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federal register

Book 1 of 2 Books
Tuesday, July 1, 1980

Highlights

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Highlights

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Federal Register
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Tuesday, July 1, 1980

Presidential Documents

Title 3—

The President

Executive Order 12220 of June 27, 1980

Agricultural Trade Development

By the authority vested in me as President of the United States of America by the Agricultural Trade Development and Assistance Act of 1954, as amended (7 U.S.C. 1691, *et seq.*) and Section 301 of Title 3 of the United States Code, and in order to provide for the delegation of certain functions to the United States International Development Cooperation Agency and to revise existing delegations, it is hereby ordered as follows:

1–1. Department of Agriculture.

1–101. Except as otherwise provided in this Order, the following functions vested in the President by the Agricultural Trade Development and Assistance Act of 1954, as amended (hereinafter referred to as the Act), are delegated to the Secretary of Agriculture: Titles I and IV (7 U.S.C. 1701, *et seq.*, and 1731, *et seq.*).

1–102. The Secretary of Agriculture shall transmit the reports required by the provisions of paragraph 5 of the Act of August 13, 1957 (71 Stat. 345; 7 U.S.C. 1704a).

1–103. The Secretary of Agriculture, after consultation with the Secretary of State, the Secretary of the Treasury, the Director of the United States International Development Cooperation Agency, the Chairman of the Council of Economic Advisers, the Director of the Office of Management and Budget, and the Assistant to the President for National Security Affairs, shall transmit to the Congress all reports required by Section 408 of the Act (7 U.S.C. 1736b).

1–2. United States International Development Cooperation Agency.

1–201. Administration of Title II. The functions vested in the President by Title II of the Act (7 U.S.C. 1721, *et seq.*) are delegated to the Director of the United States International Development Cooperation Agency.

1–202. Other functions.

(a) The functions vested in the President by the Act of negotiating and entering into agreements with friendly countries are delegated to the Director of the United States International Development Cooperation Agency. Such functions shall be exercised in accord with Section 112b of Title I of the United States Code and applicable regulations and procedures of the Department of State.

(b) The functions delegated to the Director of the United States International Development Cooperation Agency by subsection (a) of this section are exclusive of any functions under Section 104 of the Act (7 U.S.C. 1704) that are delegated to any other agency by this Order and of functions under Section 310 of the Act (7 U.S.C. 1692).

(c) The functions delegated by this Order to the Director of the United States International Development Cooperation Agency may be redelegated to the head of any other Executive agency.

1–3. Department of State.

1–301. The Secretary of State shall perform the function of determining which countries are friendly countries within the meaning of Section 103(d) of the Act (7 U.S.C. 1703(d)).

1–302. The functions delegated by this Order to the Secretary of State may be redelegated to the head of any Executive agency.

1–4. Foreign Currencies.

1–401. (a) Foreign currencies which accrue under Title I of the Act (7 U.S.C. 1701, *et seq.*) may be used for the purposes set forth in Section 104 of the Act (7 U.S.C. 1704) in amounts consistent with applicable provisions of law, sales agreements and loan assessments. Except as may be inconsistent with such law or agreements, priority shall be accorded to the sale of such currencies to appropriations or to their sale otherwise for dollars. The Director of the Office of Management and Budget shall fix the amounts of such currencies to be used for the purpose set forth in Section 104 of the Act. The Director of the Office of Management and Budget shall notify the Secretary of the Treasury with respect to any amounts so fixed.

(b) The function vested in the President by the penultimate proviso of Section 104 of the Act (7 U.S.C. 1704) of waiving the applicability of Section 1415 of the Supplemental Appropriation Act of 1953 (31 U.S.C. 724) is delegated to the Director of the United States International Development Cooperation Agency with respect to Section 104(e) of the Act and to the Director of the Office of Management and Budget in all other respects.

1–402. The Secretary of the Treasury shall issue regulations governing the purchase, custody, deposit, transfer and sale of foreign currencies received under the Act.

1–403. The provisions of Sections 1–401 and 1–402 of this Order shall not limit Sections 1–202 and 1–3 of this Order. The provisions of Section 1–402 of this Order shall not limit Section 1–401 of this Order.

1–404. The purposes of the following paragraphs of Section 104 of the Act (7 U.S.C. 1704) shall be carried out as follows:

(a) Those under paragraph (a) by the agencies with authority to pay the United States' obligations abroad.

(b) Those under paragraph (b)(1) by the Department of Agriculture.

(c) Those under paragraph (b)(2) by the agencies with responsibility for such functions.

(d) Those under paragraph (b)(3) of the Act as follows:

(1) Those with respect to collecting, collating, translating, abstracