13 Initiation of rule making.

The Director initiates rule making on his own motion. However, in so doing, he may, in his discretion, consider the recommendations of his staff or other agencies of the United States or of other interested persons.

§ 389.15 Contents of notices of proposed rule making.

(a) Each notice of proposed rule making is published in the FEDERAL REGISTER, unless all persons subject to it are named and are personally served with a copy of it.

(b) Each notice, whether published in the FEDERAL REGISTER or personally served, includes:

(1) A statement of the time, place, and nature of the proposed rule making proceeding;

(2) A reference to the authority under which it is issued;

(3) A description of the subjects and issues involved or the substance and terms of the proposed rule;

(4) A statement of the time within which written comments must be submitted; and

(5) A statement of how and to what extent interested persons may participate in the proceeding.

§ 389.17 Participation by interested persons.

(a) Any interested person may participate in rule making proceedings by submitting comments in writing containing information, views, or arguments.

(b) In his discretion, the Director may invite any interested person to participate in the rule making procedures described in § 389.25.

§ 389.19 Petitions for extension of time to comment.

A petition for extension of the time to submit comments must be received in duplicate not later than three (3) days before expiration of the time stated in the notice. The filing of the petition does not automatically extend the time for petitioner's comments. Such a petition is granted only if the petitioner shows good cause for the extension, and if the extension is consistent with the public interest. If an extension is granted, it is granted to all persons, and it is published in the FEDERAL REGISTER.

§ 389.21 Contents of written comments.

All written comments must be in English and submitted in five (5) legible copies, unless the number of copies is specified in the notice. Any interested person must submit as part of his written comments all material that he considers relevant to any statement of fact made by him. Incorporation of material by reference is to be avoided. However, if such incorporation is necessary, the incorporated material shall be identified with respect to document and page.

§ 389.23 Consideration of comments received.

All timely comments are considered before final action is taken on a rule making proposal. Late filed comments may be considered as far as practicable.

§ 389.25 Additional rule making proceedings.

The Director may initiate any further rule making proceedings that he finds necessary or desirable. For example, interested persons may be invited to make oral arguments, to participate in conferences between the Director or his representative at which minutes of the conference are kept, to appear at informal hearings presided over by officials designated by the Director at which a transcript or minutes are kept, or participate in any other proceeding to assure informed administrative action and to protect the public interest.

§ 389.27 Hearings.

(a) Sections 556 and 557 of title 5, United States Code, do not apply to hearings held under this part. Unless otherwise specified, hearings held under this part are informal, nonadversary, fact-finding proceedings at which there are no formal pleadings or adverse parties. Any rule issued in a case in which an informal hearing is held is not necessarily based exclusively on the record of the hearing.

(b) The Director designates a representative to conduct any hearing held under this part. The Chief Counsel of the Federal Highway Administration designates a member of his staff to serve as legal officer at the hearing.

§ 389.29 Adoption of final rules.

Final rules are prepared by representatives of the office concerned and the Office of the Chief Counsel. The rule is then submitted to the Director for his

consideration. If the Director adopts the rule, it is published in the FEDERAL REGISTER, unless all persons subject to it are named and are personally served with a copy of it.

§ 389.31 Petitions for rule making.

(a) Any interested person may petition the Director to establish, amend, or repeal a rule.

(b) Each petition filed under this section must:

(1) Be submitted in duplicate to the Bureau of Motor Carrier Safety, Room 5306, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20591;

(2) Set forth the text or substance of the rule or amendment proposed, or specify the rule that the petitioner seeks to have repealed, as the case may be;

(3) Explain the interest of the petitioner in the action requested;

(4) Contain any information and arguments available to the petitioner to support the action sought.

§ 389.33 Processing of petition.

(a) *General.* Each petition received under § 389.31 is referred to the Director of the Bureau. Unless the Director otherwise specifies, no public hearing, argument, or other proceeding is held directly on a petition before its disposition under this section.

(b) *Grants.* If the Director determines that the petition contains adequate justification, he initiates rule making action under this Subpart B.

(c) *Denials.* If the Director determines that the petition does not justify rule making, he denies the petition.

(d) *Notification.* Whenever the Director determines that a petition should be granted or denied, the Office of the Chief Counsel prepares a notice of that grant or denial for issuance to the petitioner, and the Director issues it to the petitioner.

§ 389.35 Petitions for reconsideration.

(a) Any interested person may petition the Director for reconsideration of any rule issued under this part. The petition must be in English and submitted in five (5) legible copies to the Bureau of Motor Carrier Safety, Room 5306, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20591, and received not later than thirty (30) days after publication of the rule in the FEDERAL REGISTER. Petitions filed after that time will be considered as petitions filed under § 389.31. The petition must contain a brief statement of the complaint and an explanation as to why compliance with the rule is not practicable, is unreasonable, or is not in the public interest.

(b) If the petitioner requests the consideration of additional facts, he must state the reason they were not presented to the Director within the prescribed time.

(c) The Director does not consider repetitious petitions.

(d) Unless the Director otherwise provides, the filing of a petition under this section does not stay the effectiveness of the rule.

§ 389.37 Proceedings on petitions for reconsideration.

The Director may grant or deny, in whole or in part, any petition for reconsideration without further proceedings. In the event he determines to reconsider any rule, he may issue a final decision on reconsideration without further proceedings, or he may provide such opportunity to submit comment or information and data as he deems appropriate. Whenever the Director determines that a petition should be granted or denied, he prepares a notice of the grant or denial of a petition for reconsideration, for issuance to the petitioner, and issues it to the petitioner. The Director may consolidate petitions relating to the same rule.

§ 389.38 Saving provision.

All rules and notices of proposed rule-making in effect on June 12, 1970, which have been issued or made on or before that date under the authority delegated under this part shall continue in effect until modified, terminated, superseded, set aside, or repealed by the Director, by any court of competent jurisdiction, or by operation of law.

[F.R. Doc. 70-7315; Filed, June 11, 1970; 8:45 a.m.]

Chapter V—National Highway Safety Bureau, Department of Transportation

SUBCHAPTER A—MOTOR VEHICLE SAFETY REGULATIONS

[Docket No. 70-14; Notice 1]

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

New Pneumatic Tires and Tire Selection and Rims; Passenger Cars

On October 5, 1968, guidelines were published in the FEDERAL REGISTER (33 F.R. 14964) by which routine additions could be added to Appendix A, Standard

No. 109, and to Appendix A, Standard No. 110. These guidelines provided an abbreviated rule making procedure for adding tire sizes to Standard No. 109 and alternative rim sizes to Standard No. 110, whereby the addition becomes effective 30 days from date of publication in the FEDERAL REGISTER if no objections to the proposed additions are received. If comments objecting to the amendment warrant, rule making pursuant to the rule making procedures for motor vehicle safety standards (49 CFR Part 553) will be followed.

The Rubber Manufacturers Association has petitioned for the addition of the new FR60-15 and GR60-15 tire size designations to Table I, Appendix A of Standard No. 109 and the appropriate test and alternative rims to Table I, Appendix A of Standard No. 110.

The European Tyre and Rim Technical Organisation has petitioned for the addition of the new 195/70 R 13, 185/70 R 14, 195/70 R 14, and 185/70 R 15 tire size designations to Table I, Appendix A of Standard No. 109 and the appropriate test and alternative rims to Table I, Appendix A of Standard No. 110.

The Rubber Manufacturers Association has also petitioned for the addition of the 7-JJ alternative rim for the FR 70-14 tire size designation; the 6-JJ alternative rim for the A78-13, LR78-15, JR78-15, and HR70-15 tire size designations; and the 5½-JJ alternative rim for the FR70-14 and HR78-15 tire size designations to Table I, Appendix A of Standard No. 110.

The European Tyre and Rim Technical Organisation has also petitioned for the addition of the 4½-JJ alternative rim for the 135 R 15 and 135-15 tire size designations and the 4.50B alternative rim for the 145 R 13, 155 R 13 and 165 R 13 tire size designations to Table I, Appendix A of Standard No. 110.

The Jensen Motor, Ltd., has petitioned for the addition of the 6½-JJ alternative

rim for the GR70-15 tire size designation to Table I, Appendix A of Standard No. 110.

On the basis of the data submitted by the Rubber Manufacturers Association, the European Tyre and Rim Technical Organisation, and the Jensen Motor, Ltd., indicating compliance with the requirements of Federal Motor Vehicle Safety Standards No. 109 and No. 110 and other information submitted in accordance with the procedural guidelines set forth, Table I, Appendix A of Standard No. 109 is being amended and Table I, Appendix A of Standard No. 110 is being amended.

In 35 F.R. 6589 published on April 24, 1970 (Docket 70-11), the minimum size factor for the D78-14 tire size designation was printed as 32.32 inches whereas the correct value is 32.52 inches. This correction is included in this amendment.

In consideration of the foregoing, § 571.21 of Part 571, Federal Motor Vehicle Safety Standards, Appendix A of Standard No. 109 (33 F.R. 14964) and Appendix A of Standard No. 110 (34 F.R. 11421) are being amended as set forth below effective 30 days from date of publication in the FEDERAL REGISTER.

(Secs. 103, 119, National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1392, 1407); delegation from the Secretary of Transportation contained in § 1.51 of Part 1 of the Regulations of the Office of the Secretary (35 F.R. 4955); delegation to the Associate Director for Motor Vehicle Programs, formerly the Director of the Motor Vehicle Safety Performance Service (33 F.R. 14964))

Issued on June 4, 1970.

GEORGE C. NIELD,
Assistant for Technology,
Motor Vehicle Programs.

MOTOR VEHICLE SAFETY STANDARD NO. 109

NEW PNEUMATIC TIRES—PASSENGER CARS

1. The existing Table I-N is deleted and in its place the following revised Table I-N is inserted:

TABLE I-N

TIRE LOAD RATINGS, TEST RIMS, MINIMUM SIZE FACTORS, AND SECTION WIDTHS FOR "70 SERIES" RADIAL PLY TIRES

Tire size ¹ designation	Maximum tire loads (pounds) at various cold inflation pressures (p.s.i.)										Test rim width (inches)	Minimum size factor (inches)	Section ² width (inches)	
	20	22	24	26	28	30	32	34	36	38				40
165/70 R 13.....	750	770	795	815	835	860	880	900	920	940	960	4½	28.45	6.50
175/70 R 13.....	845	865	890	910	935	955	980	1,000	1,025	1,045	1,070	5	29.31	6.92
185/70 R 13.....	940	965	990	1,015	1,040	1,065	1,090	1,115	1,140	1,165	1,190	5	30.39	7.31
195/70 R 13.....	1,045	1,070	1,100	1,125	1,155	1,180	1,210	1,240	1,265	1,290	1,320	5½	31.20	7.74
155/70 R 14.....	700	720	740	760	780	795	815	835	850	870	890	4	28.15	5.93
185/70 R 14.....	960	1,015	1,045	1,070	1,100	1,130	1,155	1,180	1,210	1,235	1,265	5	31.39	7.31
190/70 R 14.....	1,090	1,120	1,155	1,185	1,220	1,250	1,280	1,310	1,340	1,375	1,405	5½	32.30	7.74
175/70 R 15.....	940	965	990	1,015	1,040	1,065	1,090	1,115	1,140	1,165	1,190	5	31.36	6.92
180/70 R 15.....	1,040	1,070	1,100	1,130	1,155	1,180	1,210	1,235	1,265	1,290	1,320	5	32.34	7.31

¹ The letter "H", "S", or "V" may be included in any specified tire size designations adjacent to the "R".
² Actual section width and overall width shall not exceed the specified section width by more than 7 percent.

2. The existing Table I-J is deleted and in its place the following Table I-J is inserted:

RULES AND REGULATIONS

TABLE I-J

TIRE LOAD RATINGS, TEST RIMS, MINIMUM SIZE FACTORS, AND SECTION WIDTHS FOR "78 SERIES" BIAS PLY TIRES

Tire size ¹ designation	Maximum tire loads (pounds) at various cold inflation pressures (p.s.i.)													Test rim width (inches)	Minimum size factor (inches)	Section ² width (inches)
	16	18	20	22	24	26	28	30	32	34	36	38	40			
A78-13	720	770	810	860	900	940	990	1,030	1,060	1,090	1,130	1,160	1,200	4½	29.74	6.60
B78-13	780	840	890	930	980	1,030	1,070	1,110	1,150	1,190	1,230	1,270	1,300	5	30.72	7.05
C78-13	840	890	950	1,000	1,050	1,100	1,140	1,190	1,230	1,270	1,320	1,360	1,400	5½	31.56	7.45
D78-14	780	840	890	930	980	1,030	1,070	1,110	1,150	1,190	1,230	1,270	1,300	4½	31.04	6.65
E78-14	840	890	950	1,000	1,050	1,100	1,140	1,190	1,230	1,270	1,320	1,360	1,400	5	31.95	7.05
F78-14	890	950	1,010	1,070	1,130	1,170	1,220	1,270	1,320	1,360	1,410	1,450	1,490	5½	32.52	7.35
G78-14	950	1,010	1,070	1,130	1,190	1,240	1,300	1,350	1,400	1,440	1,490	1,540	1,580	6	33.29	7.65
H78-14	1,020	1,090	1,160	1,230	1,290	1,340	1,400	1,450	1,500	1,550	1,610	1,650	1,700	6½	34.04	7.90
I78-14	1,100	1,180	1,250	1,310	1,380	1,440	1,500	1,560	1,620	1,680	1,730	1,780	1,830	6	35.02	8.35
J78-14	1,200	1,290	1,360	1,440	1,510	1,580	1,650	1,710	1,770	1,830	1,890	1,950	2,010	6	36.06	8.70
K78-14	1,260	1,350	1,430	1,500	1,580	1,650	1,720	1,790	1,860	1,920	1,980	2,040	2,100	6	36.98	8.80
L78-14	1,340	1,430	1,510	1,600	1,680	1,760	1,840	1,920	2,000	2,080	2,160	2,240	2,300	6	37.95	9.05
M78-15	840	890	950	1,000	1,050	1,100	1,140	1,190	1,230	1,270	1,320	1,360	1,400	5	32.45	6.95
N78-15	890	950	1,010	1,070	1,130	1,170	1,220	1,270	1,320	1,360	1,410	1,450	1,490	5	33.05	7.15
O78-15	950	1,010	1,070	1,130	1,190	1,240	1,300	1,350	1,400	1,440	1,490	1,540	1,580	5	33.65	7.35
P78-15	1,020	1,090	1,160	1,220	1,280	1,340	1,400	1,450	1,500	1,550	1,610	1,650	1,700	5½	34.56	7.70
Q78-15	1,100	1,180	1,250	1,310	1,380	1,440	1,500	1,560	1,620	1,680	1,730	1,780	1,830	5½	35.36	8.05
R78-15	1,200	1,290	1,360	1,440	1,510	1,580	1,650	1,710	1,770	1,830	1,890	1,950	2,010	6	36.90	8.55
S78-15	1,300	1,390	1,460	1,540	1,610	1,680	1,750	1,820	1,890	1,960	2,030	2,100	2,160	6	37.02	8.70
T78-15	1,400	1,490	1,560	1,640	1,710	1,780	1,850	1,920	2,000	2,080	2,160	2,240	2,300	6	37.73	8.85
U78-15	1,500	1,600	1,700	1,790	1,880	1,970	2,050	2,130	2,210	2,280	2,360	2,430	2,500	7	39.50	9.80

¹ The letter "H", "S", or "V" may be included in any specified tire size designation adjacent to or in place of the "dash".
² Actual section width and overall width shall not exceed the specified section width by more than 7 percent.

3. The following new Table I-R is added to Appendix A listing a new category of tire size designations:

TABLE I-R

TIRE LOAD RATINGS, TEST RIMS, MINIMUM SIZE FACTORS, AND SECTION WIDTHS FOR "60 SERIES" RADIAL PLY TIRES

Tire size ¹ designation	Maximum tire loads (pounds) at various cold inflation pressures (p.s.i.)													Test rim width (inches)	Minimum size factor (inches)	Section ² width (inches)
	16	18	20	22	24	26	28	30	32	34	36	38	40			
FR60-15	1,020	1,090	1,160	1,230	1,280	1,340	1,400	1,450	1,500	1,550	1,610	1,650	1,700	7	35.02	9.30
GR60-15	1,100	1,180	1,250	1,310	1,380	1,440	1,500	1,560	1,620	1,680	1,730	1,780	1,830	7	35.76	9.55

¹ The letter "H", "S", or "V" may be included in any specified tire size designation adjacent to or in place of the "dash".
² Actual section width and overall width shall not exceed the specified section width by more than 7 percent.

MOTOR VEHICLE SAFETY STANDARD NO. 110

TIRE SELECTION AND RIMS—PASSENGER CARS

Delete Table I of Appendix A and insert the following new Table I of Appendix A:

APPENDIX A—TABLE I

ALTERNATIVE RIMS

Tire size	Rim ¹
4.80-10	3.50D.
6.00-13	5-JJ.
6.40-15	4-JJ, 4½-JJ, 4½-K, 4.50E, 5.00E, 5-JJ, 5-K, 5½-J.
7.00-15	5.00F, 5-K.
8.25-15	5-JJ, 5½-JJ, 6-JJ, 6-K, 6-L.
8.55-15	5½-JJ, 6-JJ, 6-K, 6-L, 6½-JJ.
8.90-15	6-JJ, 6½-L, 7-L.
9.15-15	5½-JJ, 5½-K.
L84-15	5½-JJ, 6-JJ, 6½-JJ, 7-JJ.
G45C-16	5.
E50C-16	3½.
F50C-16	3½.
G50C-17	3½.
H50C-17	3½.
L50C-18	3½, 4.
L60-14	8-JJ.
E60-15	6-JJ, 7-JJ, 8-JJ.
F60-15	6½-JJ, 7-JJ, 8-JJ.
G60-15	7-JJ, 8-JJ.
J60-15	7½-JJ.
L60-15	7½-JJ.
FR60-15	7-JJ.
GR60-15	7-JJ.
A70-13	5½-JJ, 6-JJ.
D70-13	5½-JJ, 5½-K.
E70-14	7-JJ.
F70-14	7-JJ.
G70-14	7-JJ.
C70-15	5½-JJ.
E70-15	7-JJ.
F70-15	8-JJ.
G70-15	7-JJ, 7½-K, 8-JJ.

Tire size	Rim ¹	Tire size	Rim ¹
H70-15	8-JJ.	C78-14	4½-JJ, 5-JJ, 5-K, 5½-JJ, 6-JJ.
FR70-14	5½-JJ, 7-JJ.	D78-14	4½-JJ, 5-JJ, 5-K, 5½-JJ, 6-JJ.
ER70-15	6-JJ.	E78-14	4½-JJ, 5-JJ, 5-K, 5½-JJ, 5½-K, 6-JJ, 6½-JJ, 7-JJ.
GR70-15	6½-JJ, 7-L.	F78-14	5-JJ, 5-K, 5½-JJ, 5½-K, 6-JJ, 6-K, 6½-JJ, 7-JJ.
HR70-15	6-JJ.	G78-14	5-JJ, 5½-JJ, 5½-K, 6-JJ, 6-K, 7-JJ.
165/70 R 13	4½-JJ, 5-JJ.	H78-14	5½-JJ, 6-JJ, 6-K, 6½-JJ, 6½-K, 7-JJ.
175/70 R 13	5-JJ, 5½-JJ.	J78-14	6-JJ, 6-K, 6½-JJ.
185/70 R 13	4½-JJ, 5-JJ, 5½-JJ.	C78-15	4½-JJ, 4½-K, 5-JJ, 5-K.
195/70 R 13	5½-JJ, 6-JJ.	D78-15	5-JJ, 5-K.
155/70 R 14	4-JJ.	E78-15	4½-K, 5-JJ, 5-K, 5½-JJ, 5½-K, 6-JJ.
185/70 R 14	4½-JJ, 5-JJ, 5½-JJ.	F78-15	4½-K, 5-JJ, 5-K, 5½-JJ, 5½-K, 6-JJ.
195/70 R 14	5½-JJ, 6-JJ.	G78-15	5-JJ, 5-K, 5½-JJ, 5½-K, 6-JJ, 6-K, 6-L, 7-JJ.
175/70 R 15	5-JJ.	H78-15	5½-JJ, 5½-K, 6-JJ, 6-K, 6-L, 6½-K, 6½-JJ, 7-JJ.
185/70 R 15	5-JJ, 5½-JJ, 6-JJ.	J78-15	6-JJ, 6-K, 6-L, 6½-JJ, 7-JJ.
5.0-15	3.50D, 3.50D, 3½-JJ, 4-JJ, 4.00C.	L78-15	5½-JJ, 5½-K, 6-JJ, 6-K, 6-L, 6½-JJ, 7-JJ, 8-JJ.
5.5-15	3.50D, 3½-JJ, 4-JJ, 4½-JJ.	N78-15	6-JJ, 7-JJ.
145-10	3.50B.	BR78-13	4½-JJ.
145-13	3½-JJ, 4½-JJ.	CR78-14	6-JJ.
165-13	4½-JJ.	DR78-14	5-JJ.
135-15	4½-JJ.	ER78-14	5-JJ.
185-15	4½-JJ.	FR78-14	5½-JJ.
5.20-13	4½-JJ.	GR78-14	6-JJ.
5.80-13	3½-JJ, 4-JJ.	HR78-14	6-JJ.
6.00-13	4-JJ.	JR78-14	6½-JJ.
5.60-14	4½-JJ.	BR78-15	4½-JJ.
5.60-15	5-K.	ER78-15	5½-JJ.
155 R 12	4-JJ.	FR78-15	5½-JJ.
135 R 13	4½-JJ.	GR78-15	6-JJ.
145 R 13	4½-JJ, 4.50B.	HR78-15	5½-JJ, 6-JJ.
150 R 13	3½-JJ, 4.00B, 4½-JJ, 5-JJ.	JR78-15	6-JJ, 6½-JJ.
155 R 13	4.50B, 5-JJ.	BR78-15	4½-JJ.
160 R 13	4.00B, 4½-JJ, 5-JJ, 5½-JJ.	ER78-15	5½-JJ.
165 R 13	4-JJ, 4.50B.	FR78-15	5½-JJ.
170 R 13	4½-JJ, 5-JJ, 5½-JJ, 6-JJ.	GR78-15	6-JJ.
165 R 14	5½-JJ.	HR78-15	5½-JJ, 6-JJ.
175 R 14	4½-JJ.	JR78-15	6-JJ, 6½-JJ.
135 R 15	4½-JJ.	BR78-15	4½-JJ.
165 R 15	5-K.	ER78-15	5½-JJ.
205 R 15	7-L.	FR78-15	5½-JJ.
155-13/6.15-13	5-JJ.	GR78-15	6-JJ.
A78-13	4½-JJ, 5-JJ, 5½-JJ, 6-JJ.	HR78-15	5½-JJ, 6-JJ.
B78-13	5-JJ.	JR78-15	6-JJ, 6½-JJ.
C78-13	5½-JJ.	LR78-15	6-JJ, 6½-JJ.
B78-14	4½-JJ, 4½-K, 5-JJ, 5-K.		

¹ Italic designations denote test rims.

NOTE: Where JJ rims are specified in the above Table, J and JK rim contours are permissible.

[F.R. Doc. 70-7251; Filed, June 11, 1970; 8:45 a.m.]

Chapter X—Interstate Commerce Commission

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Rev. S.O. 1037]

PART 1033—CAR SERVICE

Distribution of Boxcars

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 5th day of June 1970.

It appearing, that an acute shortage of plain boxcars exists on the Bangor and Aroostook Railroad Co., and the Maine Central Railroad Co.; that shippers located on lines of these carriers are being deprived of such cars required for loading, resulting in a very severe emergency; that present rules, regulations, and practices with respect to the use, supply, control, movement, distribution, exchange, interchange, and return of boxcars owned by these railroads are ineffective. It is the opinion of the Commission that an emergency exists requiring immediate action to promote car service in the interest of the public and the commerce of the people. Accordingly, the Commission finds that notice and public procedure are impracticable and contrary to the public interest, and that good cause exists for making this order effective upon less than 30 days' notice.

It is ordered, That:

§ 1033.1037 Service Order No. 1037.

(a) *Distribution of boxcars.* Each common carrier by railroad subject to the Interstate Commerce Act shall observe, enforce, and obey the following rules, regulations, and practices with respect to its car service:

(1) Return to owners empty, except as otherwise authorized in subparagraphs (2) and (3) of this paragraph, all plain boxcars which are listed in the Official Railway Equipment Register, ICC R.E.R. 375, issued by E. J. McFarland, or reissues thereof, as having mechanical designation XM, owned by the Bangor and Aroostook Railroad Co. and the Maine Central Railroad Co.

(2) Boxcars described in subparagraph (1) of this paragraph, located in States other than Massachusetts, Maine, or New Hampshire may be loaded to any station in Massachusetts, Maine, and New Hampshire.

(3) Boxcars described in subparagraph (1) of this paragraph, located in the States of Massachusetts, New Hampshire, or Maine may be loaded to stations on the lines of the car owner only if routed via the car owning railroad.

(4) No common carrier by railroad subject to the Interstate Commerce Act shall accept from shipper any loaded boxcar for movements contrary to the

provisions of subparagraphs (2) and (3) of this paragraph.

(b) *Application.* The provisions of this order shall apply to intrastate, interstate, and foreign commerce.

(c) *Effective date.* This order shall become effective at 12:01 a.m., June 10, 1970.

(d) *Expiration date.* This order shall expire at 11:59 p.m. November 28, 1970, unless otherwise modified, changed, or suspended by order of this Commission.

(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 a copy of this order and direction 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 notice of this order 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. 70-7353; Filed, June 11, 1970; 8:48 a.m.]

[Ex Parte No. MC-37 (Sub-No. 20)]

PART 1048—COMMERCIAL ZONES

Albuquerque, N. Mex., Commercial Zone

Order. At a session of the Interstate Commerce Commission, Division 1, acting as an Appellate Division, held at its office in Washington, D.C., on the 21st day of May 1970.

It appearing, that on February 5, 1970, the Commission, Review Board No. 2, made and filed its report in this proceeding, 111 M.C.C. 135, and order denying redefinition of the limits of the zone adjacent to and commercially a part of Albuquerque, N. Mex., as contemplated by section 203(b)(8) of the Interstate Commerce Act (49 U.S.C. 303(b)(8));

It further appearing, that by petition filed April 8, 1970, petitioner seeks (1) waiver of rule 101(e) of the Commission's general rules of practice, and (2) reconsideration of the above-cited report only as to the area surrounding Rio Rancho Estates Industrial Park:

It is ordered, That rule 101(e) be, and it is hereby, waived, that said petition for reconsideration and supporting evidence be, and they are hereby, accepted for filing, and that said proceeding be, and it is hereby, reopened for reconsideration on the present record.

And it further appearing, that reconsideration of the matters and things involved in this proceeding has been given and that the Commission, Division 1, Acting as an Appellate Division, on the

date hereof, has made and filed a report on reconsideration herein containing its findings of fact and conclusions thereon, which report on reconsideration and the said report of February 5, 1970, are hereby referred to and made a part hereof:

It is further ordered, That the said order of February 5, 1970, be, and it is hereby, vacated and set aside.

It is further ordered, That § 1048.14 as promulgated in the order entered in this proceeding on February 5, 1970 (49 CFR 1048.14), be, and it is hereby, vacated and set aside, and the following revision is hereby substituted in lieu thereof:

§ 1048.14 Albuquerque, N. Mex.

The zone adjacent to and commercially a part of Albuquerque, N. Mex., within which transportation by motor vehicle, in interstate or foreign commerce, not under a common control, management, or arrangement for a continuous carriage or shipment to or from a point beyond the zone, is partially exempt, under section 203(b)(8) of the Interstate Commerce Act (49 U.S.C. 303(b)(8)), from regulation, includes, and is comprised of, all points as follows:

(a) The municipality of Albuquerque, N. Mex., itself.

(b) All points within a line drawn 5 miles beyond the corporate limits of Albuquerque, N. Mex.

(c) All points in that area north of the line described in paragraph (b) of this section, bounded by a line as follows: Beginning at the intersection of the line described in paragraph (b) of this section and New Mexico Highway 528, extending in a northeasterly direction along New Mexico Highway 528 to its intersection with New Mexico Highway 44, thence easterly along New Mexico Highway 44 to its intersection with New Mexico Highway 422, thence southerly along New Mexico Highway 422 to its intersection with the line described in paragraph (b) of this section.

(d) All of any municipality any part of which is within the limits of the combined areas defined in paragraphs (b) and (c) of this section;

(e) All of any municipality wholly surrounded, or so surrounded except for a water boundary, by the city of Albuquerque, N. Mex., or by any municipality included under the terms of paragraph (b) of this section.

(49 Stat. 543, as amended; 544, as amended; 546, as amended; 49 U.S.C. 302, 303, 304)

It is further ordered, That this order shall become effective on July 27, 1970, and shall continue in effect until further order of the Commission.

And it is further ordered, That notice of this order shall be given to the public by depositing a copy thereof in the office of the secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Division 1, acting as an Appellate Division.

[SEAL] H. NEIL GARSON,
Secretary.

[F.R. Doc. 70-7352; Filed, June 11, 1970; 8:48 a.m.]

Proposed Rule Making

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 1]

LABELING OF FOOD

Misleading Representations Regarding Origin of Food or Ingredient

In response to communications described below, the Commissioner of Food and Drugs proposes to add to § 1.15 a new paragraph (c) concerning misleading representations in food labeling as to the State, Territory, or country in which a food or any ingredient in food was grown, produced, or manufactured.

The Food and Drug Administration has received many complaints about misleading use of the designation "Idaho potatoes" in the labeling of potatoes allegedly grown in other States. Complaints have been received about use of the label designation "Louisiana hot sauce" for hot sauce made in another State from peppers not grown in Louisiana. Other complaints have alleged use of the word "Florida" on citrus products that included citrus ingredients from areas other than Florida.

Embassies and trade associations of various countries have filed complaints concerning alleged use in the labeling of domestic products of false and misleading statements and designs intended to imply that the food was grown, produced, or made in some other country. For example, the French Embassy has complained of labels on domestically produced cheeses that included designs showing French scenes and the flag of France along with statements suggesting or implying French origin. Complaints have been received from the Embassy of the Netherlands about use of statements and designs falsely implying Dutch origin for foods or food ingredients. The Canadian Embassy has mentioned instances in which they believe the term "Canadian" was used to falsely imply Canadian origin.

An association of Swiss chocolate manufacturers and the Swiss Embassy have protested use of the declaration "Swiss Chocolate" to designate food ingredients not produced in or imported from Switzerland. They presented specific labels and the report of a limited consumer survey made by an American firm engaged in marketing and opinion research. This report indicates that consumers are in fact being misled by this declaration.

The Federal Food and Drugs Act of June 30, 1906, contained provisions under which a food or drug was deemed misbranded "which is falsely branded as to the State, Territory, or country in which

it is manufactured or produced" or, in case of a food, if it "purport to be a foreign product when not so." Even earlier, by Act of July 1, 1902, Congress prohibited introduction into any State or Territory of the United States of "any dairy or food products which shall be falsely labeled or branded as to the State or Territory in which they are made, produced, or grown." This Act has not been repealed. (21 U.S.C. 16-17.)

Under section 403(a) of the Federal Food, Drug, and Cosmetic Act, a food is deemed misbranded "if its labeling is false or misleading in any particular."

Therefore, pursuant to the provisions of the act (secs. 403(a), 701(a), 52 Stat. 1047, 1055; 21 U.S.C. 343(a), 371(a)) and under authority delegated to him (21 CFR 2.120), the Commissioner proposes that a new paragraph be added to § 1.15, as follows:

§ 1.15 Food; labeling; misbranding.

(c) Among representations in the labeling of a food which render such food misbranded is any misleading representation as to the State, territory, or country in which the food or any ingredient in the food was grown, produced, or manufactured; however, the use of a geographical name in connection with the identity of a food, or the name of an ingredient in such food, will not be considered misleading if the geographical name is (1) part of the name prescribed in a standard of identity established pursuant to section 401 of the act or (2) by reason of long usage in the United States the name is generally recognized as a generic designation of a particular type or style of food product rather than as an indication of the geographic area where it was grown, produced, or manufactured.

Interested persons may, within 30 days after publication hereof in the FEDERAL REGISTER, file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6-62, 5600 Fishers Lane, Rockville, Md. 20852, written comments (preferably in quintuplicate) regarding this proposal. Comments may be accompanied by a memorandum or brief in support thereof.

Dated: June 8, 1970.

SAM D. FINE,
Acting Associate Commissioner
for Compliance.

[F.R. Doc. 70-7324; Filed, June 11, 1970;
8:46 a.m.]

[21 CFR Part 120]

CALCIUM CYANIDE

Pesticide Tolerances

Dr. C. C. Compton, Coordinator, Inter-regional Research Project No. 4, State Agricultural Experiment Station, Rut-

gers University, New Brunswick, N.J. 08903, on behalf of the Ohio Agricultural Research and Development Center, Wooster, Ohio; Ohio State University, Columbus, Ohio; Idaho State University, Moscow, Idaho; green house vegetable packing companies; and the Cleveland Greenhouse Vegetable Growers' Cooperative Association, Columbus, Ohio, has requested the Commissioner of Food and Drugs to establish tolerances for residues of the insecticide calcium cyanide, calculated as hydrogen cyanide, in or on the raw agricultural commodities cucumbers, lettuce, radishes, and tomatoes at 5 parts per million.

The Secretary of Agriculture reports that this insecticide is useful for the purposes for which the tolerances are being proposed.

Based on consideration given the data submitted, and other relevant material, the Commissioner concludes that the proposed tolerances are safe and will protect the public health. Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(e), 68 Stat. 514; 21 U.S.C. 346a(e)) and under authority delegated to the Commissioner (21 CFR 2.120), it is proposed that § 120.125 be revised to read as follows to establish the new tolerances:

§ 120.125 Calcium cyanide; tolerances for residues.

Tolerances are established for residues of the insecticide calcium cyanide, calculated as hydrogen cyanide, in or on raw agricultural commodities as follows:

Twenty-five parts per million, from postharvest application, in or on the grains: Barley, buckwheat, corn, oat, rice, rye, sorghum, and wheat.

Five parts per million in or on cucumbers, lettuce, radishes, and tomatoes.

Any person who has registered or submitted an application for the registration of an economic poison under the Federal Insecticide, Fungicide, and Rodenticide Act containing any of the ingredients listed herein may request, within 30 days after publication hereof in the FEDERAL REGISTER, that this proposal be referred to an advisory committee in accordance with section 408(e) of the act.

Interested persons may, within 30 days after publication hereof in the FEDERAL REGISTER, file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6-62, 5600 Fishers Lane, Rockville, Md. 20852, written comments (preferably in quintuplicate) regarding this proposal. Comments may be accompanied by a memorandum or brief in support thereof.

Dated: June 3, 1970.

R. E. DUGGAN,
Acting Associate Commissioner
for Compliance.

[F.R. Doc. 70-7325; Filed, June 11, 1970;
8:46 a.m.]

[21 CFR Part 130]

NEW DRUGS FOR INVESTIGATIONAL USE IN HUMANS

Delay Before Initiating Clinical Studies

Under existing policy the sponsor of a new drug for investigational use in human beings may, with some exceptions requiring preclearance, immediately initiate clinical studies upon filing with the Food and Drug Administration a completed and signed "Notice of Claimed Investigational Exemption for a New Drug." In some cases this policy is prejudicial to the welfare of human subjects in that they may be exposed to a drug that has not been adequately studied in laboratory animals and under a clinical protocol that may not assure a reasonable degree of safety for the subject. Both the sponsor of an investigation and the Food and Drug Administration share the responsibility to assure that patients are not exposed to unwarranted risk.

To facilitate providing this assurance, the Commissioner of Food and Drugs concludes that the exempting regulations concerning new drugs should be amended to require an interval of 30 days between the date of acknowledgement of receipt by the Food and Drug Administration of the sponsor's "Notice of Claimed Investigational Exemption for a New Drug" and the initiation of any clinical studies. This would not require affirmative approval to begin clinical studies but would permit time for the Food and Drug Administration to preliminarily screen the notice and take up any significant problems with the sponsor.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 505(i), 701(a), 52 Stat. 1053, as amended, 1055; 21 U.S.C. 355(i), 371(a)) and under authority delegated to him (21 CFR 2.120), the Commissioner proposes that § 130.3 *New drugs for investigational use in human beings; exemptions from section 505(a)* be amended:

1. In paragraph (a), by revising the introductory text of subparagraph (2) to read as follows:

(2) The person claiming the exemption has filed with the Food and Drug Administration a completed and signed "Notice of Claimed Investigational Exemption for a New Drug" in triplicate, with the information shown below in form FD-1571; and not less than 30 days have elapsed following the date of a communication from the Food and Drug Administration acknowledging receipt of the notice; and the Food and Drug Administration has not, prior to expiration of such 30-day interval, requested that the sponsor continue to withhold or to restrict use of the drug in human subjects. The 30-day delay requirement may be waived by the Food and Drug Administration upon a showing of good reason for such waiver.

2. In paragraph (a)(2), by adding to form FD-1571 the following new item:

14. A statement that the sponsor assures that clinical studies in humans will not be initiated prior to 30 days after the date of a communication from the Food and Drug Administration acknowledging receipt of the notice and that he will continue to withhold or to restrict clinical studies if requested to do so by the Food and Drug Administration prior to the expiration of such 30 days. The 30-day delay may be waived by the Food and Drug Administration upon a showing of good reason for such waiver.

3. By adding to paragraph (b) the following new subparagraph:

(4) Not less than 30 days have elapsed following the date of a communication from the Food and Drug Administration acknowledging receipt of the notice; and the Food and Drug Administration has not, prior to expiration of such 30-day interval, requested that the sponsor continue to withhold or to restrict use of the drug in human subjects. The 30-day delay requirement may be waived by the Food and Drug Administration upon a showing of good reason for such waiver.

Interested persons may, within 30 days after publication hereof in the FEDERAL REGISTER, file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6-62, 5600 Fishers Lane, Rockville, Md. 20852, written comments (preferably in quintuplicate) regarding this proposal. Comments may be accompanied by a memorandum or brief in support thereof.

Dated: June 8, 1970.

CHARLES C. EDWARDS,
Commissioner of Food and Drugs.

[F.R. Doc. 70-7341; Filed, June 11, 1970;
8:47 a.m.]

[21 CFR Part 144]

ARSENOSOBENZENE AND ANTI-BIOTIC DRUGS IN POULTRY FEED

Revocation of Exemption From Certification Requirements

On the basis of grounds set forth in a notice of withdrawal of approval of new animal drug application published elsewhere in this issue of the FEDERAL REGISTER, the Commissioner of Food and Drugs proposes to revoke the exemption from certification of poultry feeds containing arsenosobenzene and antibiotic drugs.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (see 512, 82 Stat. 343-51; 21 U.S.C. 360b) and under authority delegated to him (21 CFR 2.120), the Commissioner proposes to amend Part 144 by deleting from § 144.26(b)(18)(i) the following phrase referring to arsenosobenzene: "or arsenosobenzene in a quantity by weight of feed, of 0.002 percent."

Interested persons may, within 30 days after publication hereof in the FEDERAL REGISTER, file with the Hearing Clerk,

Department of Health, Education, and Welfare, Room 6-62, 5600 Fishers Lane, Rockville, Md. 20852, written comments (preferably in quintuplicate) regarding this proposal. Comments may be accompanied by a memorandum or brief in support thereof.

Dated: June 1, 1970.

SAM D. FINE,
Acting Associate Commissioner
for Compliance.

[F.R. Doc. 70-7317; Filed, June 11, 1970;
8:45 a.m.]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[24 CFR Part 15]

PRODUCTION OR DISCLOSURE OF MATERIAL OR INFORMATION

Production in Response to Subpenas or Demands of Courts or Other Authorities

Notice is hereby given that the Department of Housing and Urban Development proposes to amend its regulations relating to the release of information, published in 24 CFR Part 15—Public Information, by changing the present caption of Part 15 from "Public Information" to "Production or Disclosure of Material or Information," and by adding a new Subpart H to Part 15, to set forth the Department's regulations relating to the production of material or information in response to subpoenas or demands of courts or other authorities.

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposed regulations set forth below in this notice of proposed rule making to Sherman Unger, General Counsel, Department of Housing and Urban Development, 451 Seventh Street S.W., Washington, D.C. 20410, within 30 days after the date of publication of this notice in the FEDERAL REGISTER.

1. The caption of 24 CFR Part 15 is changed from "Public Information" to "Production or Disclosure of Material or Information."

2. Subpart H is added to read as follows:

Subpart H—Production in Response to Subpenas or Demands of Courts or Other Authorities

- Sec.
- 15.71 Purpose and scope.
 - 15.72 Production prohibited unless approved by the Secretary.
 - 15.73 Procedure in the event of a demand for production or disclosure.
 - 15.74 Procedure in the event of an adverse ruling.

AUTHORITY: The provisions of this Subpart H issued under 5 U.S.C. 301 and sec. 7(d), Department of HUD Act, 42 U.S.C. 3535(d).

Subpart H—Production in Response to Subpenas or Demands of Courts or Other Authorities

§ 15.71 Purpose and scope.

This subpart contains the regulations of the Department concerning procedures to be followed when a subpoena, order, or other demand (hereinafter referred to in this subpart as a "demand") of a court or other authority is issued for the production or disclosure of (a) any material contained in the files of the Department, (b) any information relating to material contained in the files of the Department, or (c) any information or material acquired by any person while such person was an employee of the Department as a part of the performance of his official duties or because of his official status. For the purposes of this subpart, the term "employee of the Department" includes all officers and employees of the United States appointed by, or subject to the supervision of, the Secretary.

§ 15.72 Production prohibited unless approved by the Secretary.

No employee or former employee of the Department shall, in response to a demand of a court or other authority, produce any material contained in the files of the Department, or disclose any information relating to material contained in the files of the Department, or disclose any information or produce any material acquired as a part of the performance of his official duties or because of his official status, without the prior approval of the Secretary.

§ 15.73 Procedure in the event of a demand for production or disclosure.

(a) Whenever a demand is made upon an employee or former employee of the Department for the production of material or the disclosure of information described in § 15.71, he shall immediately notify the Secretary and either the General Counsel or the appropriate Regional Counsel. The "appropriate Regional Counsel" shall mean the Regional Counsel for the Regional Office having delegated authority over the project or activity with respect to which the information is sought. If possible, the Secretary shall be notified before the employee or former employee concerned replies to or appears before the court or other authority.

(b) If response to the demand is required before the instructions from the Secretary are received, the U.S. Attorney or such other attorney as may be designated for the purpose, will appear with the employee or former employee of the Department upon whom the demand has been made, and will furnish the court or other authority with a copy of the regulations contained in this subpart and inform the court or other authority that the demand has been or is being, as the case may be, referred for prompt consideration of the Secretary. The court or other authority shall be requested respectfully to stay the demand pending receipt of the requested instructions from the Secretary.

§ 15.74 Procedure in the event of an adverse ruling.

If the court or other authority declines to stay the effect of the demand in response to a request made in accordance with § 15.73(b) pending receipt of instructions from the Secretary, or if the court or other authority rules that the demand must be complied with irrespective of the instructions from the Secretary not to produce the material or disclose the information sought, the employee or former employee upon whom the demand has been made shall respectfully decline to comply with the demand (United States ex rel. Touhy v. Ragen, 340 U.S. 462).

Dated at Washington, D.C., this 8th day of June 1970.

GEORGE ROMNEY,
Secretary of Housing and
Urban Development.

[P.R. Doc. 70-7358; Filed, June 11, 1970;
8:48 a.m.]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 39]

[Docket No. 10363]

MORANE SAULNIER MODELS MS.880B, MS.885, AND MS.894A AIRPLANES

Proposed Airworthiness Directive

The Federal Aviation Administration is considering amending Part 39 of the Federal Aviation Regulations by adding an airworthiness directive applicable to Morane Saulnier Models MS.880B, MS.-885, and MS.894A airplanes. There have been reports of contact being made between the terminal components of the battery cables and the battery box on these airplanes, one of which resulted in an inflight fire. Since this condition is likely to exist or develop on other airplanes of the same type design, the proposed airworthiness directive would require modification of the battery box to install an insulating plate, inspection of the battery cable for damage, and replacement of cables found to be damaged.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the docket number and be submitted in duplicate to the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, D.C. 20590. All communications received on or before July 13, 1970, will be considered by the Administrator before taking action upon the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments will be available, both before and after the closing date for comments,

in the rules docket for examination by interested persons.

This amendment is proposed under the authority of sections 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, 1423) and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

In consideration of the foregoing, it is proposed to amend § 39.13 of Part 39 of the Federal Aviation Regulations by adding the following new airworthiness directive:

MORANE SAULNIER. Applies to Models MS.-880B, MS.885, and MS.894A airplanes.

To prevent a possible fire resulting from contact between the terminal components of the battery cable and the battery box, within the next 100 hours' time in service after the effective date of this AD, unless already accomplished, accomplish the following:

(a) Modify the battery box by installing an insulating plate in accordance with Socata Service Bulletin No. 68 dated November 1969 or later SGAC-approved issue or an FAA-approved equivalent.

(b) Inspect the battery cables in the area of the battery box for damage due to wear against the battery box.

(c) If the battery cable is found to be damaged during the inspection required by paragraph (b), before further flight replace the cable with a serviceable cable of the same part number.

Issued in Washington, D.C., on June 8, 1970.

WILLIAM G. SHREVE, Jr.,
Acting Director,
Flight Standards Service.

[P.R. Doc. 70-7370; Filed, June 11, 1970;
8:49 a.m.]

[14 CFR Part 39]

[Docket No. 10364]

MORANE SAULNIER MODELS MS.880B, MS.885, AND MS.894A AIRPLANES

Proposed Airworthiness Directive

The Federal Aviation Administration is considering amending Part 39 of the Federal Aviation Regulations by adding an airworthiness directive (AD) applicable to Morane Saulnier Models MS.880B, MS.885, and MS.894A airplanes. There have been reports of leaks occurring in the fuel system in the engine compartment that could result in a fire. Since this condition is likely to exist or develop in other airplanes of the same type design, the proposed airworthiness directive would require modification of the fuel system to install flexible fuel lines between the engine pump and the carburetor and in the fuel pressure system.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments, as they may desire. Communications should identify the docket number and be submitted in duplicate to the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington,

D.C. 20590. All communications received on or before July 13, 1970, will be considered by the Administrator before taking action upon the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments will be available, both before and after the closing date for comments, in the rules docket for examination by interested persons. This amendment is proposed under the authority of sections 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, 1423) and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

In consideration of the foregoing, it is proposed to amend § 39.13 of Part 39 of the Federal Aviation Regulations by adding the following new airworthiness directive:

MORANE SAULNIER. Applies to Models MS.880B, MS.885, and MS.894A airplanes.

To prevent possible fires resulting from leaks in the fuel system, within the next 50 hours' time in service after the effective date of this AD, unless already accomplished, modify the fuel system by installing flexible fuel lines between the engine pump and the carburetor and in the fuel pressure system in accordance with Parts 2 and 3 of SOCATA Service Bulletin No. 56, dated December 1968, or later SGAC-approved issue or an FAA-approved equivalent.

Issued in Washington, D.C., on June 8, 1970.

WILLIAM G. SHREVE, Jr.,
Acting Director,
Flight Standards Service.

[P.R. Doc. 70-7371; Filed, June 11, 1970; 8:49 a.m.]

[14 CFR Part 39]

[Docket No. 10365]

MORANE SAULNIER MODELS MS.880B, MS.885, AND MS.894A AIRPLANES

Proposed Airworthiness Directive

The Federal Aviation Administration is considering amending Part 39 of the Federal Aviation Regulations by adding an airworthiness directive (AD) applicable to Morane Saulnier Models MS.880B, MS.885, and MS.894A airplanes. It has been determined that the sealant used on the firewall on these airplanes is not fire resistant and that it is therefore possible for flames and harmful gases to enter the cabin from the engine compartment. Since this condition is likely to exist or develop in other airplanes of the same type design, the proposed airworthiness directive would require replacement of the existing sealant with an approved fire-resistant sealant.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the docket number and be submitted in duplicate to the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, D.C.

20590. All communications received on or before July 13, 1970, will be considered by the Administrator before taking action upon the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments will be available, both before and after the closing date for comments, in the rules docket for examination by interested persons.

This amendment is proposed under the authority of sections 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, 1423) and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

In consideration of the foregoing, it is proposed to amend § 39.13 of Part 39 of the Federal Aviation Regulations by adding the following new airworthiness directive:

MORANE SAULNIER. Applies to Models MS.880B, MS.885, and MS.894A airplanes.

To prevent the possibility of flames or harmful gases passing into the cabin from the engine compartment, within the next 100 hours' time in service after the effective date of this AD, unless already accomplished, replace the existing firewall sealant with "STABOND HT-4", Specification LAC-40-475 fire-resistant sealant manufactured by American Latex Product Corporation, or other FAA-approved fire-resistant sealant.

Issued in Washington, D.C., on June 8, 1970.

WILLIAM G. SHREVE, Jr.,
Acting Director,
Flight Standards Service.

[P.R. Doc. 70-7372; Filed, June 11, 1970; 8:49 a.m.]

[14 CFR Part 91]

[Docket No. 10077; Notice 70-22]

OPERATION OF AIRCRAFT BY CREWMEMBERS AFTER CONSUMPTION OF ALCOHOLIC BEVERAGES

Notice of Proposed Rule Making

The Federal Aviation Administration is considering amending Part 91 of the Federal Aviation Regulations to prohibit any person from acting as a crewmember of a civil aircraft within 8 hours after he consumes any alcoholic beverage.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, GC-24, 800 Independence Avenue SW., Washington, D.C. 20590. All communications received on or before September 10, 1970, will be considered by the Administrator before taking action upon the proposed rule. All comments will be available, both before and after the closing date for comments, in the rules docket for examination by interested persons.

The present provisions related to drinking are in § 91.11, and provide that no person may act as a crewmember

while under the influence of intoxicating liquor.

On June 25, 1965, an advance notice of proposed rule making was issued (Notice 65-15, 30 F.R. 8799) stating the FAA was considering the need for an expanded regulation to prohibit or otherwise restrict the drinking of alcoholic beverages by crewmembers before and during flight. Public participation was invited in identifying and selecting a course or alternate course of action. The majority of the comments received from the public favored the FAA's proposal to strengthen its regulations. In consideration of these views, after further study of the matter Notice 65-34 was issued and published in the FEDERAL REGISTER on November 10, 1965 (30 F.R. 14170), proposing the same amendment that is now proposed in regard to the 8-hour restriction on drinking.

The majority of the comments received in response to Notice 65-34 also supported the FAA's stated objectives. However, some spokesmen for the industry opposed the proposed regulation on the grounds that it would be unenforceable, and that the present rule prohibiting a person from acting as a crewmember while under the influence of intoxicating liquor, plus the rules governing careless or reckless operation, were sufficient to cover all exigencies. Other spokesmen asserted that the proposed regulation would be undesirable because air carrier policies and practices providing for longer periods of abstinence went beyond the proposal, and the proposal would therefore tend, in their opinion, to undermine those policies and practices. Some comments were concerned with the difficulties of defining, by nature and quantity, the alcoholic beverages to which the proposed rule would refer. Still other comments asserted that the educational process would be the most effective and instructive approach to the problem.

After consideration of the comments received in response to Notice 65-34 and other relevant material, the FAA concluded that rule-making action was not appropriate at that time, and that the best course would be to disseminate, as widely as possible, the information it had concerning the adverse effects alcoholic beverages have on the performance of airmen duties by crewmembers. Accordingly, a notice of withdrawal of Notice 65-34 was issued on January 16, 1967 and published in the FEDERAL REGISTER on January 20, 1967 (32 F.R. 675).

In pursuance of an educational process, a pocket size educational pamphlet was prepared and issued to all segments of the aviation community. A paragraph published in the Medical Facts for Pilots section of the Airman's Information Manual, under the heading "Alcohol", states in part "[A]n excellent rule is to allow 24 hours between the last drink and takeoff time". Alcohol has also been discussed at pilot safety meetings conducted by the FAA's General Aviation District Office personnel on a continuing basis throughout the United States for the past 3 years.

Notwithstanding the foregoing activity by the FAA, the Aircraft Owners and

Pilots Association, that opposed Notice 65-34, has by petition dated January 6, 1970, now requested the adoption of a similar rule that would contain the same prohibition with respect to alcohol consumption as the one proposed in that notice.

As stated in Notice 65-34, each aircraft accident that occurs has an adverse effect on the entire aviation community. It is the duty of the FAA to take all reasonable steps available to prevent these accidents. From the statistical data available to the FAA, it appears that there is a reasonable possibility that the use of alcohol has contributed to the cause of a number of these accidents. Measurable blood alcohol was found in a number of autopsies performed on pilots in command who were fatally injured. Since issuing Notice 65-34, the FAA has continued its studies with respect to alcohol and flying, and finds the situation virtually unchanged during the period 1965-70, although accident data does reflect a slight decrease in the alcoholic usage related to aircraft accidents during the period 1966-69, due to publicity given to the alcohol problem and the FAA aeromedical education program.

According to the petition for rule making submitted by the Aircraft Owners and Pilots Association, the educational effort undertaken by the FAA, although modestly effective, has had little impact on that small group who ignore pilot educational programs and for whom a specific time limitation must be enforced.

Even small amounts of alcohol affect judgment, coordination, performance, and reaction time. Moreover, altitude accentuates the effects of alcohol, and harmful effects of alcohol continue after the alcohol itself has left the blood, even in the absence of a hangover.

As stated in Notice 65-34, the ability of a crewmember to perform without impairment of his judgment, coordination, and reaction time is an essential element in the safety of flight, and in the effectiveness of air traffic systems in controlling air traffic. The possible effect of alcohol consumption by a crewmember upon this performance is a matter of serious concern to the FAA. It is also a matter of the most serious concern to the flying public sharing the airspace with the drinker as well as to persons and property on the ground.

The FAA therefore considers that it is necessary at this time to expressly provide by rule that no person may act as a crewmember of a civil aircraft within 8 hours after the consumption of any alcoholic beverage.

For consistency and accuracy, the terms "alcoholic beverage" as used in § 121.575 and "alcohol" are used in this proposal.

In consideration of the foregoing, it is proposed to amend paragraph (a) of § 91.11 of the Federal Aviation Regulations to read as follows:

§ 91.11 Liquor and drugs.

(a) No person may act as a crewmember of a civil aircraft—

(1) Within 8 hours after the consumption of any alcoholic beverage;

(2) While under the influence of alcohol; or

(3) While using any drug that affects his faculties in any way contrary to safety.

This amendment is proposed under the authority of sections 313(a) and 601 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421), and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on June 8, 1970.

JAMES F. RUDOLPH,

Director, Flight Standards Service.

[F.R. Doc. 70-7329; Filed, June 11, 1970; 8:46 a.m.]

CIVIL AERONAUTICS BOARD

[14 CFR Parts 207, 208, 212, 214, 249, 295, 399]

[Docket No. 22174]

CHARTER REGULATIONS

Supplemental Notice of Proposed Rule Making

JUNE 9, 1970.

The Board by circulation of notice of proposed rule making EDR-183, PSDR-24, dated May 8, 1970, and publication at 35 F.R. 7587, gave notice that it had under consideration proposed amendments to Parts 207, 208, 212, 214, and 249 and repeal of Part 295 of its economic regulations (14 CFR Parts 207, 208, 212, 214, 249, and 295) and amendment of its policy statements, Part 399 (14 CFR Part 399). The proposals embody substantial revision and extension of the charter regulations and include implementing, clarifying and editorial amendments.

Interested persons were given an opportunity to participate in the proposed rule making through transmission of 12 copies of written data, views, or arguments pertaining thereto to the docket

section on or before June 15, 1970, with reply comments due on or before July 6, 1970. Counsel for the member carriers of the National Air Carrier Association has requested an extension of the dates for filing comments to and including August 14, 1970, for direct comments and October 13, 1970, for reply comments. It is asserted that the proposed rules, if adopted, will have a drastic and adverse effect on the business of the supplemental carriers and that the proposals raise issues of critical importance for route carriers. It is stated that it is physically impossible to prepare and coordinate a response in a matter of this magnitude in the time allowed in the notice and that a 60-day extension is believed both warranted and necessary. It is also stated that in view of the voluminous and detailed nature of the direct comments which will undoubtedly be submitted, it is believed that a 60-day period for filing reply comments is fully justified. Counsel for a number of U.S. route carriers and for two foreign air carriers join in the request, and a similar extension is requested by counsel for travel agents.

The undersigned finds that good cause has been shown for an extension of 45 days for filing initial comments, but that the 21-day interval for filing reply comments should remain undisturbed at least for the present. Were the request to be granted in full, the Board's ability to take final action on the proposals in time for the 1971 summer season would be jeopardized. Moreover, the undersigned is not persuaded that 75 days for filing initial comments is inadequate, particularly since the NACA carriers and a number of route carriers intend to file joint responses. In view of the importance of expediting this proceeding, the undersigned does not intend to grant any further extensions for filing initial comments. As to reply comments, until the nature of the initial comments is known there is no basis for believing that 21 days is insufficient.

Accordingly, pursuant to authority delegated in § 385.20(d) of the Board's organization regulations, the undersigned hereby extends the time for submitting initial comments to July 30 and reply comments to August 20, 1970.

(Sec. 204(a), Federal Aviation Act of 1958, as amended, 72 Stat. 743; 49 U.S.C. 1324)

By the Civil Aeronautics Board.

[SEAL] ARTHUR H. SIMMS,
Associate General Counsel,
Rules and Rates Division.

[F.R. Doc. 70-7349; Filed, June 11, 1970; 8:48 a.m.]

Notices

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

PINE RIDGE RESERVATION, S. DAK.

Ordinance Legalizing Introduction, Sale, or Possession of Intoxicants

JUNE 5, 1970.

In accordance with authority delegated by the Secretary of the Interior to the Commissioner of Indian Affairs by 230 DM 2, and in accordance with the Act of August 15, 1953 (Public Law 277, 83d Cong., first session; 67 Stat. 586), I certify that Oglala Sioux Tribal Council Ordinance No. 70-01, was enacted on March 23, 1970, for the purpose of amending Ordinance No. 68-3, enacted on November 19, 1968, and certified and published in the FEDERAL REGISTER on March 1, 1969 (34 F.R. 3701). Relevant portions of the ordinance read as follows:

Whereas, the Oglala Sioux Tribal Council has heretofore enacted Tribal Ordinance No. 68-3, concerning liquor control on the Pine Ridge Reservation, and

Whereas, the Oglala Sioux Tribal Council finds it necessary to amend that ordinance in order to implement its purpose.

Now, therefore, be it ordained:

1. Sections 2, 3, and 4 of Ordinance No. 68-3, as amended, are repealed and the following text is hereby substituted:

(2) Licenses. The sale of any alcoholic beverage shall be unlawful on the Pine Ridge Reservation unless the seller:

(a) If subject to the jurisdiction of the State of South Dakota, shall be duly licensed under and in compliance with the laws of the State of South Dakota, and

(b) Shall be duly licensed under and in compliance with this Ordinance.

Licenses shall be issued by the Oglala Sioux Tribal Executive Committee as provided in section 3, provided that no more than two off-sale retail package-licenses nor more than two on-sale licenses may be issued for any district of the reservation.

(3) License applications. License applications shall be filed with the Oglala Sioux Tribal Executive Committee and approved thereby. No license shall be issued by the Executive Committee except:

(a) Upon the receipt of an application containing all the information called for on application forms prescribed by the Executive Committee;

(b) Upon a showing, in the case of applicants subject to the jurisdiction of the State of South Dakota, that they have been or are likely to be licensed by the State of South Dakota;

(c) If the applicant is of good moral character, financially responsible, and is not an officer or employee of the Oglala Sioux Tribe.

(d) Upon receipt by the Executive Committee of a license fee which shall be 50 percent of the fee payable to the State of South Dakota for a license of the class applicable to the applicant and, in the case of licenses for the sale of intoxicating liquor (as such term is defined in title 5, South Dakota Code), the filing by the applicant of an agreement on a form prescribed by the Ex-

ecutive Committee, obligating the applicant to pay an additional quarter-annual fee equal to 6 percent of the gross receipts from sales of intoxicating liquor authorized by the license.

2. Sections 5, 6, 7, 8, 9, and 10 of Ordinance No. 68-3, as amended, are hereby renumbered 4, 5, 6, 7, 8, and 9 respectively.

3. This amending ordinance shall take effect on the date of its publication in the FEDERAL REGISTER.

LOUIS R. BRUCE,
Commissioner of Indian Affairs.

[F.R. Doc. 70-7342; Filed, June 11, 1970;
8:47 a.m.]

Bureau of Land Management

[OR 6331]

OREGON

Notice of Proposed Withdrawal and Reservation of Land

JUNE 5, 1970.

The Department of Agriculture, on behalf of the Forest Service, has filed application, OR 6331, for the withdrawal of public land described below. Said land is to be withdrawn from all forms of appropriation under the public land laws, including the mining laws, but not the mineral leasing laws, nor the disposal of materials under the act of July 31, 1947, and reserved for use of the Department of Agriculture for the granting of easements for road rights-of-way as authorized by section 2 of the act of October 13, 1964.

This proposal for the Switchback Tie Road (Road No. 1985) will provide a means by which the Secretary of Agriculture can grant easements for road rights-of-way to private parties.

For a period of 30 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, Department of the Interior, 729 Northeast Oregon Street, Post Office Box 2965, Portland, Ore. 97208.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the land and its resources. He will also undertake negotiations with the applicant agency with the view of adjusting the application to reduce the area to the minimum essential to meet the applicant's needs, to provide for the maximum concurrent utilization of the land for purposes other than the applicant's, to eliminate land needed for purposes more essential than the applicant's, and to reach agreement on the concurrent

management of the land and its resources.

He will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the land will be withdrawn as requested by the applicant agency.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

If circumstances warrant it, a public hearing will be held at a convenient time and place which will be announced.

The land involved in the application is:

WILLAMETTE MERIDIAN

SWITCHBACK TIE ROAD NO. 1985

T. 19 S., R. 9 W.,
Sec. 21, NE¼.

A strip of land 100 feet in width, being 50 feet in width on both sides of the centerline of the Switchback Tie Road as shown on the plats at the Siuslaw National Forest Supervisor's Office, Corvallis, Ore.

The area described contains about 7.46 acres.

VIRGIL O. SEISER,
Chief, Branch of Lands.

[F.R. Doc. 70-7326; Filed, June 11, 1970;
8:46 a.m.]

[OR 6363]

OREGON

Notice of Proposed Withdrawal and Reservation of Land

JUNE 5, 1970.

The Department of Agriculture, on behalf of the Forest Service, has filed application, OR 6363, for the withdrawal of the public land described below, from all forms of appropriation under the public land laws including the mining laws, but not the mineral leasing laws.

The applicant desires the land for the Marys Peak Lookout and Communication Site in the Siuslaw National Forest.

For a period of 30 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, Department of the Interior, 729 Northeast Oregon Street, Post Office Box 2965, Portland, Ore. 97208.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the land and its resources. He will also undertake negotiations with the applicant agency with the view of adjusting the application to reduce the area to the minimum essential to meet the

applicant's needs, to provide for the maximum concurrent utilization of the land for purposes other than the applicant's, to eliminate land needed for purposes more essential than the applicant's, and to reach agreement on the concurrent management of the land and its resources.

He will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the land will be withdrawn as requested by the applicant agency.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

If circumstances warrant it, a public hearing will be held at a convenient time and place which will be announced.

The land involved in the application is:

WILLAMETTE MERIDIAN
SIUSLAW NATIONAL FOREST

Marys Peak Lookout and Communication Site

T. 12 S., R. 7 W.,
Sec. 28, NE $\frac{1}{4}$ NW $\frac{1}{4}$.

Containing approximately 40 acres in Benton County, Oreg.

VIRGIL O. SEISER,
Chief, Branch of Lands.

[F.R. Doc. 70-7327; Filed, June 11, 1970;
8:46 a.m.]

Bureau of Mines

CHIEF, BRANCH OF PROCUREMENT AND PROPERTY OPERATIONS, WESTERN ADMINISTRATIVE OFFICE, DENVER, COLO.

Delegation of Authority

Effective immediately, the following authorities are redelegated to the above-named official:

1. Authority to enter into formally advertised contracts for supplies, equipment and nonpersonal services (including construction in amounts not to exceed \$500,000 for any one contract;
2. Authority to enter into negotiated contracts under sections 302(c) (1) through (5), (10), (11), (13), and (14) of the Federal Property and Administrative Services Act of 1949, as amended, in amounts not to exceed \$500,000 for any one contract except that any one contract negotiated under section 302(c) (1) shall not exceed \$25,000.

The above authorities shall be exercised in accordance with applicable limitations in the Federal Property and Administrative Services Act of 1949, as amended, and in accordance with applicable policies, procedures, and controls prescribed by the General Services Administration, the Department of the Interior, and the Bureau of Mines.

Dated: June 8, 1970.

G. A. MELVILLE,
Acting Assistant Director,
Administration.

[F.R. Doc. 70-7363; Filed, June 11, 1970;
8:49 a.m.]

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

CLAIMS BY OR AGAINST COMMODITY CREDIT CORPORATION

Delegation of Authority

Pursuant to the authority vested in me by the Board of Directors of the Commodity Credit Corporation, I hereby delegate to the Deputy Vice President, Commodity Credit Corporation, who is Deputy Administrator, Management, Agricultural Stabilization and Conservation Service, the following responsibilities with respect to claims by or against Commodity Credit Corporation, subject to and in accordance with applicable rules and regulations promulgated by Commodity Credit Corporation:

The overall coordination and supervision of claims activities and operations in the Kansas City Data Processing Center, the Management Field Office, Kansas City, the New Orleans Data Processing Center, and the divisions of the Agricultural Stabilization and Conservation Service in Washington that report to the Deputy Administrator, Management. All matters involving the interpretation of claims policies affecting programs and functions of Commodity Credit Corporation shall require the concurrence of the Deputy Vice President, Commodity Credit Corporation, who is Deputy Administrator, Commodity Operations, Agricultural Stabilization and Conservation Service, before being put into effect.

The authority delegated herein may not be redelegated.

Terminated: Ca-247 (33 F.R. 18058), published December 4, 1968.

Effective date. This delegation of authority shall be effective on publication in the FEDERAL REGISTER.

Signed at Washington, D.C., on June 5, 1970.

CARROLL G. BRUNTHAVER,
Acting Executive Vice President,
Commodity Credit Corporation.

[F.R. Doc. 70-7354; Filed, June 11, 1970;
8:48 a.m.]

CLAIMS BY OR AGAINST COMMODITY CREDIT CORPORATION

Delegation of Authority

Pursuant to the authority vested in me by the Board of Directors of the Commodity Credit Corporation, I hereby delegate to the Deputy Vice President, Commodity Credit Corporation, who is Deputy Administrator, Commodity Operations, Agricultural Stabilization and Conservation Service, the following responsibilities with respect to claims by or against Commodity Credit Corporation, subject to and in accordance with applicable rules and regulations promulgated by Commodity Credit Corporation:

1. Concurrence in the interpretation of all claims policies affecting programs and functions of Commodity Credit Corporation.

2. Approval or disapproval of proposed claims actions to be taken by Commodity Credit Corporation when my approval is required for such actions.

3. Settling or adjusting any claims which I may specify.

4. Settling or adjusting any claims which the director of an Agricultural Stabilization and Conservation Service division or office or a State executive director requests me to settle or adjust.

5. Coordination and supervision of Commodity Credit Corporation claims activities in the Agricultural Stabilization and Conservation Service commodity offices and the divisions and offices of the Agricultural Stabilization and Conservation Service in Washington that report to the Deputy Administrator, Commodity Operations.

The authority delegated herein may not be redelegated.

Terminated: Ca-245 (33 F.R. 18058), published December 4, 1968.

Effective date. This delegation of authority shall be effective on publication in the FEDERAL REGISTER.

Signed at Washington, D.C., on June 5, 1970.

CARROLL G. BRUNTHAVER,
Acting Executive Vice President,
Commodity Credit Corporation.

[F.R. Doc. 70-7355; Filed, June 11, 1970;
8:48 a.m.]

CLAIMS BY OR AGAINST COMMODITY CREDIT CORPORATION

Delegation of Authority

Pursuant to the authority vested in me by the Board of Directors of the Commodity Credit Corporation, I hereby delegate to the Controller, Commodity Credit Corporation, who is Director, Fiscal Division, Agricultural Stabilization and Conservation Service, without regard to monetary limitation, the authority to determine claims uncollectible, subject to and in accordance with applicable rules and regulations promulgated by Commodity Credit Corporation. The authority delegated herein shall not be redelegated.

Terminated: Ca-245, Sub. 1 (33 F.R. 18058), published December 4, 1968.

Effective date. This delegation of authority shall be effective on publication in the FEDERAL REGISTER.

Signed at Washington, D.C., on June 5, 1970.

CARROLL G. BRUNTHAVER,
Acting Executive Vice President,
Commodity Credit Corporation.

[F.R. Doc. 70-7356; Filed, June 11, 1970;
8:48 a.m.]

**Consumer and Marketing Service
HUMANELY SLAUGHTERED LIVESTOCK**

Identification of Carcasses; Changes in Lists of Establishments

Pursuant to section 4 of the Act of August 27, 1958 (7 U.S.C. 1904), and the statement of policy thereunder in 9 CFR 381.1, the lists (35 F.R. 2895, 4976, 5594, and 7457) of establishments which are operated under Federal inspection pursuant to the Federal Meat Inspection Act (21 U.S.C. 601 et seq.) and which use humane methods of slaughter and incidental handling of livestock are hereby amended as follows:

The reference to sheep with respect to Jack Agee & Co., Establishment 2281, is deleted.

The following table lists species at additional establishments and additional species at previously listed establishments that have been reported as being slaughtered and handled humanely.

Name of establishment	Establishment No.	Cattle	Calves	Sheep	Goats	Swine	Horses	Mules
Linden Packing Co., Inc.	45	(*)						
Insel and Insel	54	(*)	(*)					
Midtown Veal & Mutton Co., Inc.	612	(*)						
Cartier Abattoir, Inc.	639	(*)		(*)		(*)		
The Allen Packing Co.	845	(*)	(*)	(*)				
Shamrock Beef Co.	987	(*)						
Jack Polen Beef Co., Inc.	5548	(*)						
Cedar Packing Co.	6118	(*)						
Cribbs Sausage Co.	7424						(*)	
Blue Ridge Beef Plant, Inc.	7445	(*)						
New establishments reported: 10.								
Fresno Meat Packing Co.	354		(*)					
Piute Packing Co.	530			(*)				
Springfield Dressed Beef, Inc.	2600			(*)				
Double A Meat Packing, Inc.	5162			(*)				
Cessnum Abattoir	7082			(*)				
Species Added: 5.								

desiring to be heard on issues pertinent to section 805(a) or desiring to submit comments or views concerning the application must, by close of business on June 19, 1970, file same with the Secretary, Maritime Subsidy Board/Maritime Administration, in writing, in triplicate, together with petition for leave to intervene which shall state clearly and concisely the grounds of interest, and the alleged facts relied on for relief.

Notwithstanding anything in § 201.78 of the rules of practice and procedure (46 CFR Part 201), petitions for leave to intervene received after the close of business on June 19, 1970, will not be considered in this proceeding.

If no petitions for leave to intervene are received within the specified time or if it is determined that petitions filed do not demonstrate sufficient interest to warrant a hearing, the Maritime Subsidy Board/Maritime Administration will take such action as may be deemed appropriate.

In the event petitions regarding the relevant section 805(a) issues are received from parties with standing to be heard, a hearing has been tentatively scheduled for June 23, 1970, at 10 a.m. in Room 4892, Department of Commerce Building, 14th and E Streets NW., Washington, D.C. The purpose of the hearing will be to receive evidence under section 805(a) relative to whether the proposed operation (a) could result in unfair competition to any person, firm, or corporation operating exclusively in the coast-wise or intercoastal service, or (b) would be prejudicial to the objects and policy of the Act relative to domestic trade operations.

By order of the Maritime Subsidy Board/Maritime Administration.

Dated: June 8, 1970.

JAMES S. DAWSON, Jr.,
Secretary.

[F.R. Doc. 70-7316; Filed, June 11, 1970; 8:45 a.m.]

**DEPARTMENT OF HEALTH,
EDUCATION, AND WELFARE**

Food and Drug Administration

[Docket No. FDC-D-153; NADA No. 8-772V]

AMERICAN CYANAMID CO.

**Arzene Premix 4 Percent; Notice of
Withdrawal of Approval of New
Animal Drug Application**

American Cyanamid Co., Post Office Box 400, Princeton, N.J. 08540, holder of new animal drug application No. 8-772V and all amendments and supplements thereto for the drug Arzene Premix 4 Percent (4 percent arsenosobenzene), was notified by copies of a report by the National Academy of Sciences-National Research Council, Drug Efficacy

Done at Washington, D.C., on June 9, 1970.

G. H. WISE,

Deputy Administrator, Consumer Protection.

[F.R. Doc. 70-7357; Filed, June 11, 1970; 8:48 a.m.]

**Office of the Secretary
WASHINGTON**

**Designation of Areas for Emergency
Loans**

For the purpose of making emergency loans pursuant to section 321 of the Consolidated Farmers Home Administration Act of 1961 (7 U.S.C. 1961), it has been determined that in the hereinafter-named counties in the State of Washington, natural disasters have caused a need for agricultural credit not readily available from commercial banks, cooperative lending agencies, or other responsible sources.

WASHINGTON

Chelan. Okanogan.
Douglas.

Pursuant to the authority set forth above, emergency loans will not be made in the above-named counties after June 30, 1971, except to applicants who previously received emergency or special livestock loan assistance and can qualify under established policies and procedures.

Done at Washington, D.C., this 8th day of June 1970.

CLIFFORD M. HARDIN,
Secretary of Agriculture.

[F.R. Doc. 70-7336; Filed, June 11, 1970; 8:46 a.m.]

DEPARTMENT OF COMMERCE

Maritime Administration

[Docket No. S-250]

OCEANIC STEAMSHIP CO.

Notice of Application

Notice is hereby given that the Oceanic Steamship Co. has filed an application, dated May 21, 1970, requesting written permission under section 805(a) of the Merchant Marine Act, 1936, as amended, to permit the "SS Mariposa" and "SS Monterey" to carry one-way passengers (a) in either direction between U.S. west coast ports and Alaskan ports on eight approved cruise voyages for the balance of calendar year 1970, which cruise voyages include calls at San Francisco, Los Angeles, Juneau, Skagway, Glacier Bay, Sitka, San Francisco, and Los Angeles and (b) in either direction in the future in connection with cruises authorized under section 613, that involve United States domestic intercoastal, or coast-wise service.

Interested parties may inspect this application in the Office of Subsidy Administration, Maritime Administration, Room 3616, Department of Commerce Building, 14th and E Streets NW., Washington, D.C.

Any person, firm or corporation having any interest (within the meaning of section 805(a)) in such application and

Study Group, and the FEDERAL REGISTER veterinary drug efficacy study implementation announcement of February 14, 1969 (34 F.R. 2211), that Arzene Premix 4 Percent is probably effective as an aid in controlling coccidiosis in chickens and for increasing weight gain and feed efficiency, but that the label should list the species of coccidia controlled and bear the warning "Not to be fed to laying chickens."

In the FEDERAL REGISTER announcement, the Commissioner of Food and Drugs informed all interested persons that such articles to be marketed must be the subject of approved new animal drug applications and that holders of new animal drug applications were provided 6 months after publication of said announcement to submit adequate documentation in support of the labeling used.

The holder of new animal drug application No. 8-772V did not respond to said announcement within the 6 months provided.

Therefore, a notice of opportunity for hearing on the proposed withdrawal of approval of new animal drug application No. 8-772V was published in the FEDERAL REGISTER of January 17, 1970 (35 F.R. 637). The American Cyanamid Co. responded to the notice by stating that they no longer market the product.

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512 (e), 82 Stat. 345-47; 21 U.S.C. 360b(e)) and under authority delegated to him (21 CFR 2.120), the Commissioner on the basis of new information before him, evaluated together with evidence available when the application was approved, finds there is a lack of substantial evidence that the subject drug will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in its labeling.

Therefore, pursuant to the foregoing finding, approval of new animal drug application No. 8-772V and all amendments and supplements thereto applying to Arzene Premix 4 Percent is withdrawn, effective on the date of signature of this document.

Accordingly, Arzene Premix 4 Percent and any similar preparation for animal use and offered for such effects will be regarded as a new animal drug for which an approved new animal drug application is not in effect and will be subject to regulatory action.

Dated: June 1, 1970.

SAM D. FINE,
Acting Associate Commissioner
for Compliance.

[F.R. Doc. 70-7318; Filed, June 11, 1970;
8:45 a.m.]

[Docket No. FDC-D-147; NADA No. 6-319V]

AMERICAN CYANAMID CO.

Sulmet Emulsion; Notice of Withdrawal of Approval of New Animal Drug Application

A notice of opportunity for a hearing on the matter of withdrawing approval

of the new animal drug application for Sulmet Emulsion was published in the FEDERAL REGISTER of February 20, 1970 (35 F.R. 3246).

American Cyanamid Co., Post Office Box 400, Princeton, N.J. 08540, holder of new animal drug application No. 6-319V covering said drug, did not file a written appearance of election regarding whether they wished to avail themselves of the opportunity for a hearing within the 30-day time period provided for in said notice. This is construed as an election by said firm not to avail themselves of the opportunity for a hearing.

Based on the grounds set forth in said notice and the response to said notice the Commissioner of Food and Drugs concludes that approval of new animal drug application No. 6-319V 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. 360b(e)) and under authority delegated to the Commissioner (21 CFR 2.120), approval of new animal drug application No. 6-319V including all amendments and supplements thereto is hereby withdrawn effective on the date of signature of this document.

Dated: May 28, 1970.

SAM D. FINE,
Acting Associate Commissioner
for Compliance.

[F.R. Doc. 70-7319; Filed, June 11, 1970;
8:45 a.m.]

ATOMIC ENERGY COMMISSION

[Docket No. 50-255]

CONSUMERS POWER CO.

Notice of Change of Location of Hearing

By Notice of Hearing issued May 18, 1970, the Commission provided for a hearing on June 23, 1970, in room 200, Kalamazoo City Hall, 241 West South Street, Kalamazoo, Mich.

Due to a change in circumstances affecting that room since the issuance of the aforesaid notice of hearing, it has become desirable to change the location of the hearing to the Van Deusen Auditorium in the City Library System of Kalamazoo, Mich.

Wherefore, it is ordered, Pursuant to the Atomic Energy Act, as amended, and the rules of practice of the Commission, that the evidentiary hearing in this proceeding shall convene at 10 a.m. on Tuesday, June 23, 1970, in the Van Deusen Auditorium of the City Library System (rather than in Room 200 of the City Hall) at 315 South Rose Street, Kalamazoo, Mich. 49006.

Issued: June 9, 1970, Germantown, Md.

ATOMIC SAFETY AND LICENSING BOARD,
SAMUEL W. JENSCH,
Chairman.

[F.R. Doc. 70-7406; Filed, June 11, 1970;
8:49 a.m.]

CIVIL AERONAUTICS BOARD

[Docket No. 22245; Order 70-6-49]

SEDALIA, MARSHALL, BOONVILLE STAGE LINE, INC.

Order To Show Cause

Issued under delegated authority June 8, 1970.

A final service mail rate for the transportation of mail by aircraft established by Order 70-3-50 dated March 10, 1970, is currently in effect for the above captioned air taxi, operating under 14 CFR Part 298. The service involved is that described in notice of Intent 68-137 filed by the Postmaster General on December 24, 1968, for the route between AMF Twin Cities, Minneapolis, Minn., and Oshkosh, Wis., via Wausau and Green Bay, Wis.

The Postmaster General filed a petition on June 2, 1970, stating that a review of air taxi mail service reveals that weekend trips cannot be justified on this route in view of the volume of mail involved, and that he has been authorized by the carrier to petition for a new rate, based on five round trips per week in each direction, of 61.97 cents per great circle aircraft mile.

The carrier and the Post Office Department have agreed that the above proposed rate is a fair and reasonable rate for the services described in Notice of Intent 68-137 as amended by this petition.

The Board finds it is in the public interest to fix and determine the fair and reasonable rate of compensation to be paid by the Postmaster General for the transportation of mail by aircraft between the aforesaid points. Upon consideration of the petition and other matters officially noticed, it is proposed to issue an order¹ to include the following findings and conclusions:

On and after June 2, 1970, the fair and reasonable final service mail rates per great circle aircraft mile to be paid in their entirety by the Postmaster General to Sedalia, Marshall, Boonville Stage Line, Inc., pursuant to section 406 of the Act for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, between AMF Twin Cities, Minneapolis, Minn., and Oshkosh, Wis., via Wausau and Green Bay, Wis., shall be 61.97 cents per great circle aircraft mile on the basis of five flights per week in each direction.

Accordingly, pursuant to the Federal Aviation Act of 1958 and particularly sections 204(a) and 406 thereof, and the Board's regulations 14 CFR Part 302, 14 CFR Part 298 and the authority duly delegated by the Board in its organization regulations 14 CFR 385.14(f):

It is ordered, That:

¹This order to show cause is not a final action and is not regarded as subject to the review provisions of 14 CFR Part 385. These provisions will be applicable to final action taken by the staff under authority delegated in § 385.14(g).

1. Sedalia, Marshall, Boonville Stage Line, Inc., the Postmaster General and all other interested persons are directed to show cause why the Board should not adopt the foregoing proposed findings and conclusions and fix, determine, and publish the final rate for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, as the fair and reasonable rate of compensation to be paid to;

2. Further procedures herein shall be in accordance with 14 CFR Part 302, as specified in the appendix below; and

3. This order shall be served upon Sedalia, Marshall, Boonville Stage Line, Inc., and the Postmaster General.

This order will be published in the FEDERAL REGISTER.

[SEAL]

HARRY J. ZINK,
Secretary.

APPENDIX

1. Further procedures related to the attached order shall be in accordance with 14 CFR Part 302, and notice of any objection to the rate or to the other findings and conclusions proposed therein, shall be filed within 10 days, and if notice is filed, written answer and supporting documents shall be filed within 30 days after service of this order;

2. If notice of objection is not filed within 10 days after service of this order, or if notice is filed and answer is not filed within 30 days after service of this order, all persons shall be deemed to have waived the right to a hearing and all other procedural steps short of a final decision by the Board, and the Board may enter an order incorporating the findings and conclusions proposed therein and fix and determine the final rate specified therein;

3. If answer is filed presenting issues for hearing, the issues involved in determining the fair and reasonable final rate shall be limited to those specifically raised by the answer, except insofar as other issues are raised in accordance with Rule 307 of the rules of practice (14 CFR 302.307).

[F.R. Doc. 70-7346; Filed, June 11, 1970; 8:47 a.m.]

[Docket No. 22246; Order 70-6-50]

**SEDALIA, MARSHALL, BOONVILLE
STAGE LINE, INC.**

Order To Show Cause

Issued under delegated authority
June 8, 1970.

A final service mail rate for the transportation of mail by aircraft, established by Order 69-4-147, dated April 30, 1969, is currently in effect for the above captioned air taxi, operating under 14 CFR Part 298. The service involved is that described in notice of Intent 69-12 filed by the Postmaster General on March 7, 1969, for the route between AMF Twin Cities, Minneapolis, Minn., and Des Moines, Iowa.

The Postmaster General filed a petition on June 2, 1970, stating that a review of air taxi mail service reveals that weekend trips cannot be justified on this route in view of the volume of mail involved, and that he has been authorized by the carrier to petition for a new rate,

based on five round trips per week in each direction, of \$1.054 per great circle aircraft mile.

The carrier and the Post Office Department have agreed that the above proposed rate is a fair and reasonable rate for the services described in Notice of Intent 69-12 as amended by this petition.

The Board finds it is in the public interest to fix and determine the fair and reasonable rate of compensation to be paid by the Postmaster General for the transportation of mail by aircraft between the aforesaid points. Upon consideration of the petition and other matters officially noticed, it is proposed to issue an order¹ to include the following findings and conclusions:

On and after June 2, 1970, the fair and reasonable final service mail rates per great circle aircraft mile to be paid in their entirety by the Postmaster General to Sedalia, Marshall, Boonville Stage Line, Inc., pursuant to section 406 of the Act for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, between AMF Twin Cities, Minneapolis, Minn. and Des Moines, Iowa, shall be \$1.054 per great circle aircraft mile on the basis of five flights per week in each direction.

Accordingly, pursuant to the Federal Aviation Act of 1958 and particularly sections 204(a) and 406 thereof, and the Board's regulations 14 CFR Part 302, 14 CFR Part 298 and the authority duly delegated by the Board in its organization regulations 14 CFR 385.14(f):

It is ordered, That:

1. Sedalia, Marshall, Boonville Stage Line, Inc., the Postmaster General and all other interested persons are directed to show cause why the Board should not adopt the foregoing proposed findings and conclusions and fix, determine, and publish the final rate for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, as the fair and reasonable rate of compensation to be paid to;

2. Further procedures herein shall be in accordance with 14 CFR Part 302, as specified in the appendix below; and

3. This order shall be served upon Sedalia, Marshall, Boonville Stage Lines, Inc., and the Postmaster General.

This order will be published in the FEDERAL REGISTER.

[SEAL]

HARRY J. ZINK,
Secretary.

APPENDIX

1. Further procedures related to the attached order shall be in accordance with 14 CFR Part 302, and notice of any objection to the rate or to the other findings and conclusions proposed therein, shall be filed within 10 days, and if notice is filed, written answer and supporting documents shall

¹ This order to show cause is not a final action and is not regarded as subject to the review provisions of 14 CFR Part 385. These provisions will be applicable to final action taken by the staff under authority delegated in § 385.14(g).

be filed within 30 days after service of this order;

2. If notice of objection is not filed within 10 days after service of this order, or if notice is filed and answer is not filed within 30 days after service of this order, all persons shall be deemed to have waived the right to a hearing and all other procedural steps short of a final decision by the Board, and the Board may enter an order incorporating the findings and conclusions proposed therein and fix and determine the final rate specified therein;

3. If answer is filed presenting issues for hearing, the issues involved in determining the fair and reasonable final rate shall be limited to those specifically raised by the answer, except insofar as other issues are raised in accordance with Rule 307 of the rules of practice (14 CFR 302.307).

[F.R. Doc. 70-7347; Filed, June 11, 1970; 8:47 a.m.]

[Docket No. 22123]

UNIVERSAL AIRLINES CO. ET AL.

Notice of Hearing

Universal Airlines Company, Universal Airlines, Inc., First Grant Corporation and American Flyers Airline Corporation.

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding will be held on July 7, 1970, at 10 a.m., e.d.s.t., in Room 503, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., before Examiner William F. Cusick.

For information concerning the issues involved and other details in this proceeding, interested persons are referred to the Prehearing Conference Report and other documents which are in the docket of this proceeding on file in the docket section of the Civil Aeronautics Board.

Dated at Washington, D.C., June 8, 1970.

[SEAL]

WILLIAM F. CUSICK,
Hearing Examiner.

[F.R. Doc. 70-7345; Filed, June 11, 1970; 8:47 a.m.]

**FEDERAL COMMUNICATIONS
COMMISSION**

[Dockets Nos. 18782, 18783; FCC 70R-199]

**MARTIN LAKE BROADCASTING CO.
AND CLANTON BROADCASTING
CORP.**

**Memorandum Opinion and Order
Enlarging Issues**

In regard applications of Martin Lake Broadcasting Co., Alexander City, Ala., File No. BP-17280 and Clanton Broadcasting Corp., Clanton, Ala., File No. BP-17687, for construction permit.

1. This proceeding involves the mutually exclusive applications of Martin Lake Broadcasting Co. (Martin Lake),

and Clanton Broadcasting Corp. (Clanton), for new standard broadcast stations at Alexander City and Clanton, Ala., respectively, which were designated for hearing by the Commission (21 FCC 2d 180 (1970)) on various issues. Presently before the Review Board is a motion to enlarge issues, filed February 16, 1970, by Clanton,¹ which seeks the addition of the following issues against Martin Lake: (1) Character issues; (2) financial qualifications issue; (3) a real party in interest issue; (4) a staffing issue; and (5) a § 73.188(b) issue.

Misrepresentation and financial qualifications issues. 2. In support of these requested issues, Clanton contends that James B. Pitts, Jr., and Harold G. Hodnett, each with a 42.5-percent ownership interest in Martin Lake have submitted false and misleading balance sheets in an attempt to deceive the Commission respecting their financial condition. Relying upon an affidavit by H. Gerald Reynolds, a local attorney employed to examine the financial status of Pitts and Hodnett, Clanton asserts that, whereas Pitts' most recent balance sheet shows mortgages of less than \$8,000, the outstanding mortgages in fact total more than \$200,000; that Pitts also failed to disclose that certain listed property is subject to a power of attorney as part of the security arrangements; and that Pitts also failed to disclose outstanding liens and a recent judgment certified against him. These findings, Clanton maintains, lead to the conclusion that all or nearly all of Pitts' property is mortgaged and that his July 1, 1969, balance sheet is a "complete fabrication." Clanton also asserts that Reynolds has discovered matters establishing that Harold Hodnett's financial condition is far different from that shown on his July 8, 1969, balance sheet. According to Clanton, Reynolds' search disclosed that Hodnett has also misrepresented his financial condition by overstating the value of certain property. Further, Reynolds reports a number of liens against a business enterprise of which Hodnett is sole proprietor; and, in Reynolds' opinion, all the assets of Hodnett's business, including inventory and equipment, are under security agreements. Clanton concludes that Hodnett, as did Pitts, attempted to deceive the Commission respecting his financial po-

sition; and that, therefore, an appropriate character issue is warranted. Further, Clanton asserts that the questions raised as to the balance sheets submitted by the Martin Lake principals in turn raise a question as to that applicant's financial qualifications. Clanton notes that Pitts and Hodnett have represented that they will lend Martin Lake \$25,000 each if needed and that the bank loan relied upon by Martin Lake requires their personal endorsements. Based on the facts unearthed, Clanton concludes that neither Pitts nor Hodnett is in a position to lend any financial assistance to Martin Lake, and that any personal endorsement by them on a note would be valueless;² and therefore an examination of Martin Lake's financial qualifications is also required. The Broadcast Bureau, in its comments, supports the request for both issues.

3. In opposition, Martin Lake concedes that Pitts "through ignorance" did in fact omit the mortgage from his balance sheet and failed to notify the Commission of the judgment certified against him; because the acts of Pitts might have placed the corporate applicant in "jeopardy" (even if only through "laxity or ignorance"), Martin Lake asserts that its remaining principals have purchased all of Pitts' stock and he (Pitts) has resigned as director and officer of the corporation. Martin Lake represents that it is preparing an appropriate amendment to reflect these changes, and contends that Pitts' withdrawal should "moot" the charges relating to him. As to the alleged misrepresentations in Hodnett's balance sheet, Martin Lake asserts, Clanton's contentions "are grossly incorrect." Martin Lake charges that Reynolds made no attempt to ascertain the existing balances due under the security agreements covering Hodnett's sole proprietorship. It is well known, Martin Lake claims, that, as security for "floor-planned" merchandise, the lender usually requires the execution of a mortgage securing all goods and property of every description then owned or to be acquired in the future; and that, therefore, the execution of such a mortgage is an unimportant fact until the amount of the mortgage and the value of the property is known. Hodnett, according to Martin Lake, did reveal the existence of the chattel mortgages in his balance sheet, and in this regard there has been no misrepresentation. Further, relying on affidavits of Hodnett and a "certified realtor", Martin Lake claims that the valuations of Hodnett's property are essentially as shown in the challenged balance sheet. Based on the current appraised value of the property, Martin Lake claims that Hodnett has an equity of more than \$42,000 in his real estate holdings, as reflected in the balance sheet. Martin Lake asserts that since Clanton has inadequately appraised Hodnett's property and has not given the present mortgage balance, it has failed to

establish that Hodnett cannot lend the corporation "up to \$25,000." In any case, Martin Lake urges that this matter is "not worthy of consideration" because its first year construction and operation costs in the amount of \$37,314 can readily be met by the available bank loan of \$40,000. Martin Lake thus concludes that neither the character issue nor the financial issue is warranted.

4. Both the requested issues will be added. Martin Lake concedes that Pitts balance sheet is less than complete and seriously misleading. And, the fact that Pitts plans to withdraw from the proposal does not immunize the applicant against its responsibilities; the amendment under which Pitts' balance sheet was filed had been signed by Hodnett as president and on behalf of the entity, and it is the entity's responsibility that submissions to the Commission be complete and accurate. While Hodnett's claimed lack of knowledge of the true facts, and Pitts' voluntary withdrawal, may go to mitigation, the fact remains that a substantial question of misrepresentation has been raised. Similarly, a reading of Hodnett's balance sheet does not clearly indicate the facts regarding real property mortgages and chattel mortgages which have now come to light. Thus, while the dispute as to the valuation of Hodnett's real property might not, of itself, warrant inquiry, a question has been raised as to whether Hodnett's balance sheet is misleading; and this, too, warrants exploration under the misrepresentation issue. Finally, we agree with the petitioner that a financial inquiry is warranted: the bank loan relied upon by Martin Lake requires the endorsements of Pitts and Hodnett; and, in view of Pitts' withdrawal and the uncertainties as to these principals' financial status, a substantial question is raised concerning the continued availability of the loan.

Real party in interest issue. 5. Petitioner seeks an inquiry into whether two individuals, Charles G. Reynolds or Ruben K. King, have or had an ownership interest in Martin Lake.³ In support of the requested issue, Clanton submits affidavits of Henry D. Waites, a principal of Clanton, and H. Gerald Reynolds. Waites states that in a conversation with Charles G. Reynolds, the latter "implied" that both he and King were stockholders in Martin Lake. Reynolds, in his affidavit, states that James C. Vice (a former stockholder of Martin Lake), informed him that he was "under the impression that Ruben K. King has some interest" in the applicant. Furthermore, H. Gerald Reynolds states that Vice recalled being asked by King for 10 percent of the stock of Martin Lake, in return for legal services to be performed by King. Vice allegedly also told Reynolds that he "felt" that King had some interest in the company, although he had no personal knowledge of the corporate records. These circumstances, petitioner

¹Related pleadings before the Board are: (a) Opposition to motion to enlarge issues, filed Mar. 6, 1970, by Martin Lake; (b) statement partially supporting and partially opposing Clanton's motion to enlarge issues, filed Mar. 6, 1970, by the Broadcast Bureau; (c) Clanton's reply, filed Mar. 23, 1970; (d) supplement to Clanton's reply, filed Mar. 25, 1970; (e) motion to strike, filed Apr. 1, 1970, by Martin Lake; and (f) opposition to motion to strike, filed Apr. 13, 1970, by Clanton. The affidavits submitted with Clanton's reply are largely responsive to matters raised in the opposition, are acceptable under the Commission's rules and have been considered; the motion to strike will therefore be denied. Clanton's supplement to reply is no more than a restatement of matters contained in the reply and has been disregarded.

²Pitts and Hodnett would be two of the four personal endorsers of Martin Lake's \$40,000 bank loan.

³Section II of Martin Lake's application lists Harold Hodnett, J. B. Pitts, Jr., and Cary G. Hodnett, as the only officers, directors, and stockholders of Martin Lake.

insists, warrant imposition of the requested real party in interest issue.⁴ In addition, petitioner asserts that Vice sold his stock to the company in 1967, but it was not until September 8, 1969, that Martin Lake amended its application to delete Vice as a stockholder. Clanton suggests that this apparent failure to comply with Rule 1.65 can be considered under the requested real party in interest issue.

6. The requested real party in interest issue will be denied. Clanton's attempt to pile inference and innuendo upon the vague and inconclusive hearsay affidavits it submits is utterly insufficient to justify the imposition of the requested issue. Beyond the lack of substance of the initial allegations, Clanton has not even attempted to refute—by factual data—the unequivocal sworn denials accompany Martin Lake's opposition. Hodnett flatly denies that either King or Charles Reynolds has any interest in Martin Lake; Vice, in an affidavit, rejects the charge that he indicated anything to the contrary to H. Gerald Reynolds.⁵ In light of the insufficiency of the allegations and Martin Lake's unequivocal denial, no real party in interest issue is warranted.

7. The failure to timely report Vice's disposition of his stock interest in Martin Lake is not, in the Board's view, in any way relevant to the question of undisclosed principals—Vice's stock was sold to existing disclosed stockholders. The change of circumstances does, however, raise a question as to whether there has been a violation of Rule 1.65. Martin Lake raises the shopworn defense of inadvertence, pointing out that Vice's stock was sold in April 1968 and "duly reported" to Martin Lake's former counsel. Martin Lake asserts that it "assumed" that former counsel had filed an appropriate amendment; when the contrary was discovered to be the case, a corrective amendment was prepared. The Board is of the view that the explanation offered is not sufficient to avert the imposition of a Rule 1.65 issue. The transfer of Vice's stock occurred in April 1968, but Martin Lake's opposition indicates that the transfer was not "duly reported" to former counsel until October 1968. Thus, even if former counsel had instantly filed an amendment it would have been late. In the circumstances, we are of the view that further inquiry is warranted, and will sua sponte, add a Rule 1.65 issue.

⁴ With its reply, Clanton submits an affidavit by Royce Faulkner, president of Clanton; Faulkner asserts that in consideration of legal services performed by King, he (King) was to receive a 10-percent interest in Martin Lake, although no shares have ever, in fact, been issued; Faulkner claims that he got this information from King himself.

⁵ The fact that 50-percent stock of the Martin Lake stock has changed hands since the application was filed does not, of itself, raise a real party in interest issue.

⁶ The vague cross-claims of breach of faith and violation of family confidences which permeate all of the affidavits filed here shed no light on the matter at issue and are not of themselves worthy of further consideration.

Staffing issue. 8. Clanton asserts that Martin Lake's proposed staff of three full-time employees and a part-time general manager is inadequate to effectuate its proposal. Petitioner charges that Hodnett is currently the owner and manager of his own business which he apparently intends to continue operating and will therefore be able to devote only part of his time to his duties as general manager of the station. In this regard, Clanton charges that Hodnett's background would only qualify him in the commercial aspects of the station, and that the programing, announcing, and other technical work would be left to the other three employees. Clanton contends that owing to the large amount of live programing Martin Lake intends to broadcast, there will have to be extensive program planning. In Clanton's view, the three full-time employees are, considering the amount of live programing proposed, insufficient, and precedent calls for the addition of the issue, citing John E. Grant, FCC 62-409, 23 RR 461; Community Broadcasting Co. of Hartsville, 16 FCC 2d 647, 15 RR 2d 814 (1969); and John M. Traxler, FCC 65R-191, 5 RR 2d 738.

9. In opposition, Martin Lake and the Broadcast Bureau argue that the requested staffing issue must be summarily denied, because Clanton has not pleaded with the sufficiency and specificity required to support the addition of such an issue. The Bureau contends that most of petitioner's allegations are more argumentative than factual, and that Clanton fails to provide even the basic information which the Board needs to arrive at a meaningful decision. The Bureau points out that Martin Lake's application is for a daytime only station, a fact entirely ignored by Clanton, and contends that the four employees will not be over-burdened by Martin Lake's proposal to operate 84 hours in a typical week (of which 70 to 75 percent will be recorded entertainment). Martin Lake claims that, according to Commission records, numerous existing daytime only stations in small town markets operate with four employees or less. On this basis, both the Bureau and Martin Lake seek denial of the requested issue. In reply, Clanton again refers the Board to John E. Grant, supra, where the Commission added a staffing issue against an applicant proposing a staff of two engineers, two additional personnel and two proposed full-time salesmen to air 12.5 percent live programing a week. Thus, Clanton insists, the four-man staff proposed is inadequate to carry out the proposal, especially in view of the fact that WRFS—located in Martin Lake's specified community—is also a daytime only station but operates with more than double the staff proposed by Martin Lake. Furthermore, Clanton asserts that Martin Lake has made no attempt to indicate who will prepare the live programing proposed, and that Martin Lake has not refuted its charge that Hodnett's role at the station will be limited to the commercial aspects of the operation.

10. In the Board's view, the petitioner's allegations are insufficient to warrant imposition of the requested staffing issue. As the Bureau points out, there is nothing inherently improbable in Martin Lake's proposal to operate a daytime only station (84 hours per week) with a staff of three full-time and one part-time employee; and Clanton has come forward with nothing which would justify further inquiry into that proposal. The fact that WRFS operates with a larger staff would be relevant, if it were shown that Martin Lake's proposed programing is similar to that of WRFS; but no such showing is made. Clanton has come up with no more than generalities and surmise to support its request—and thus, unlike the situation in Grant, supra, and kindred cases—in which the request was backed by a sound factual showing—petitioner has not shown the issue to be warranted.

Section 73.188(b) issue. 11. Clanton contends that, based upon the Commission's conductivity map and Martin Lake's own exhibits,⁷ Martin Lake's proposed 25 mv/m contour "barely covers" the business and factory areas of its specified community, and the 5 mv/m contour fails to cover a small area of the residential section of the community of Alexander City. In view of this marginal showing, Clanton took field intensity measurements to establish the "true location" of both the 25 mv/m and 5 mv/m contours.⁸ The measurement data submitted by Clanton was made on Station WRFS (1050 kHz, 1,000 watts, nondirectional), an existing standard broadcast station at Alexander City. The transmitter site of WRFS is located approximately midway between the proposed transmitter site of Martin Lake and the business and industrial area of Alexander City, the approximate distance between the proposed transmitter site and the transmitter site of WRFS being one mile. According to Clanton's engineer, the terrain at both sites is similar and, therefore, the field intensity measurements⁹ made on Station WRFS are indicative of the conductivity from the Martin Lake transmitter site to and through the community of Alexander City, citing Birney Imes, Jr., FCC 59-792, 17 RR 419. These measurements, Clanton alleges, indicate that the proposed 25 mv/m contour of Martin Lake falls far short of the business and industrial area of Alexander City, and that 17.9 percent of the city will not be served by the proposed 5 mv/m contour. On this basis, Clanton

⁷ See Martin Lake's Engineering Supplement to its application, dated Nov. 28, 1966.

⁸ An engineering statement accompanies the petition.

⁹ The WRFS field strength measurements were made on two radials (N. 100° E., N. 123° E.) to a distance of approximately 20 miles. The 100° radial passes through the main business and industrial area. Clanton's engineering consultant states that these measurements clearly show the conductivity to be no higher than 2 mm/m and as low as 1.5 mm/m (Clanton based its study entirely on the conductivity of 2 mm/m).

concludes that Martin Lake will not be able to provide the necessary 25 mv/m or 5 mv/m coverage to Alexander City, and that a § 73.188(b) (1) and (2) issue should be added. The Broadcast Bureau, in support of the requested issue, notes that Clanton's engineer establishes the ground conductivity from WRFS in the east and southeast directions at 2 mmhos/m at most as compared to the 4 mmhos/m shown by Figure M-3; and if a ground conductivity value of 4 mmhos/m is employed between the two sites and a 2 mmhos/m value is used thereafter, Martin Lake's proposed 25 mv/m would not reach the main business and industrial area and the proposed 5 mv/m contour would not encompass all of the city.¹⁹ Thus, the Bureau concludes that Clanton has made a sufficient showing to support its requested issue.

12. In opposition, Martin Lake attacks the manner in which Clanton took the measurements upon which it relies. Respondent alleges that Clanton's consulting engineer failed to comply with § 73.188 of the rules in that he did not: (a) State the date and time of each measurement; (b) give a description of the method used to make such measurements; (c) provide the family of theoretical curves used; (d) verify that the station measured was operating at its specified power or submit data showing the current or currents maintained by the station during the measurements; and (e) make sufficient measurements within the first mile to adequately establish the inverse distance field.²⁰ These deficiencies render Clanton's measurements unreliable, Martin Lake urges, noting further that Clanton obtained its measurements on a meter last calibrated over 15 years ago, checked with a meter last calibrated 10 years ago. Furthermore, Martin Lake maintains that only by the use of a test transmitter could any valid measurements have been made, since the station measured is closer to the center of town than the proposed site and on a different azimuth. For these reasons, Martin Lake insists that the measurements taken by Clanton do not adequately establish the conductivity from the proposed site to the city, and that, therefore, the measurements must be rejected and the issue denied.

13. In reply, Clanton claims that it is well settled that strict compliance with the guidelines set forth in Rule 73.188 is not required to demonstrate the accuracy of measured data. The measure-

ments demonstrate, according to Clanton, an almost perfectly smooth line for determining conductivity in the Alexander City area, which varies between 1.5 and 2 mv/m. To rebut Martin Lake's objections Clanton offers an affidavit of its consulting engineer setting forth the following additional information respecting such measurements: That at the time the measurements were made on WRFS there was reason to believe that WRFS was operating at its normal 1,000 watts of power; that the measured data indicates an inverse distance field of 191 mv/m and 195 mv/m on the two radials run; that even if the radiated power of WRFS had been a few percent in error at the time of the measurements this would not have affected the results determining the conductivity; that the close-in points were as numerous as possible as is evidenced by the fact that the curves contain no irregularity or indications of breaks in the conductivity; that his meters have been recently checked against others and at no time has there been a variation of more than 2 to 3 percent; and that the determination of the conductivity along the two radials run on Station WRFS were made after analyzing the measurements on the standard FCC Ground Wave Field Intensity versus Distance curves plotted for 1040 to 1100 Kc. The engineer also submits the time each measurement was made for the two radials run and concludes that, at no time during this period, was there the slightest indication of skywave interference that might cause an erroneous reading by overriding these strong measurements.

14. In the judgment of the Review Board, the tests conducted by the petitioner raise a serious question as to whether the actual ground conductivity is substantially less than that shown in Figure M-3 of the Commission's rules, and therefore raise a question as to whether Martin Lake's coverage will comply with the requirements contained in the Commission's rules. The Commission has held that Figure M-3 is not intended to precisely indicate conductivity in every instance.²¹ The conductivity may vary widely from the values obtained from Figure M-3, and such data should only be employed when accurate and acceptable measurements have not been made. See Charlottesville Broadcasting Corp., FCC 65-143, 4 RR 2d 633; Louis Vander Plate, FCC 68R-547, 15 RR 2d 137. In light of existing engineering practices and the affidavits submitted by Clanton's engineer, we are of the view that its measurements are sufficiently acceptable to substantiate the allegations made, at least for the purpose of enlarging the issues in this proceeding; and, where, as here, the terrain surrounding the test site is relatively the same as the proposed site at issue the probabilities are that the ground conductivity will also be similar, Louis Vander Plate, supra. In the circumstances, then, the requested issue is warranted.

¹⁹ Jeannette Broadcasting Co., FCC 60-798, 19 RR 480, par. 10.

15. Accordingly, it is ordered, That the motion to enlarge issues, filed February 16, 1970, by Clanton Broadcasting Corp., is granted to the extent herein indicated; and is denied in all other respects; and

16. It is further ordered, That the motion to strike, filed April 1, 1970, by Martin Lake Broadcasting Co., is denied; and

17. It is further ordered, That the issues in this proceeding are enlarged by the addition of the following issues:

(a) To determine whether J. B. Pitts, Jr. and/or Harold G. Hodnett have misrepresented to or concealed facts from the Commission in the Martin Lake Broadcasting Co., application, and, if so, whether such conduct reflects adversely on Martin Lake Broadcasting Co.'s basic and/or comparative qualifications to be a Commission licensee.

(b) To determine whether Martin Lake Broadcasting Co. has available sufficient funds to construct and operate the proposed station for 1 year and thus demonstrate its financial qualifications.

(c) To determine whether the Martin Lake Broadcasting Co. has complied with the provisions of § 1.65 of the Commission's rules by keeping the Commission advised of substantial changes in matters specifically referred to in this memorandum opinion and order, and, if not, to determine the effect of such non-compliance on the basic and/or comparative qualifications of Martin Lake Broadcasting Co. to be a Commission licensee.

(d) To determine whether the proposal of Martin Lake Broadcasting Co. would provide coverage of the city to be served as required by § 73.188(b) (1) and (2) of the Commission's rules.

18. It is further ordered, That the burden of proceeding with the introduction of evidence under issue (a) added herein shall be upon Clanton Broadcasting Corp. and the burden of proof under such issue shall be upon Martin Lake Broadcasting Co.; and that the burdens of proceeding with the introduction of evidence and of proof under issues (b) through (d) added herein shall be upon Martin Lake Broadcasting Co.

Adopted: June 5, 1970.

Released: June 9, 1970.

FEDERAL COMMUNICATIONS
COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 70-7361; Filed, June 11, 1970;
8:48 a.m.]

[Dockets Nos. 18768, 18769; FCC 70R-198]

MEDIA, INC., AND JUD, INC.

Memorandum Opinion and Order Enlarging Issues

In regard applications of Media, Inc., Youngstown, Ohio, File No. BP-17435 and Jud, Inc., Ellwood City, Pa., File No. BP-17749, for construction permits.

1. This proceeding involves mutually exclusive applications for a new standard broadcast facility at Youngstown,

Ohio, and Ellwood City, Pa., by Media, Inc. (Media) and Jud, Inc. (Jud), respectively. The applications were designated for hearing under various issues by Order, FCC 69-1362, 20 FCC 2d 937, released December 17, 1969. Presently before the Review Board is a petition to enlarge issues, filed January 8, 1970, by Jud, requesting the addition of a site availability issue, a § 1.65 issue and three engineering issues directed to Media.¹ In addition, there is pending comments and request to intervene, filed February 5, 1970, by Hubbard Broadcasting, Inc. (Hubbard), licensee of Station KSTP, St. Paul, Minn.

Site availability issue. 2. Jud contends that Media's transmitter site is no longer available to it. It notes that Media's original application, filed September 2, 1966, contains an option from the Ohio Water Service Co. to purchase real estate for its proposed transmitter site; the option, by its terms, expired—after extension—in June 1968. Further, Jud points out that the option agreement also provides that if it is not exercised within the specified time period, Media shall have "no further right or option" to purchase the property. Jud notes that although Media continues to rely on this site—as evidenced by a bank loan commitment secured by the land specified in the option agreement—Media has not supplied the Commission with a new agreement. Thus, Jud urges, it can only be concluded that Media does not have reasonable assurance of availability of its proposed site, citing James L. Hutchens, 4 FCC 2d 157, 8 RR 2d 38 (1966).

3. Media opposes the addition of the issue. Citing *Christian Fundamental Church v. FCC*, _____ F.2d _____, 12 RR 2d 2116 (1968), Media argues that it is not required to maintain a current option on its proposed site: all that is necessary is "reasonable reliance or a good faith assurance" that the site will be available at the appropriate time. Media states that at the time of filing its application it assumed that it would have a construction permit within the period of the option, but that subsequently Jud filed its application and it became apparent that a considerable period of time would elapse before either application was granted. Because it is required only to show reasonable assurance that its site would be available, Media claims it has not gone through the "formality" of seeking continuous options, but merely "informally checked" from time-to-time on the availability of the land. The site, Media asserts, is still available. Attached to Media's opposition is the sworn affidavit of Pierce Bailey,

President of the Ohio Water Service Co., in which he avers that, barring unforeseen circumstances or developments, he will recommend to the Water Service Board of Directors that the land be sold to Media on the terms and conditions set forth in the original option; he states that he knows of no instance where the Board of Directors has not accepted management's recommendation in such matters. Thus, Media concludes, the issue is not warranted.

4. In reply, Jud asserts that Media has not made the required showing of its site availability. Emphasizing that a special burden is placed upon Media inasmuch as the engineering considerations involving Media's site raise many difficult problems, Jud insists that Media's claim that it has "informally checked" with the owner of the land to assure its continued availability lacks supporting affidavits. Similarly, Jud points out that there is no affidavit of the person or persons who contacted Bailey and, as a consequence, the Review Board has no way of knowing what Bailey was told about this matter. Turning to Bailey's affidavit, Jud maintains that the only fact the Review Board may rely upon is that the land in question still remains the property of the Ohio Water Service Co.; but, Jud insists, Bailey's conditional statement—that the site is available to Media " * * * barring unforeseen circumstances or developments * * *"—destroys all reasonable assurance of continued availability² and signifies no more than that the land will be available to Media if the Ohio Water Service Co. decides to make it available. Further, Jud questions whether Media could acquire the land under the same terms as it could have in 1966 since land values have increased considerably. In the last analysis, Jud suggests that Bailey's letter was written as an "accommodation to Media" and that he must have been told that his letter would have no significance. Jud then submits that in view of the incomplete record before the Board, an issue should be added to determine Media's ability to acquire its proposed site.

5. Jud's request for a site availability issue will be denied. The Review Board is of the opinion that Media does have reasonable assurance that its proposed transmitter site is available; cf. *Sheffield Broadcasting Co.*, 31 FCC 563, 21 RR 514a (1961). Bailey's affidavit gives Media a reasonable basis to conclude that it can make use of the proposed site and the petitioner has made no factual showing which is inconsistent with that judgment.³ The condition set by Bailey—"barring unforeseen circumstances"—is not extraordinary nor unreasonable, and does not undercut

² Jud also disputes Bailey's assertions that the Board of Directors will act favorably upon his recommendation since no similar instances were set forth in the affidavit.

³ Media's failure to provide affidavits to substantiate its informal contacts is not critical; Bailey's letter itself suffices to establish the continued assurance of site availability.

Media's continued reliance on the site; Jud's claim that because of changing economic conditions the site will not be available, and its charge that the Bailey letter was written as an "accommodation" to Media are rank speculation. Nothing, then, in the pleadings leads us to question Bailey's ability to deliver the land,⁴ and, on the information available, no substantial question of site availability is raised; the requested issue is therefore unwarranted. See James L. Hutchens, *supra*.

Section 1.65 issue. 6. Jud's request for a § 1.65 issue arises from the same facts on which the site availability issue was based. The petitioner contends that Media has been derelict in its responsibility to keep its application up-to-date because it has not disclosed either the availability or unavailability of the proposed transmitter site; citing *Bexar Broadcasting Co., Inc.*, 15 FCC 2d 641, 15 RR 2d 772 (1969), Jud urges that the continued availability of the site is of potentially decisional significance and should therefore have been reported under Rule 1.65. Jud also points out that Media has been aware of its responsibility to keep its application current, having filed several amendments, and that there is no basis in Commission policy or precedent to permit an applicant to choose which portions of its application it will keep up-to-date. Jud thus concludes that this is a "classic instance" in which a Rule 1.65 issue is warranted.

7. Media opposes the addition of this issue reasoning that since it has always had reasonable assurance of its site, it had nothing to file with the Commission. Media contends that the change in the status of its transmitter site, i.e., from one of a formal option to one of reasonable assurance, is not a substantial one and has no impact on the Commission's consideration of an application. Therefore, concludes Media, there is no violation of § 1.65. The Bureau suggests that the necessity for reporting under Rule 1.65 turns on whether the site remains available. The Bureau points out that it is apparent on the face of Media's application that the expiration of the option has already taken place, and urges that it is unreasonable to require the applicant to report again what can be determined from the application itself. Thus, the Bureau urges it is only if reasonable assurance of site availability is lost that an amendment under Rule 1.65 would be required.

8. In reply, Jud asserts that Media has attempted to evade the real problem by arguing that the site is still available and therefore that there was no need to amend its application. Petitioner charges that Media has conceded that it considered its option agreement an important part of its application; and that it was aware of its responsibility to keep its application up-to-date. Nevertheless, Jud urges, Media has failed to apprise the

⁴ The charge that the Water Service Board may not follow Bailey's suggestions in regard to the site is purely surmise.

¹ Other related pleadings before the Board for consideration are: (a) Opposition, filed Feb. 5, 1970, by Media; (b) comments and request to intervene, filed Feb. 5, 1970, by Hubbard Broadcasting, Inc.; (c) comments, filed Feb. 5, 1970, by the Broadcast Bureau; (d) reply to Media, filed Feb. 24, 1970, by Jud; (e) request to file an additional pleading, filed Mar. 4, 1970, by Media; (f) reply to Hubbard, filed Mar. 4, 1970, by Media; and (g) opposition to request to file additional pleading, filed Mar. 12, 1970, by the Broadcast Bureau.

Commission of any subsequent conversations or discussions with the owner of the site. Jud believes that Media's silence meant that the availability of the site was very much in doubt and that, therefore, the addition of a 1.65 issue is warranted.

9. The request for the Rule 1.65 issue will be denied. As the Bureau correctly observes, the submission of an amendment disclosing the expiration of the option would have been superfluous: That fact is apparent on the face of the application. Whether Media should have disclosed its "informal checks" to ascertain the site's continued availability is another matter. It is true that, as the Bureau and Media assert, there has been no change in the legal status of Media's site—it still has "reasonable assurance" of availability. However, the factual basis on which that conclusion rests is substantially changed: Prior to its expiration, that factual basis was the option itself; thereafter, the underlying support for the legal conclusion was Media's "informal contacts" with the site owner. It seems self-evident that the responsibility for drawing legal conclusions from underlying factual data rests with the Commission's decision-making authorities, not the applicant; it is equally obvious that to reach sensible results those decision-making authorities must be provided with current data. The function of Rule 1.65 is to assure that the decision-making authorities will be supplied with the necessary factual information; and where, as here, the factual bases of an application have substantially changed—even though the legal conclusion arising from that mediate datum arguably remains constant—the change in factual bases should be reported pursuant to Rule 1.65. Cf. *United Television Co., Inc. (WFAN-TV)*, FCC 69R-398, 19 FCC 2d 1060.⁵ Accordingly, we conclude that there has been a technical violation of the rule. Nevertheless, in our view, the imposition of a disqualifying issue is not warranted. Neither the Commission nor the Board has previously required disclosure in a case of this type; Media's action was thus taken without decisional guidelines and in apparent good faith reliance on a reasonable, albeit erroneous, reading of the rule. In the circumstances, we believe that the applicant should not be

⁵ This conclusion is reinforced by practical considerations. Until the filing of Media's opposition here, the record showed simply that the site option had expired, and it was only Media which knew of the site's continued availability. The Board's experience is that apparent lapses such as these are often not uncovered until late in the decisional process, with resultant confusion and delay, see, e.g., *Kittyhawk Broadcasting Co.*, 20 FCC 2d 1011, 1023, — RR 2d —. A timely updating of the application would avoid such problems, and indeed might—in the instant case—have discouraged the filing of the request for a site availability issue, thus simplifying the hearing process. The situation is, of course, different if the option is open-ended, in which case it can—and will—be reasonably assumed that the site remains available until the contrary is specifically shown.

faulted for its conduct and that, therefore, no disqualifying issue in this regard will be added.⁶

The engineering issues. 10. Jud seeks the addition of three engineering issues to determine whether Media can achieve and maintain its proposed directional pattern, whether there will be objectionable interference with Station KSTP, St. Paul, Minn., and whether Media's proposal will cause objectionable signal fluctuations over portions of Youngstown, Ohio.

11. In support of its requests, Jud has submitted an engineering statement. On this basis, Jud indicates that three of the four towers of Media's proposed four-element directional antenna system would have "negative resistance", would not be fed from the transmitter, but would receive their energy by intercepting the energy fed into the tower with positive resistance. The field ratios and phases of the three towers with negative resistance, Jud alleges, cannot be adjusted and controlled at the phasing cabinet, but are determined by the conditions at the base of the tower. Thus, Jud urges that the variations of conditions at the base will result in uncontrollable changes of phase and field ratio; and that the critical hours directional antenna pattern will be especially prone to parameter fluctuations since the No. 1 and No. 3 towers will operate near the zero resistance level and will be "practically grounded" and uncontrollable. Jud also points out that a power transmission line supported by 90-foot towers is located south of the proposed site and that the RSS value of the reradiated field from these towers is 13 mv/m. Jud thus urges that reradiation problems will distort the proposed pattern and that if the RSS value of the reradiated field is superimposed upon the theoretical field toward Station KSTP, St. Paul, Minn. (on 289.3°), the field will be raised from 181.1 mv/m to 194.1 mv/m. This signal, Jud points out, will exceed the MEOV of 184.5 mv/m and the maximum permissible radiation value of 186.8 mv/m. Jud further alleges that there is a 20-foot variation of the water level of a lake near the site, and that the changes in water level will create variable discontinuity of the terrain in the immediate vicinity of the site and will affect the operating parameters of the array. The presence of the transmission line and the variable lake level, Jud concludes, will aggravate the basic instability of the proposed array and will effect parameter changes in current ratios and in phases. Jud finally asserts that, if there were variations of 2 percent in field ratios and 2° in phases in three of the four towers, the maximum permissible radiation of 186.8 mv/m toward Station KSTP on a bearing of 289.3° would be exceeded, and thus, in any case, Media would cause objectionable inter-

⁶ Since there is no comparative issue in this proceeding, we need not and do not reach the question of whether the allegations herein warrant the specification of a comparative Rule 1.65 issue.

ference to KSTP during critical hours. Jud also notes that a variation of 1 percent and 1° in the parameters would cause Media's proposed directional antenna system to exceed the MEOV of 184.5 mv/m on the same bearing. On the zero degree bearing, Jud alleges, the same parameter variation of 2 percent and 2° would result in fluctuation of signal strength in the ratio of three to one over parts of Youngstown. Jud concludes that the majority of negative towers, the near zero resistance component of two towers, the close vicinity of a high voltage transmission line, and the substantial variations of water level result in a parasitic, uncontrolled operation, and therefore require the addition of the requested issues.⁷

12. Hubbard, licensee of Station KSTP, has filed comments in support of Jud's petition and requests that it be made a party to the proceeding.⁸ Hubbard contends that its engineering analysis supports Jud's contention that the "negative operating resistance" in one of the towers and the two virtually parasitic towers with operating resistance close to zero would result in an unstable operation of the directional antenna array. Hubbard's engineer observes that an anomaly exists in that to achieve the applicant's assumed RMS values, a loss resistance of 1.88 ohms is required for the midday operation and a loss resistance of 3.95 ohms is required for the critical hour operation. Since Media proposes to use the same towers for both operations, Hubbard contends that a question is raised as to how the RMS values are to be achieved and which value is reasonable to assume for the array. It asserts that, if the lower value of loss resistance as shown for the midday pattern also existed for the critical hour pattern, the MEOV specified by the applicant toward the KSTP service area would be exceeded. With respect to the power transmission line, Hubbard's engineer states that the line is capable of significant reradiation when it exists in close proximity to the proposed array. Thus, asserts Hubbard, with parameter changes of only six-tenths of 1 percent in current ratio and six-tenths of a degree in phase angle, the radiation in certain directions toward the KSTP service area would exceed the MEOV during critical hours, e.g., at the bearing of 297.5° true, the radiation would increase from 173 mv/m to 177 mv/m, exceeding the MEOV of 175.5 mv/m. In conclusion, Hubbard insists, citing *Virginia Broadcasters*, 18 FCC 2d 92, 16 RR 2d 391 (1969), that its engineering studies require the addition of the requested issues and that it be named a party to this proceeding.

⁷ The Bureau supports the request except as to the issue looking into signal fluctuation over Youngstown, Ohio; in this respect the Bureau concludes that Jud has not shown that the variations in signal strength under these circumstances would be objectionable.

⁸ Good cause has been shown for Media's request to file an additional pleading responsive to Hubbard's comments which will therefore be granted.

13. In opposition, Media contends that the "negative" towers will not be parasitic, but that their field and phase relationships will be carefully controlled through use of proper phasing equipment and their energy will be retained to the common point. In response to Jud's suggestion that the towers will be "practically grounded", Media asserts that the expected base currents for towers Nos. 1 and 3 will be 1.945 and 2.684 amperes, respectively, and that the towers are expected to operate with discrete values of resistance and reactance, precisely controlled through use of the proper phasing and coupling equipment. With support of a map and a letter from the Ohio Edison Co., Media alleges that Jud correctly located only seven of the power transmission line's 14 towers. Media states that the matter of the transmission line was completely studied when the application was originally filed; that it was the engineer's judgment that no problem would result; and that, if reradiation was found to be present, the towers would be detuned with the cooperation of the power company which has so promised in writing. With reference to the variation of water level, Media submits the affidavit of Donald E. Rhodes (vice president of the Ohio Water Service Co.) and asserts that the elevation of the spillway of the lake is approximately 20 feet below the average elevation of the transmitter site, and that on only two occasions during the past 8½ years has the highest level above the spillway exceeded 2 feet. Media asserts that there is no physical connection proposed between the ground system and the water of the lake; that the station will not be installed on the bank of the lake; and that the proposed 1 v/m contour does not cover any of the water portion of the lake. If a precision monitor is required, Media states, it will install a monitor capable of resolving fields to one-tenth of 1 percent and phases to one-tenth of 1°; and, if changes should occur over a seasonal period, the monitor will indicate the changes and adjustment will be made. Media further states that a precision monitor with phase stabilized transmission and sampling lines would be able to maintain the station operation within the MEOV limitations to assure protection to the KSTP service area,⁹ and would not permit violent short-term variations of signal level over the proposed community, which would be objectionable to the listeners. Media concludes that Jud has based its requests on invalid assumptions—lake height and location, tower location, and the parasitic nature of the towers—and that,

⁹Inasmuch as Hubbard's concern is directed to the nonperformance of the array rather than to the performance of the system, Media states that it would be willing to secure the grant of the construction permit with protective conditions providing for installation of a precision phase monitor and a power limiting resistor for critical hour operation, and testing and measuring procedures to insure protection to Station KSTP.

therefore, Jud has failed to justify its request for the addition of issues.

14. Jud, in its reply, contends that the operating resistance values for the Media array submitted by Media fully support Jud's computations. Whereas Jud assumed no loss in deriving the initial value of the operating resistance, the addition of an assumed loss of two ohms to Jud's operating resistance value results in the Media values and the addition of 3.95 ohms results in the KSTP values; thus, Jud asserts, all three showings are totally consistent. Jud insists that Media's proposed installation of a precision phase monitor and phase stabilized transmission lines will not cure the particular design problems of the array. Jud further alleges that Media's tabulations submitted with its opposition would establish a "new RMS value of 99.248 mv/m" for the critical hour operation. This is 10 percent higher than the previously specified value, would result in increased field in the direction of Station KSTP, and would require a return to the processing line pursuant to § 1.571(j)(1) of the rules. Based on the data furnished by the Ohio Edison Co., Jud states that it has recomputed the reradiation value from the power transmission line towers and found the RSS value to be 12 mv/m; if reradiation from the substation is considered, the final RSS value will be close to the 13 mv/m which Jud initially calculated, with resultant effects. Jud further alleges that Media has failed to show that a mutually agreeable and practical method of detuning the power poles can be found and that such a procedure would be consistent with rules and regulations concerning safety of high voltage power lines. In addition, Jud asserts that Media has not resolved the effect of the lake level variations upon the proper operation of the array because, in Rhodes' affidavit he concedes that "variations of as much as 20 feet in the water level may occur." Jud asserts that a portion of the lake is thus located within the "zero zone" where the radiated field is not fully formed and where proximity effects must be considered. Finally, Jud points to information supplied by Media in an earlier petition to enlarge as supportive of its claim that objectionable signal variations will occur over a portion of Media's specified community. Jud concludes that, in light of its and Hubbard's data and Media's failure to adequately respond to their assertions, the engineering issues are warranted.

15. The conflicting engineering statements regarding the design of Media's array, and the presence of the power lines (which Media has not shown are susceptible—from a technical and economic standpoint—to detuning procedures) raise substantial questions as to the stability of the array and the possibility of interference to KSTP. Appropriate issues will therefore be added; and, in consequence thereof, Hubbard will be made a party to the proceeding, *FCC v. Sanders Brothers Radio Station*, 309 U.S. 470 (1940). The request for an issue concerning possible signal varia-

tions over Youngstown is, however, based largely upon speculative considerations: according to Rhodes the lake variations are gradual and, except in case of "natural disaster", the lake would not rise to the level of Media's proposed site; further, as the Bureau points out, the claim of signal fluctuation is predicated upon assumed parameters which would, in any case, exceed the MEOV. Thus, the issue as to possible objectionable signal fluctuations is not shown to be warranted.

16. Accordingly, it is ordered, That the petition to intervene, filed February 5, 1970, by Hubbard Broadcasting, Inc., is granted, and that Hubbard Broadcasting, Inc., is made a party to this proceeding; and

17. It is further ordered, That the request to file an addition pleading, filed March 4, 1970, by Media, Inc., is granted, and the reply submitted therewith is accepted; and

18. It is further ordered, That the petition to enlarge issues, filed January 8, 1970, by Jud, Inc., is granted to the extent indicated below, and is denied in all other respects; and

19. It is further ordered, That the issues in this proceeding are enlarged as follows:

(a) To determine whether Media, Inc., can adjust and maintain its directional antenna system as proposed.

(b) To determine whether Media, Inc.'s proposal will cause objectionable interference to Station KSTP, St. Paul, Minn.

20. It is further ordered, That the burden of proceeding with the introduction of the evidence and the burden of proof under the issues added herein shall be on Media, Inc.

Adopted: June 5, 1970.

Released: June 9, 1970.

FEDERAL COMMUNICATIONS
COMMISSION,¹⁰

[SEAL] BEN F. WAPLE,
Secretary.

[P.R. Doc. 70-7360; Filed, June 11, 1970;
8:48 a.m.]

FEDERAL MARITIME COMMISSION

TRANS-PACIFIC PASSENGER 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,

¹⁰Review Board Member Pincock concurring in result.

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 for approval by:

Mr. Ronald C. Lord, Secretary, Trans-Pacific Passenger Conference, 2 Pine Street, San Francisco, Calif. 94111.

Agreement No. 131-251, filed by authority of and on behalf of the carriers comprising the regular membership of the Trans-Pacific Passenger Conference, revises and recodifies the existing articles and bylaws. The articles of the proposed agreement cover name, purpose and operation; scope of agreement; membership; passage fares; travel agents; advertising and promotion; and disputes.

The stated purpose of the revision and recodification of the existing agreement is the elimination of all existing inconsistencies for greater clarity and understanding.

Dated: June 8, 1970.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[F.R. Doc. 70-7338; Filed, June 11, 1970;
8:47 a.m.]

TRANS-PACIFIC PASSENGER CONFERENCE

Notice of Rule Change Filed

Notice is hereby given that the following document has been filed with the Commission for information, pursuant to the Commission's order of April 22, 1969, wherein the Commission approved Agreement No. 131-250.

Interested parties may inspect and obtain a copy of the document at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1202, or may inspect the document at the field offices in New York, N.Y.; New Orleans, La.; and San Francisco, Calif. Comments on such documents, including requests for hearing, may, as prescribed in the Commission's order of

April 22, 1969, be submitted to the Secretary, Federal Maritime Commission, 1405 I Street NW., Washington, D.C. 20573, within 10 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed rule change shall provide a clear and concise statement on the matters upon which they desire to adduce evidence. If a violation of the Shipping Act, 1916, is alleged, the statement shall set forth, with particularity, the acts and circumstances said to constitute such violation.

A copy of any such statement shall also be forwarded to the party filing the document (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of rule change filed by:

Mr. Ronald C. Lord, Secretary, Trans-Pacific Passenger Conference, 2 Pine Street, San Francisco, Calif. 94111.

The Trans-Pacific Passenger Conference has filed a revised Rule E which is concerned with the appointment of travel agents; standards required to be met and maintained for such appointment; fees and bonding requirements; sales aids; responsibility for documents, remittances and accounts; commissions; and cancellation of agency appointment.

Dated: June 8, 1970.

By order of the Commission.

FRANCIS C. HURNEY,
Secretary.

[F.R. Doc. 70-7339; Filed, June 11, 1970;
8:47 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[811-1287]

PACIFIC COAST MUTUAL FUND, INC.

Notice of Proposal To Terminate Registration

JUNE 8, 1970.

Notice is hereby given that the Commission proposes, pursuant to section 8(f) of the Investment Company Act of 1940 (Act), to declare by order upon its own motion that Pacific Coast Mutual Fund, Inc. (Pacific), c/o Scoville & Co., 102 North Brand Boulevard, Glendale, Calif. 91203, registered under the Act as a management, open-end investment company, has ceased to be an investment company.

On October 16, 1964, Pacific filed a notification of registration under the Act and a registration statement on Form S-5 under the Securities Act of 1933.

Pacific has withdrawn its registration statement under the Securities Act of 1933 and represents that it does not intend to make a public offering of its securities. It also states that it has no assets and no security holders.

Section 3(c)(1) of the Act provides, in pertinent part, that any issuer whose outstanding securities are beneficially owned by not more than 100 persons and

which is not making and does not presently propose to make a public offering of its securities is not an investment company within the meaning of the Act.

Section 8(f) of the Act provides, in pertinent part, that when the Commission finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and that upon the effectiveness of such order, which may be issued upon the Commission's own motion where appropriate, the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than June 26, 1970, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communications should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Pacific at the address stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing thereon shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 70-7364; Filed, June 11, 1970;
8:49 a.m.]

[70-4549]

PENNSYLVANIA ELECTRIC CO.

Notice of Post-Effective Amendment Regarding Increase in Authorized Amount of Notes To Be Acquired From Nonaffiliated Company

JUNE 8, 1970.

Notice is hereby given that Pennsylvania Electric Co. ("Penelec"), 1001 Broad Street, Johnstown, Pa. 15907, an electric utility subsidiary company of General Public Utilities Corp., a registered holding company, has filed with this Commission a post-effective amendment to the application in this proceeding pursuant to sections 9(a) and 10 of the Public Utility Holding Company Act

of 1935 ("Act"), proposing to further assist two nonaffiliated coal companies to complete development of mines to supply the coal requirements of a generating station owned in part by Penelec. All interested persons are referred to the post-effective amendment, which is summarized below, for a complete statement of the proposed transaction.

By order dated November 17, 1967 (Holding Company Act Release No. 15899), the Commission, among other things, authorized Penelec to acquire \$5,500,000 promissory notes to be issued by The Helen Mining Co. ("Helen"), one of the two nonaffiliated mining companies engaged in developing coal mines for the Homer City Generating Station, in which station Penelec owns a 50 percent interest. Penelec now seeks to increase such authorized amount of notes to be acquired to \$6,500,000, due to increases in Helen's estimated costs of developing such mines. As of the date of filing, Penelec had acquired \$4,950,000 of such notes. The remaining transactions heretofore authorized and described in the above mentioned Commission order remain unchanged. No State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than June 24, 1970, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said post-effective amendment to the application which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the applicant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application, as now amended or as it may be further amended, may be granted as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DuBOIS,
Secretary.

[P.R. Doc. 70-7365; Filed, June 11, 1970;
8:49 a.m.]

FEDERAL POWER COMMISSION

[Docket No. G-7004, etc.]

PENNZOIL UNITED, INC., ET AL.

Notice of Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates¹

JUNE 4, 1970.

Take notice that each of the applicants listed herein has filed an application or petition pursuant to section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before June 29, 1970, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.3 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must

¹ This notice does not provide for consolidation for hearing of the several matters covered herein.

file petitions to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given. All certificates of public convenience and necessity granting applications for sales from the Permian Basin area will be issued at rates not exceeding the applicable area ceiling rates established in Opinions Nos. 468 and 468-A, 34 FPC 159 and 1068, or the contractually authorized rates, whichever are less, unless at the time of filing of such certificate applications or within the time fixed for filing protests and petitions to intervene applicant indicate in writing that they are unwilling to accept such certificates.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicants to appear or be represented at the hearing.

GORDON M. GRANT,
Secretary.

Docket No. and date filed	Applicant	Purchaser, field, and location	Price per Mcf	Pressure base
G-7004 D 5-8-70	Pennzoil United, Inc., Post Office Box 1588, Parkersburg, W. Va. 26101.	Consolidated Gas Supply Corp., acreage in Kanawha County, W. Va.	(0)	-----
G-9544 E 5-18-70	Terra Resources, Inc., (successor to CRA, Inc. (Operator) et al.), 419 Fourth National Bank Bldg., Tulsa, Okla. 74119.	Tennessee Gas Pipeline Co., a division of Tenneco Inc., North Fidehaven Field, Matagorda County, Tex.	\$ 16.228710	14.65
G-9924 E 5-19-70	do.	Texas Gas Pipe Line Corp., Bauer Ranch Field, Jefferson County, Tex.	\$ 15.95625	14.65
G-11243 E 5-19-70	do.	Southern Natural Gas Co., Napoleonville Field, Assumption Parish, La.	19.75	15.025
G-11911 D 5-18-70	Mobil Oil Corp., Post Office Box 1774, Houston, Tex. 77001 (partial abandonment).	El Paso Natural Gas Co., and Pecor Co., Jack Herbert Field, Upton County, Tex.	Depleted	-----
G-12078 D 5-18-70	do.	do.	Depleted	-----
G-13879 E 5-19-70	Terra Resources, Inc. (successor to CRA, Inc. 9).	Northern Natural Gas Co., Hugoton and Sonderegger Fields, Finney County, Kans.	\$ 14.0	14.65
G-14411 E 5-15-70	Terra Resources, Inc. (successor to CRA, Inc.)	Kansas-Nebraska Natural Gas Co., Inc., Hugoton Field, Finney County, Kans.	11.0	14.65
G-14902 E 4-13-70	Ben F. Brack (Operator) et al., Post Office Box 997, Wichita, Kans. 67201.	Cities Service Gas Co., Aetna-Mississippi Gas Pool, Barber County, Kans.	\$ 15.0	15.025
G-17834 E 5-18-70	PetroDynamics, Inc. (Operator), et al. (successor to Smith Development Co. et al.), Post Office Box 1096, Amarillo, Tex. 79106.	Phillips Petroleum Co., Texas-Hugoton Field, Sherman County, Tex.	\$ 13.0	14.65
G-17835 E 5-18-70	PetroDynamics, Inc. (Operator), et al. (successor to Smith Development Co., agent et al.).	do.	\$ 13.0	14.65

Filing code: A—Initial service.
B—Abandonment.
C—Amendment to add acreage.
D—Amendment to delete acreage.
E—Succession.
F—Partial succession.

See footnotes at end of table.

Docket No. and date filed	Applicant	Purchaser, field, and location	Price per Mcf	Pre-survey lease base
C170-1015 A 5-13-70	Escon Resources Corp., Suite 1000, Century Plaza Bldg., Wichita, Kans. 67202.	Northern Natural Gas Co., Evasyn-Cordill Field, Seaward County, Kans.	\$ 14.0	14.65
C170-1017 A 5-15-70	Charles Allen, Suite 617, Union Trust Bldg., Parkersburg, W. Va. 26101.	Equitable Gas Co., Troy District, Gilmer County, W. Va.	27.0	15.325
C170-1018 F 5-14-70	Ashtland Oil, Inc. (successor to Chesley Petroleum Corp.), Post Office Box 1866, Oklahoma City, Okla. 73101.	Oklahoma Natural Gas Gathering Corp., Clearwood Field, Major County, Okla.	\$ 12.0	14.65
C170-1019 A 5-13-70	Big Ciled Drilling Co., Post Office Box 14837, Oklahoma City, Okla. 73114.	Oklahoma Natural Gas Gathering Corp. and Pioneer Gas Products Co., Blagrove Field, Major County, Okla.	\$ 12.0 \$ 11.0	14.65
C170-1020 (G-4900) F 5-11-70	Ayward Parsley (successor to Press-ton Oil Co.), Levey, W. Va. 25152.	Peasent Cultiv., Kanawha County, W. Va.	15.0	15.225
C170-1021 (G-3894) E 5-13-70	J. L. Davis and Tipperary Resources Corp. (successor to Atlantic Richfield Co. et al.), Suite 233, Western United Life Bldg., Midland, Tex. 79701.	El Paso Natural Gas Co., Denton Gasoline Plant, Lea County, N. Mex.	\$ 15.4568	14.65
C170-1022 A 5-15-70	Atlantic Richfield Co., Post Office Box 2819, Dallas, Tex. 75221.	Tennessee Gas Pipeline Co., a Division of Tennessee Inc., Ship Shoal Block 198, Ship Shoal Block 175 Field, Offshore Louisiana	\$ 22.25	15.025
C170-1023 A 5-15-70	Sarkery, Inc., 4400 North Lincoln Blvd., Oklahoma City, Okla. 73105.	Michigan Wisconsin Pipe Line Co., Woodward Area, Major County, Okla.	\$ 20.0	14.65
C170-1024 A 5-15-70	Burnett Corp., 235 First National Bank Bldg., Amarillo, Tex. 79101.	Natural Gas Pipeline Co. of America, Brown Dolomite Formation, Carson County, Tex.	\$ 17.0	14.65
C170-1025 A 5-15-70	Phillips Petroleum Co., Bartlesville, Okla. 74003.	Panhandle Eastern Pipe Line Co., 345 Quality Ranch Field, Hemphill County, Tex.	\$ 20.5	14.65
C170-1026 A 5-15-70	do	Panhandle Eastern Pipe Line Co., Cimarron Plant, Anadarko Basin Area, Woodward County, Okla.	\$ 21.0	14.65
C170-1027 B 5-18-70	Mobil Oil Corp.	Southern Gas Co., North Cement Field, Cady County, Okla.	Depleted	
C170-1028 A 5-20-70	Texas Inc., Post Office Box 3232, Houston, Tex. 77002.	Texas Eastern Transmission Corp., Block 95 Field, Main Pass Area, Offshore Louisiana.	22.25	15.025
C170-1029 A 5-20-70	George Mitchell & Associates, Inc., 1215 Floss, Houston Club Bldg., Houston, Tex. 77002.	Trunkline Gas Co., Lake Creek North Field, Montgomery County, Tex.	17.8	14.65
C170-1030 A 5-20-70	Jones & Fellow Oil Co.	Michigan Wisconsin Pipe Line Co., Woodward Area, Major County, Okla.	\$ 20.0	14.65

Purchaser has no facilities in the area to take the gas expected to be produced from subject lease.
 * Rate in effect subject to refund in Docket No. G-11703.
 * Rate in effect subject to refund in Docket No. R170-451.
 * John B. Hawley, Jr. and G. S. Davidson, Trustees under John B. Hawley, Jr. Trust No. 1 are the operators in this docket and C.R.A. Inc. is a nonoperator with interest covered by Hawley and Davidson's certificate. However, C.R.A. Inc. maintained its own rate schedule for this sale.
 * Rate in effect subject to refund in Docket No. R164-416.
 * Application was previously noticed May 8, 1970, in Dockets Nos. G-11713, et al., at a total initial rate of 13 cents per Mcf.
 * Rate in effect subject to refund in Docket No. R165-617.
 * Applicant requests that its certificate in Docket No. C161-157 be amended to include those sales now authorized in Dockets Nos. G-11999 and G-12000 to be made pursuant to its FPC GBS Nos. G-1 and G-2, respectively, and that the certificate in Dockets Nos. G-11999 and G-12000 be formulated. No new sales are proposed.
 * Deletes nonproductive leases.
 * Rate in effect subject to refund in Docket No. R169-4.
 * Per production from all wells except Nichole Gulch 11-9 Well. Rate in effect subject to refund in Docket No. R169-4.
 * Per production from Nichole Gulch 11-9 Well.
 * Rate in effect subject to refund in Docket No. R170-383.
 * Rate in effect subject to refund in Docket No. R170-280.
 * No permanent certificate issued—temporary authorization only granted.
 * Deletes nonproductive acreage from the contract with respect to the Morrow Formation.

See footnotes at end of table.

¹⁷ Includes 2 cents per Mcf transportation charge.

¹⁸ Application was erroneously assigned Docket No. CI70-1016 as an initial service. Docket No. CI70-1016 is canceled and application will be processed as an amendment to add acreage in Docket No. CI69-551.

¹⁹ Subject to upward and downward B.t.u. adjustment.

²⁰ Contract provides for rate of 17.5 cents per Mcf at 14.73 p.s.l.a.; however, applicant states its willingness to accept certificate at a rate of 15 cents per Mcf at 14.65 p.s.l.a.

²¹ Production from Dakota formation. Rate in effect subject to refund in Docket No. RI64-460.

²² Production from Gallup formation.

²³ Applicant seeks authorization to compress, gather and deliver gas to Mississippi River Transmission Corp., pursuant to an agreement between applicant and Mississippi dated April 19, 1970.

²⁴ Price shall be 4 cents per Mcf for each Mcf of gas which applicant field compresses for Mississippi at Mississippi's direction in accordance with the provisions of the agreement; a fixed charge at the rate of \$2,500 per month for each month that applicant operates and maintains Mississippi's compressor in the Woodlawn Central Station; and 2 cents per Mcf for each Mcf of natural gas compressed by applicant by means of additional or replacement compression equipment installed by applicant in the Woodlawn Central Station. If, however, applicant's compressor equipment is used in conjunction with Mississippi's Woodlawn Central Station compressor the above payment shall be limited to those volumes exceeding both the maximum capability of Mississippi's compressor and those volumes which would have been compressed hereby had Mississippi's compressor been operated in accordance with the agreement.

²⁵ Subject to upward B.t.u. adjustment.

²⁶ Supra.

²⁷ Rate in effect subject to refund in Docket No. RI66-416.

²⁸ Low-pressure gas.

²⁹ High-pressure gas.

³⁰ Rate in effect subject to refund in Docket No. RI70-94.

³¹ Contract provides for rate of 22.25 cents per Mcf; however, applicant states its willingness to accept certificate at 20 cents per Mcf for gas-well gas and 17 cents per Mcf for oil-well gas, adjusted for quality as prescribed in Opinion No. 546.

[F.R. Doc. 70-7238; Filed, June 11, 1970; 8:45 a.m.]

SMALL BUSINESS ADMINISTRATION

BALTIMORE COMMUNITY INVESTMENT CO.

Notice of Issuance of Small Business Investment Company License

On August 15, 1969, a notice was published in the FEDERAL REGISTER (34 F.R. 13290) stating that Baltimore Community Investment Co., 1102 Mondawmin Concourse, Baltimore, Md. 21215, had filed an application with the Small Business Administration (SBA) pursuant to the Regulations governing small business investment companies (13 CFR Part 107, 33 F.R. 326) for a license to operate as a minority enterprise small business investment company (MESBIC).

Interested parties were given to the close of business August 29, 1969, to submit written comments to SBA. No comments were received.

Notice is hereby given that, having considered the application and all other pertinent information, SBA has issued License No. 03/04-5106 to Baltimore Community Investment Co., pursuant to section 301(c) of the Small Business Investment Act of 1958, as amended.

A. H. SINGER,
Associate Administrator
for Investment.

JUNE 5, 1970.

[F.R. Doc. 70-7343; Filed, June 11, 1970;
8:49 a.m.]

TARIFF COMMISSION

[337-L-35]

SKI POLES

Notice of Termination of Preliminary Inquiry

The U.S. Tariff Commission hereby gives notice of the termination of its preliminary inquiry with respect to a complaint filed by Robert J. McDonald of Arlington, Va., under section 1337 of title 19 of the United States Code. The

complainant had alleged unfair methods of competition and unfair acts in the importation and sale of ski poles and ski pole components which have the effect or tendency to substantially injure, or prevent the establishment of, an industry in the United States. Notice of the complaint was published in the FEDERAL REGISTER of June 3, 1969 (34 F.R. 8731).

The Commission, in taking its action, noted that the complainant has consistently failed to keep the Commission advised as to where he may be contacted during the course of the inquiry.

Issued: June 9, 1970.

By order of the Commission.

[SEAL] KENNETH R. MASON,
Secretary.

[F.R. Doc. 70-7328; Filed, June 11, 1970;
8:46 a.m.]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATIONS FOR RELIEF

JUNE 8, 1970.

Protests to the granting of an application must be prepared in accordance with Rule 1100.40 of the general rules of practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 41971—*Cottonseed products and soybeans between points in IFA, official and southern territories.* Filed by Illinois Freight Association, agent (No. 357), for interested rail carriers. Rates on cottonseed oil cake or meal and related articles, also soybeans, in carloads, as described in the application, between points in Illinois Freight Association, official, and southern territories, on the one hand, to points in southern territory, on the other.

Grounds for relief—Rate relationship.

Tariffs—Supplement 4 to Illinois Freight Association, agent, tariff ICC 1209, supplement 48 to Traffic Executive

Association-Eastern Railroads, agent, tariff ICC C-728, and supplement 26 to Southern Freight Association, agent, tariff ICC S-859.

FSA No. 41972—*Caustic soda from Mobile, Ala.* Filed by O. W. South, Jr., agent (No. A6176), for interested rail carriers. Rates on sodium (soda), caustic, liquid, in tank carloads, as described in the application, from Mobile, Ala., to St. Marys, Ga.

Grounds for relief—Market competition.

Tariff—Supplement 224 to Southern Freight Association, agent, tariff ICC S-600.

FSA No. 41973—*Soybeans from points in Iowa, Minnesota, and South Dakota.* Filed by Western Trunk Line Committee, agent (No. A-2627), for and on behalf of the Chicago, Milwaukee, St. Paul & Pacific Railroad Co. Rates on soybeans, in bulk, in carloads, as described in the application, from points in Iowa, Minnesota, and South Dakota, to points in Iowa, also La Crosse, Wis.

Grounds for relief—Unregulated truck competition.

Tariffs—Supplement 26 to Western Trunk Line Committee, agent, tariff ICC A-4702, also supplements 99 and 41 to Chicago, Milwaukee, St. Paul & Pacific Railroad Co. tariffs ICC B-8088 and B-8072, respectively.

By the Commission.

[SEAL] H. NEIL GARSON,
Secretary.

[F.R. Doc. 70-7350; Filed, June 11, 1970;
8:48 a.m.]

[Notice 93]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

JUNE 9, 1970.

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 29462 (Sub-No. 2 TA) (Correction), filed May 4, 1970, published in the

FEDERAL REGISTER, issue of May 16, 1970, and republished in part, as corrected, this issue. Applicant: LAMOIN D. THOMAS, doing business as THOMAS SUPREME SERVICE, Herculaneum, Mo. 63048. Applicant's representative: Thomas P. Rose, Jefferson Building, Jefferson, Mo. The purpose of this partial republication is solely to correct the destination territory as being points in Bollinger, Butler, Cape Girardeau, Dunklin, Madison, Mississippi, New Madrid, Pemiscot, Perry, Ripley, St. Genevieve, Scott, and Stoddard Counties, Mo. The rest of the application remains as previously published.

No. MC-31458 (Sub-No. 3 TA), filed May 28, 1970. Applicant: ROBERTSON MOTOR FREIGHT, INC., 1324 O'Fallon, St. Louis, Mo. 63106. Applicant's representative: B. W. LaTourette, Jr., 611 Olive Street, St. Louis, Mo. 63101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (with usual exceptions) serving Quincy, Ill., for purpose of interchange with connecting carriers, on overhead traffic for 150 days. Supporting shippers: (1) Louisiana Plastics, 8229 Maryland Avenue, St. Louis, Mo. 63105; (2) Sonoco Products Co., Post Office Box 352, Louisiana, Mo. 63353; (3) Buffalo Caster & Wheel Corp., 600 Morgan, Post Office Box 407, Keokuk, Iowa 52632; (4) Mid-Western Veterinary Supply Co., 11 West Eastwood, Marshall, Mo. 65340; (5) Ideal Machinery & Tool Co., Post Office Box 76, Foley, Mo.; (6) Knight Equipment Co., Highway 54 West, Bowling Green, Mo. 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 52921 (Sub-No. 13 TA), filed June 3, 1970. Applicant RED BALL, INC., Post Office Box 520, Sapulpa, Okla. 74066. Applicant's representative: J. David Harden, Jr., 600 Leininger Building, Oklahoma City, Okla. 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from the plantsite of Pet, Inc., Frozen Foods Division, at or near Chickasha, Okla., to points in Arkansas, Louisiana, Oklahoma, and Texas, for 150 days. Supporting shipper: E. L. Forture, Director of Distribution, Pet, Inc., 400 South Fourth Street, St. Louis, Mo. 63116. Send protests to: C. L. Phillips, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 240, Old Post Office Building, 215 Northwest Third, Oklahoma City, Okla. 73102.

No. MC 55898 (Sub-No. 41 TA), filed June 2, 1970. Applicant: HARRY A. DECATO, doing business as DECATO BROS. TRUCKING CO., Heater Road, Lebanon, N.H. 03766. Applicant's representative: Andre J. Barbeau, 795 Elm Street, Room 510, Manchester, N.H. 03101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Prefabricated homes, complete*, partially assembled and uncrated, from Meredith,

N.H., to points in Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, New York, New Jersey, Pennsylvania, Ohio, Indiana, Illinois, Michigan, and Wisconsin, for 180 days. Supporting shipper: Prescott Lumber Co., Inc., Railroad Avenue, Meredith, N.H. 03253. Send protests to: Ross J. Seymour, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 424 Federal Building, Concord, N.H. 03301.

No. MC 107295 (Sub-No. 379 TA) (Correction), filed May 6, 1970, published in the FEDERAL REGISTER issue of May 16, 1970, and republished in part, as corrected, this issue. Applicant: PRE-FAB TRANSIT CO., 100 South Main Street, Farmer City, Ill. 61842. Note: The purpose of this partial republication is to include in the commodity description: "*Sheets, metal or plastic*". This was inadvertently omitted in the previous publication. The rest of the application remains as previously published.

No. MC 107295 (Sub-No. 389 TA), filed June 2, 1970. Applicant: PRE-FAB TRANSIT CO., Post Office Box 146, Farmer City, Ill. 61842. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ventilators, ventilator parts, ventilator equipment, ventilator systems and accessories used in the installation thereof*, from Tabor City, N.C., to points in the United States, except Washington, Oregon, California, Arizona, New Mexico, Utah, Idaho, Montana, and Wyoming, for 180 days. Supporting shipper: Penn Ventilator Co., Inc., 1715 Megargee Street, Philadelphia, Pa. 19152. Send protests to: Harold Jolliff, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 476, 325 West Adams Street, Springfield, Ill. 62704.

No. MC 109689 (Sub-No. 217 TA), filed June 2, 1970. Applicant W. S. HATCH CO., a corporation, 643 South 800 West Street, Woods Cross, Utah 84087. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sulfuric acid*, in bulk, from Nichols, Calif., to White City, Oreg., for 180 days. Supporting shipper: Allied Chemical Corp., 40 Rector Street, New York, N.Y. 10006 (Raymond T. Martin, Distribution Analyst). Send protests to: John T. Vaughan, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 6201 Federal Building, Salt Lake City, Utah 84111.

No. MC 111301 (Sub-No. 15 TA), filed June 4, 1970. Applicant: L. J. KREUTZER, doing business as KREUTZER MOTOR EXPRESS, Post Office Box 1056, Mankato, Minn. 56001. 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: *Plastic pipe*, from Mankato, Minn., to points in Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Oklahoma, South Dakota, and Wisconsin, for 180 days. Supporting shipper: Amveco Products, Inc., 1905 First Avenue, Post Office Box 327, Mankato, Minn.

56001. Send protests to: A. N. Spath, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 448 Federal Building and U.S. Courthouse, 110 South Fourth Street, Minneapolis, Minn. 55401.

No. MC 112148 (Sub-No. 50 TA), filed May 28, 1970. Applicant: POWERS TRANSPORTATION, INC., Post Office Box 147, Highway 71 East, Storm Lake, Iowa 50588. Applicant's representative: William L. Fairbank, Hubbell Building, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (a) *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses* as described in sections A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and except commodities in bulk); and (b) *foodstuffs*, when transported in mixed shipments with the commodities described in (a) above, from the plantsite and warehouse facilities of Geo. A. Hormel & Co., at Austin, Minn., to points in Pennsylvania, New York, Connecticut, Massachusetts, Rhode Island, Vermont, New Hampshire, Maine, and New Jersey for 150 days. Supporting shipper: Geo. A. Hormel & Co., Post Office Box 800, Austin, Minn. 55912. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 304 Post Office Building, Sioux City, Iowa 51101.

No. MC 113000 (Sub-No. 2 TA), filed June 4, 1970. Applicant: RICHARD A. EVAVOLD, doing business as EVAVOLD TRUCKING, Ashby, Minn. 56309. 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: *Cellulose loose fill insulation*, from Woodland, Wis., to points in North Dakota, South Dakota, Iowa, Minnesota, Nebraska, and Wisconsin, for 150 days. Supporting shipper: Pal-O-Pak Insulation Co., Inc., Hartland, Wis. 53029. Send protests to: A. N. Spath, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 448 Federal Building and U.S. Courthouse, 110 South Fourth Street, Minneapolis, Minn. 55401.

No. MC 116073 (Sub-No. 114 TA), filed June 2, 1970. Applicant: BARRETT MOBILE HOME TRANSPORT, INC., 1825 Main Avenue, Post Office Box 919, Moorhead, Minn. 56560. Applicant's representative: Robert G. Tessar (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers*, designed to be drawn by passenger automobiles, in initial movements, from points in Tulare County, Calif., to points in Washington, Oregon, Nevada, Idaho, Utah, and Arizona, for 180 days. Supporting shipper: Champion Home Builders Co., Post Office Box 429, Lindsay, Calif. 93247. Send protests to: J. H. Ambs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Post Office Box 2340, Fargo, N. Dak. 58102.

No. MC 118959 (Sub-No. 89 TA), filed June 1, 1970. Applicant: JERRY LIPPS, INC., 130 South Frederick Street Cape Girardeau, Mo. 63701. Applicant's representative: David Axelrod, 39 South La Salle Street, Chicago, Ill. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building materials*, between Springfield, Ky., on the one hand, and, on the other, points in Arkansas, Missouri, Illinois, Indiana, Ohio, Wisconsin, Michigan, New York, Pennsylvania, New Jersey, Delaware, West Virginia, Virginia, Texas, Kentucky, Tennessee, North Carolina, South Carolina, Georgia, Alabama, Mississippi, Louisiana, Nebraska, Florida, Minnesota, Iowa, and Maryland, for 180 days. Supporting shipper: Tech-Panel Corp., 3901 Atkinson Drive, Louisville, Ky. 40218. Send protests to: J. P. Werthman, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 3248, 1520 Market Street, St. Louis, Mo. 63103.

No. MC 119566 (Sub-No. 6 TA), filed June 1, 1970. Applicant: A. B. & A. TRUCK LINES, INC., Post Office Box 186, Camilla, Ga. 31730. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Poles and piling*, from Charleston and Florence, S.C., to points in Virginia and West Virginia, for 180 days. Supporting shipper: Koppers Co., Inc., Pittsburgh, Pa. 15219. Send protest to: G. H. Fauss, Jr., District Supervisor, Interstate Commerce Commission, Box 35008, 400 West Bay Street, Jacksonville, Fla. 32202.

No. MC 120098 (Sub-No. 16 TA) (Correction), filed May 19, 1970, published in the FEDERAL REGISTER, issue of May 27, 1970, and republished in notice No. 91 as corrected, and republished as corrected this issue. Applicant: UNTAH FREIGHTWAYS, 1030 South Redwood Road, Salt Lake City, Utah 84104. Applicant's representative: Irene Warr, 419 Judge Building, Salt Lake City, Utah 84111. Note: The purpose of this republication is to show that applicant seeks to operate over specified regular routes, rather than over irregular routes, which was noted in error. The rest of the publication remains the same.

No. MC 123067 (Sub-No. 105 TA), filed June 2, 1970. Applicant: M & M TANK LINES, INC., Post Office Box 612, Winston-Salem, N.C. 27102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Synthetic resin*, in bulk, from Hollins, Va., to Burlington, N.C., for 180 days. Supporting shipper: Allied Chemical Corp., Plastics Division, Post Office Box 365, Morristown, N.J. 07960. Send protests to: Jack K. Huff, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 316 East Morehead, Suite 417 (BSR Building), Charlotte, N.C. 28202.

No. MC 124154 (Sub-No. 36 TA), filed June 2, 1970. Applicant: WINGATE TRUCKING COMPANY, INC., Post Office Box 645, Albany, Ga. 31702. Applicant's representative: W. Guy McKenzie,

Post Office Box 1200, Tallahassee, Fla. 32302. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailer axles, running gear assemblies, and wheels and rims therefor*, on flatbed trailers (excluding commodities which because of size or weight require the use of special equipment), from points in Turner County, Ga., to points in Indiana, Illinois, Louisiana, Michigan, Ohio, and Pennsylvania for 180 days. Supporting shipper: Foreman Manufacturing Co., Hatfield Boulevard, Post Office Box 580, Ashburn, Ga. 31714. Send protests to: G. H. Fauss, Jr., District Supervisor, Interstate Commerce Commission, Bureau of Operations, Box 35008, 400 West Bay Street, Jacksonville, Fla. 32202.

No. MC 124770 (Sub-No. 11 TA), filed June 1, 1970. Applicant: TELLERI TRUCKING CO., a corporation, 301 Allen Street, Elizabeth, N.J. 07202. Applicant's representative: Bert Collins, 40 Cedar Street, New York, N.Y. 10006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meat and meat products*, in vehicles equipped with mechanical refrigeration, between Linden and Newark, N.J., and New Bedford and Westwood, Mass., for 180 days. Supporting shipper: The Allen Packing Co., 406 Allen Street, Elizabeth, N.J. Send protests to: Walter J. Grossmann, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 970 Broad Street, Newark, N.J. 07102.

No. MC 126276 (Sub-No. 31 TA), filed June 1, 1970. Applicant: FAST MOTOR SERVICE, INC., 12855 Ponderosa Drive, Palos Heights, Ill. 60463. Applicant's representative: Robert H. Levy, 29 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers and closures*, from Mundelein, Ill., to Terre Haute, Ind., for 180 days. Supporting shipper: The Ball Corp., Muncie, Ind. 47302. Send protests to: Roger L. Buchanan, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 1086, 219 South Dearborn Street, Chicago, Ill. 60604.

No. MC 126676 (Sub-No. 4 TA), filed June 1, 1970. Applicant: JERRY STEVENS, 1315 Buckeye, Coffeyville, Kans. 67337. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Green hides*, from Coffeyville, Kans., and Pittsburg, Kans., to Springfield, Mo., for 180 days. Supporting shipper: E. W. Biggs & Co., 405 North Washington Street, Springfield, Mo. 65806. Send protests to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, 501 Petroleum Building, Wichita, Kans. 67202.

No. MC 128527 (Sub-No. 12 TA), filed June 1, 1970. Applicant: MAY TRUCKING COMPANY, Post Office Box 398, Payette, Idaho 83661. Applicant's representative: Kenneth G. Bergquist, Post Office Box 1775, Boise, Idaho 83701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular

routes, transporting: *Livestock and poultry equipment*, from Zeeland, Mich., to points in Arizona, California, Colorado, Idaho, Montana, Nevada, Oregon, Utah, Washington, and Wyoming, for 180 days. Supporting shippers: P & H Sales, Inc., 11 East Kensington Avenue, Salt Lake City, Utah 84115; Quality Hatchery, 7020 Highway 10 East, Billings, Mont. 59103; and Allen's Automated Systems Co., Post Office Box 547, Ripon, Calif. 95366. Send protests to: C. W. Campbell, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 455 Federal Building and U.S. Courthouse, 550 West Fort Street, Boise, Idaho 83702.

No. MC 133478 (Sub-No. 1 TA), filed June 6, 1970. Applicant: HEARIN FOREST INDUSTRIES, INC., 4854 Southwest Scholls Ferry Road, Portland, Ore. 97225. Applicant's representative: Nick I. Goyak, 1408 Standard Plaza, Portland, Ore. 97204. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Gasoline and battery powered fork lift trucks and accessories*, from Watertown, Mass., and Danville, Ill., to Portland, Medford, and Eugene, Ore., and Boise, Idaho, for 180 days. Supporting shipper: Hyster Sales Co., 5251 Southeast McLoughlin Boulevard, Portland, Ore. 97208. Send protests to: W. J. Huetig, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 450 Multnomah Building, 120 Southwest Fourth Avenue, Portland, Ore. 97204.

No. MC 133655 (Sub-No. 31 TA), filed June 1, 1970. Applicant: TRANS-NATIONAL TRUCK, INC., Post Office Box 4168, Amarillo, Tex. 79105. Applicant's representative: Harley E. Laughlin (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products*, from the plantsite of Central States Paper and Bag Co., at Palatka, Fla., to points in Arkansas, Louisiana, Mississippi, Oklahoma, and Texas, for 180 days. Supporting shipper: C. H. Sanchez, Traffic Manager Southern Division, Central States Paper and Bag Co., Palatka, Fla. Send protests to: Haskell E. Ballard, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 918 Tyler Street, Amarillo, Tex. 79101.

No. MC 133655 (Sub-No. 32 TA), filed June 4, 1970. Applicant: TRANS-NATIONAL TRUCK, INC., Post Office Box 4168, Amarillo, Tex. 79105. Applicant's representative: Harley E. Laughlin (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat byproducts and articles distributed by meat packinghouses* as defined, from Amarillo, Tex., to points in Massachusetts, New Jersey, New York, Pennsylvania, Virginia, Connecticut, and Rhode Island, for 150 days. Supporting shipper: Myron Hillman, General Traffic Manager, Glover Packing Co., Post Office Box 92, Amarillo, Tex. 79105. Send protests to: Haskell E. Ballard, District

Supervisor, Interstate Commerce Commission, Bureau of Operations, 918 Tyler Street, Amarillo, Tex. 79101.

No. MC 133681 (Sub-No. 2 TA), filed June 1, 1970. Applicant: BIG CHET & SONS TRUCKING, INC., 203 Diamond Street, Brooklyn, N.Y. 11232. Applicant's representative: Arthur J. Piken, 160-16 Jamaica Avenue, Jamaica, Long Island, N.Y. 11432. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Toilet preparations and materials, and supplies used in the preparation of toilet preparations, except in bulk, and returned and rejected shipments of the aforementioned commodities, from New York, N.Y., to Newark, Ramsey, Hoboken, Jersey City, Holmdel, and Kenilworth, N.J., for 180 days.* Supporting shippers: Sacoma Cosmetics, 253 West 28th Street, New York, N.Y. 10001; and B. H. Kruger, Inc., 56 Noble Street, Brooklyn, N.Y. Send protests to: Robert E. Johnston, District Supervisor, Interstate Commerce Commission, 26 Federal Plaza, New York, N.Y. 10007.

No. MC 134022 (Sub-No. 3 TA) (clarification), filed May 14, 1970, published in the FEDERAL REGISTER, issue of May 22, 1970, and republished in part, as clarified, this issue. Applicant: CONTRACT TRANSPORTATION, INC., 4008 Schuster Drive, Post Office Box 115, West Bend, Wis. 53095. Applicant's representative: William E. McCarty, 211 West Wisconsin Avenue, Milwaukee, Wis. NOTE: The purpose of this partial republication is to redescribe the territorial scope of the application as follows: "From Chicago and Belleville, Ill., Kingsbury, Ind., and St. Paul, Minn., to Winnetonka, Stevens Point, the township of Barton, Horicon, and West Bend, Wis., and, as a return movement, *salt in bags*, from St. Clair, Mich., to points in the township of Leroy, Wis." The rest of the application remains as previously published.

No. MC 134477 (Sub-No. 2 TA) (Correction), filed April 28, 1970, published in the FEDERAL REGISTER issue of May 12, 1970, and republished in part, as correct, this issue. Applicant: SCHANNO TRANSPORTATION, INC., 5 West Mendota Road, West St. Paul, Minn. 55118. Applicant's representative: Paul Schanno (same address as above). The purpose of this republication is to include the additional origin points of South St. Paul and Newport, Minn., which points, applicant states, should have been included in its application. The rest of the application remains as previously published.

No. MC 134484 (Sub-No. 1 TA) (Correction), filed May 4, 1970, published in the FEDERAL REGISTER, issue of May 16, 1970, and republished in part, as cor-

rected, this issue. Applicant: MORGAN G. EDWARDS AND DAVID G. EDWARDS, doing business as EDWARDS BROTHERS, 1875 North Holmes, Post Office Box 2481, Idaho Falls, Idaho 83401. Applicant's representative: Dennis M. Olsen, 485 E Street, Idaho Falls, Idaho 83401. NOTE: The purpose of this partial republication is solely to show that the destination points of St. Joseph, St. Louis, and Kansas City should be shown as being located in Missouri in lieu of Kansas; and the points of Butte, Helena, and Great Falls should be immediately followed by the word "Mont." in lieu of "Mo." The rest of the application remains as previously published.

No. MC 134528 (Sub-No. 1 TA), filed June 3, 1970. Applicants: C. M. PARKER and JAMES PARKER, a partnership, doing business as PARKER BROTHERS, Route 2, Effingham, S.C. 29541. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bag fertilizer or bulk fertilizer, from Reigelwood, N.C., to points in Florence, Horry, Marion, Darlington, Georgetown, and Williamsburg Counties, S.C., for 180 days.* Supporting shipper: Kaiser Agricultural Chemicals, Post Office Box 246, Savannah, Ga. 31402. Send protests to: Arthur B. Abercrombie, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 300 Columbia Building, 1200 Main Street, Columbia, S.C. 29201.

No. MC 134552 (Sub-No. 2 TA), filed June 2, 1970. Applicant: TRANSAMERICAN CARRIER CO., a corporation, Post Office Box 772, Fremont, Nebr. 68025. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer, dry and liquid, acids and chemicals, and fertilizer compounds, including but not limited to anhydrous ammonia, aquia ammonia, nitrogen solutions in bulk, in tank or hopper type vehicles, from Fremont, Nebr., and points within 10 miles thereof, to points in Illinois, Iowa, Kansas, Minnesota, Missouri, North Dakota, and South Dakota for 150 days.* Supporting shipper: Fel-Tex Plant, Central Farmers Fertilizer Co., Post Office Box 68, Fremont, Nebr. 68025. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Omaha, Nebr. 68102.

No. MC 134575 TA (Correction) filed May 7, 1970, published in the FEDERAL REGISTER issue of May 15, 1970, and republished as corrected this issue. Applicant: PAUL J. HELFREY, 20 Tetterer Avenue, Trenton, N.J. 08610. Applicant's representative: David E. Thomas, 1604-14 Philadelphia National Bank Building, Broad and Chestnut Streets, Philadelphia, Pa. 19107. Authority

sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Plastic duct (telephone wire conduit and fittings, from Chesilhurst, N.J., to points in Pennsylvania, New York, Delaware, Maryland, Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, and Connecticut, for 180 days.* NOTE: The purpose of this republication is to insert the word "to" which was omitted in the territorial description reading "from Chesilhurst, N.J. to Pennsylvania". Supporting shipper: Toronto Plastics & Machine Co., 9 Hendricks Avenue, Route 30, Chesilhurst, N.J. Send protests to: Raymond T. Jones, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 410 Post Office Building, Trenton, N.J. 08608.

No. MC 134575 (Sub-No. 1 TA) (Correction), filed May 7, 1970, published in the FEDERAL REGISTER issue of May 15, 1970, and republished in part corrected, this issue. Applicant: PAUL J. HELFREY, 20 Tetterer Avenue, Trenton, N.J. 08610. Applicant's representative: David E. Thomas, 1604-14 Philadelphia National Bank Building, Broad and Chestnut Streets, Philadelphia, Pa. 19107. NOTE: The purpose of this partial republication is to include 180 days, which was inadvertently omitted. The rest of the application remains as previously published.

No. MC 134649 (Sub-No. 1 TA), filed June 2, 1970. Applicant: LANE'S TRANSPORT LIMITED, 136 Main Street South, Georgetown, Ontario, Canada 14201. Applicant's representative: Thomas J. Runfola, 631 Niagara Street, Buffalo, N.Y. 14201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Stone, slate, marble and granite, cut, uncut, finished, and in the rough, from points in Lorain County, Ohio, to points on the international boundary line between the United States and Canada located on the Niagara, Detroit, and St. Clair Rivers for 180 days.* Supporting shippers: (1) Betz Cut Stone Ltd., Kennedy Road, Box 99, Agincourt, Ontario, Canada; (2) Credit Valley Quarries Co., Ltd., No. 7 Highway, Post Office Thornhill, Ontario, Canada; and (3) Cleveland Quarries Co., Amherst, Ohio 44001. Send protests to: George M. Parker, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 518 Federal Office Building, 121 Ellicott Street, Buffalo, N.Y. 14203.

By the Commission.

[SEAL] H. NEIL GARSON,
Secretary.

[F.R. Doc. 70-7351; Filed, June 11, 1970;
8:48 a.m.]

CUMULATIVE LIST OF PARTS AFFECTED—JUNE

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 June.

3 CFR	Page
PROCLAMATIONS:	
3986.....	8861
3987.....	8863
3988.....	8997
EXECUTIVE ORDERS:	
10626 (superseded by EO 11532).....	8629
10945 (see EO 11533).....	8799
11532.....	8629
11533.....	8799
11534.....	8865
PRESIDENTIAL DOCUMENTS OTHER THAN PROCLAMATIONS AND EXECUTIVE ORDERS:	
Letter of June 2, 1970.....	8631
5 CFR	
213.....	8801
PROPOSED RULES:	
2400.....	8947
2402.....	8947
7 CFR	
27.....	8531
28.....	8531, 8532
51.....	8652
61.....	8532
68.....	8535
295.....	8801
301.....	9103, 9104
319.....	9105
331.....	9010
775.....	8537
811.....	8915
845.....	9010
871.....	9105
905.....	8916
908.....	8471, 8652, 8802, 9011
910.....	8653, 8739, 8867
917.....	8832
922.....	8916
923.....	8472
944.....	9011
953.....	9105
958.....	8653
965.....	8867
966.....	9011
980.....	9012
1402.....	8537
1421.....	8537, 8539, 8867, 8873, 9012, 9108
1427.....	9106
1481.....	8472
1872.....	8803
PROPOSED RULES:	
52.....	8499
714.....	8569
777.....	9016
917.....	8572
1005.....	9066
1007.....	8748
1033.....	9056
1034.....	9066
1035.....	9066
1041.....	9066
1136.....	8572
9 CFR	
2.....	8472
76.....	8543, 8999
3653, 8731, 8819, 8874, 8917, 8999	
78.....	8918

9 CFR—Continued	Page
PROPOSED RULES:	
76.....	8571
109.....	8945
113.....	8945
114.....	8945
121.....	8945
10 CFR	
30.....	8820
161.....	8820
PROPOSED RULES:	
20.....	8670
50.....	8594
12 CFR	
204.....	8654
290.....	8919
292.....	8920
511.....	8544
589.....	8879
PROPOSED RULES:	
204.....	8892
545.....	9019
13 CFR	
121.....	8473
PROPOSED RULES:	
107.....	8672
121.....	8504
14 CFR	
39.....	8544, 8736-8738, 8821, 8924, 9106
71.....	8474-8476, 8654-8656, 8738, 8739, 8879, 8880, 8925, 8926
73.....	8544, 8926, 8927
75.....	8926
97.....	8656, 8821, 8999, 9107
167.....	8544
213.....	8880
298.....	8927
385.....	9107
PROPOSED RULES:	
23.....	8665
25.....	8665
27.....	8665
29.....	8665
39.....	9216, 9217
71.....	8500, 8501, 8666, 8667, 8748, 8750, 8945, 8750
73.....	8750
91.....	8665, 9217
207.....	9218
208.....	9218
212.....	9218
214.....	9218
249.....	9218
295.....	9218
399.....	9218
15 CFR	
368.....	9109
369.....	9112
370.....	8882, 9113
371.....	9119
372.....	9127
373.....	9136
374.....	9154

15 CFR—Continued	Page
375.....	9156
376.....	9166
377.....	9173
378.....	9177
379.....	8882, 9178
385.....	9184
386.....	9185
397.....	9198
388.....	9200
389.....	9204
390.....	9206
399.....	9207
PROPOSED RULES:	
7.....	8943, 8944
16 CFR	
13.....	8657, 8658, 8883-8885
501.....	9108
PROPOSED RULES:	
302.....	8503
18 CFR	
2.....	8927
141.....	8821
154.....	8633
Ch. V.....	8553
PROPOSED RULES:	
601.....	8942
602.....	8942
19 CFR	
12.....	8885
PROPOSED RULES:	
4.....	8829
5.....	8829
6.....	8829
8.....	8741, 8829
14.....	8741
15.....	8741, 8829
16.....	8741
17.....	8741
18.....	8829
22.....	8741
23.....	8741
24.....	8499
30.....	8741
31.....	8741
32.....	8741
53.....	8741
54.....	8741
20 CFR	
4C4.....	8928
614.....	9000
PROPOSED RULES:	
602.....	9016
21 CFR	
1.....	8550, 8928
3.....	9000
120.....	8476, 8885, 8929, 8930, 9207
121.....	8551, 8552, 8930, 9001, 9208
130.....	9001
141b.....	8931
146.....	9209
146b.....	8931
149b.....	8552
320.....	8822

21 CFR—Continued

	Page
PROPOSED RULES:	
1.....	9214
18.....	8584
120.....	9214
130.....	9014, 9215
144.....	9215

22 CFR

41.....	8659
131.....	8887

24 CFR

200.....	8822
1914.....	8732
1915.....	8733

PROPOSED RULES:

15.....	9215
41.....	8586

25 CFR

46.....	8822
221.....	8886

26 CFR

1.....	8477, 8932
13.....	8823
20.....	8480
25.....	8480
147.....	8553
154.....	8886

PROPOSED RULES:

1.....	8569
151.....	9015

29 CFR

604.....	8935
606.....	8935
689.....	9108

30 CFR

PROPOSED RULES:

75.....	8569
---------	------

31 CFR

PROPOSED RULES:

10.....	8892
---------	------

32 CFR

513.....	8888
591.....	8554
592.....	8556
593.....	8557
594.....	8558
595.....	8566
596.....	8568
597.....	8566
601.....	8566
602.....	8566

32 CFR—Continued

	Page
603.....	8566
606.....	8566
608.....	8566
612.....	8567
1001.....	8659

32A CFR

BDSA (Ch. VI):

BDSA Reg. 2, Dir. 13.....	9108
---------------------------	------

33 CFR

110.....	8823
117.....	9003
207.....	8481
401.....	8936

PROPOSED RULES:

117.....	8500, 8664, 9017-9019
----------	-----------------------

36 CFR

11.....	8734
---------	------

39 CFR

153.....	8481
----------	------

PROPOSED RULES:

113.....	8892
----------	------

41 CFR

1-1.....	8482
1-2.....	8485
1-16.....	8485
3-3.....	9004
8-16.....	8485
8-95.....	8485
9-4.....	9006
9-5.....	9006, 9007
9-7.....	9006
9-9.....	9006
60-20.....	8888
101-17.....	8485
101-20.....	9007
101-47.....	8486

42 CFR

57.....	8487
81.....	8889, 8938, 9008

PROPOSED RULES:

37.....	8584
52a.....	8662
81.....	8499, 8748, 8892

43 CFR

PUBLIC LAND ORDERS:

4582 (modified by PLO 4837).....	8824
4836.....	8824
4837.....	8824
4838.....	8824
4839.....	8825
4840.....	8825

45 CFR

234.....	8990
249.....	8732

PROPOSED RULES:

204.....	8780
205.....	8780
206.....	8784
208.....	8785
233.....	8786
235.....	8789
246.....	8789
248.....	8790
249.....	8793
251.....	8664

46 CFR

309.....	8659
310.....	8553, 8890

PROPOSED RULES:

137.....	8945
540.....	8750

47 CFR

0.....	8567, 8825
1.....	8825, 9008
2.....	8634, 8644, 8828
18.....	8644
73.....	8650, 8825
83.....	8567
91.....	8939

PROPOSED RULES:

67.....	8502
73.....	8670, 8834, 8946
74.....	8671

49 CFR

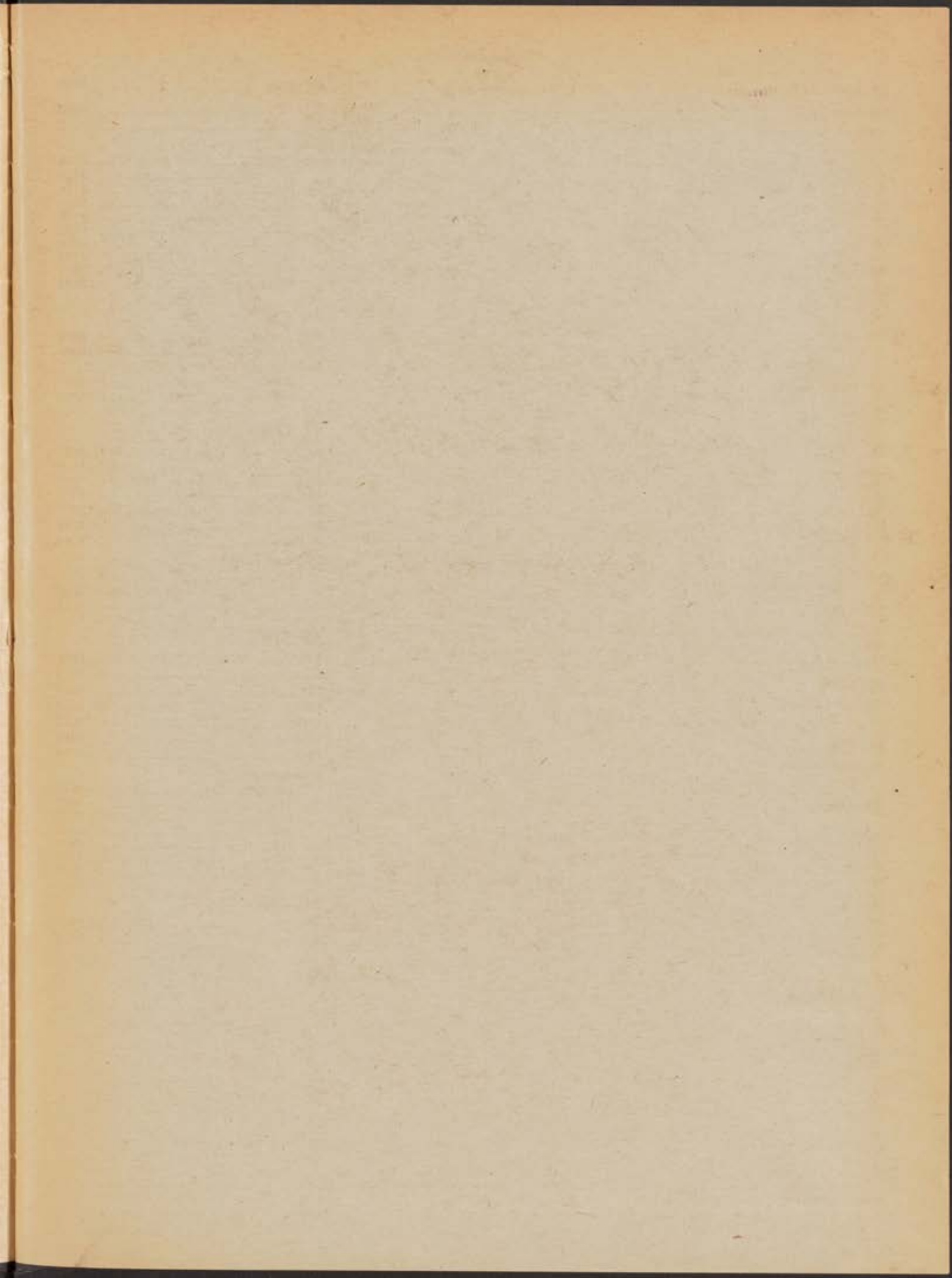
310.....	8553, 8890
389.....	9209
571.....	9211
1033.....	8735, 9213
1048.....	9213
1056.....	8890
1307.....	8736

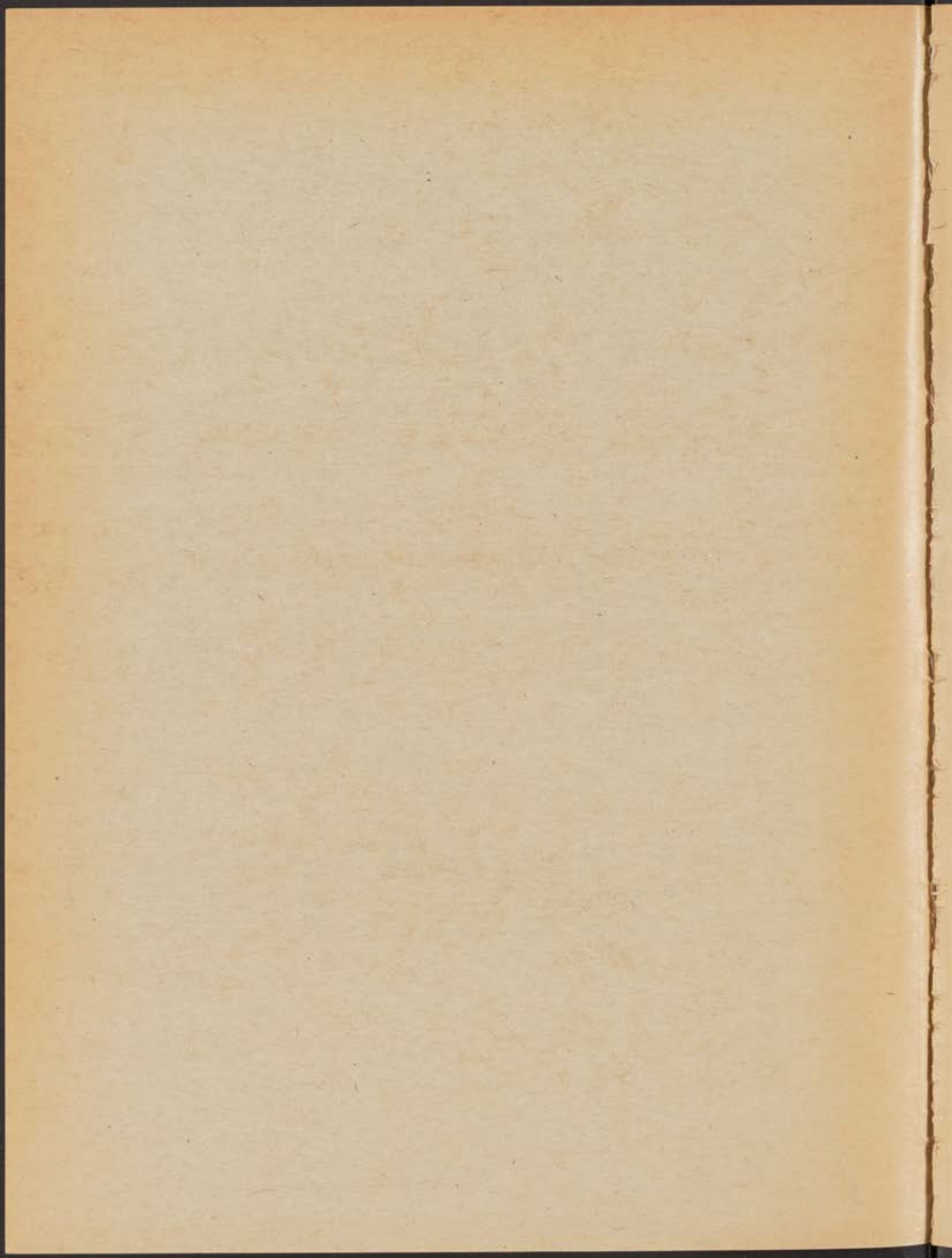
PROPOSED RULES:

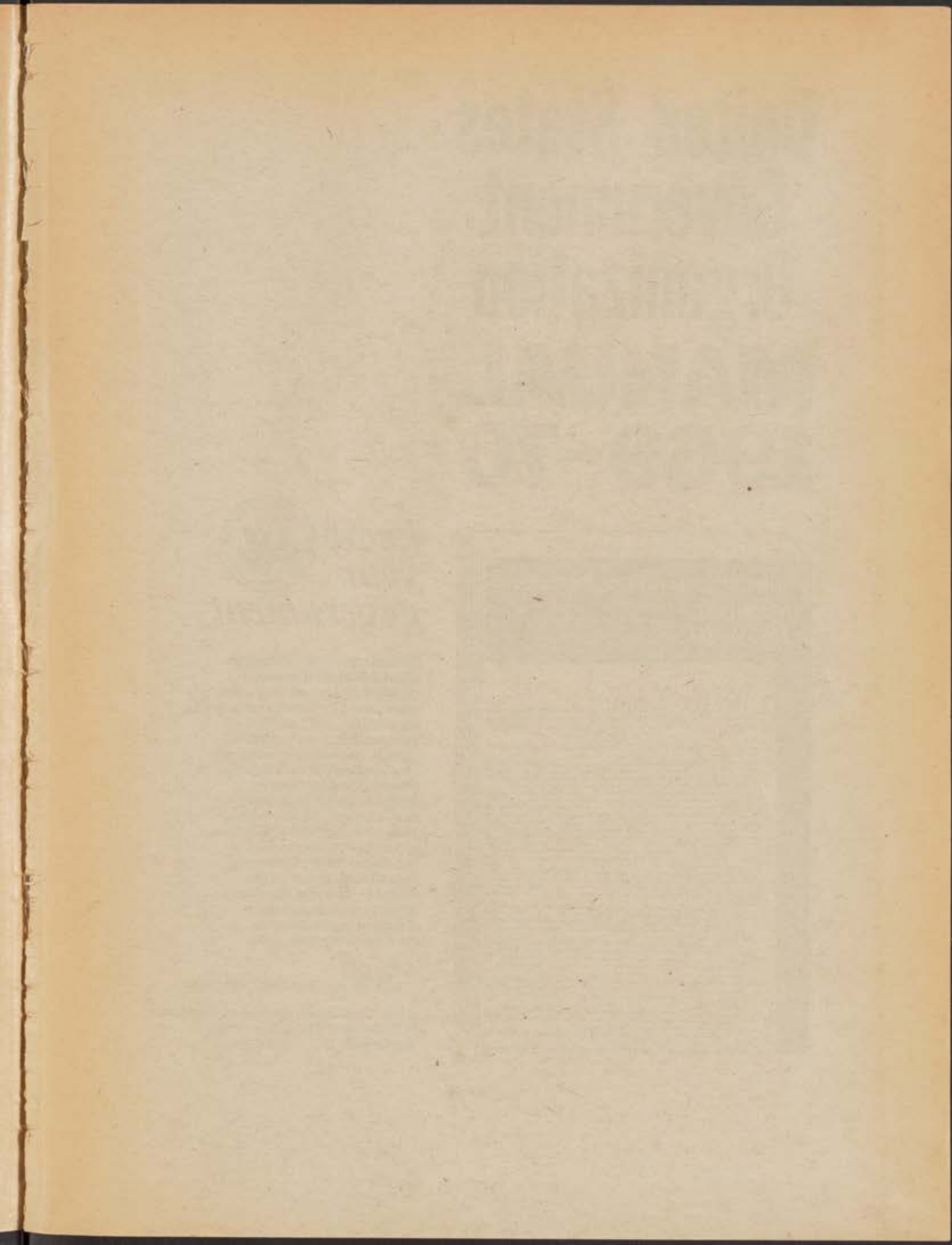
170-189.....	8831
172.....	8502
173.....	8502, 8946
190.....	8833
192.....	8833
575.....	8667, 8832
1048.....	8594

50 CFR

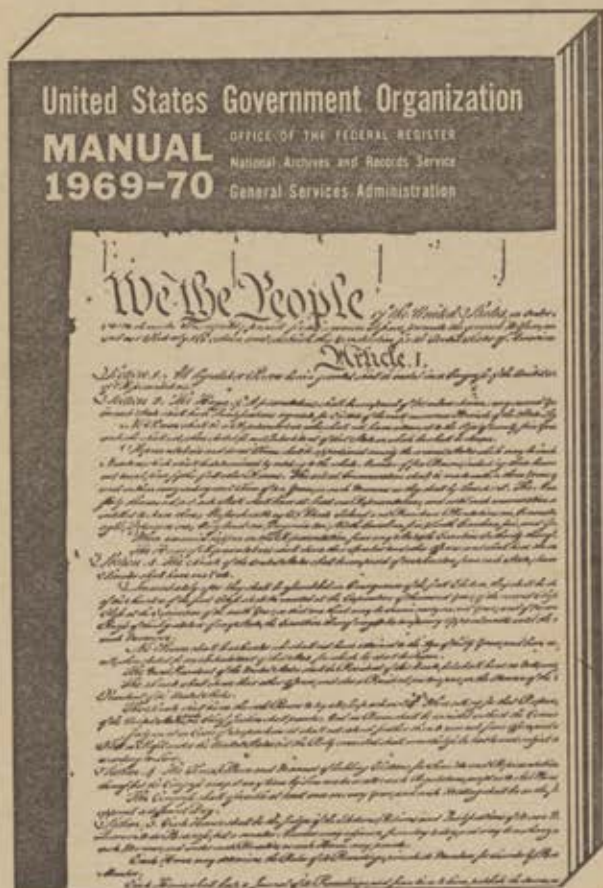
17.....	8491, 8736, 8941
280.....	8890







United States Government Organization MANUAL 1969-70



*know
your
government*



Presents essential information about Government agencies (updated and republished annually). Describes the creation and authority, organization, and functions of the agencies in the legislative, judicial, and executive branches. This handbook is an indispensable reference tool for teachers, students, librarians, researchers, businessmen, and lawyers who need current official information about the U.S. Government. The United States Government Organization Manual is the official guide to the functions of the Federal Government, published by the Office of the Federal Register, GSA.

\$300 per copy. Paperbound, with charts

Order from Superintendent of Documents,
U.S. Government Printing Office,
Washington, D.C. 20402.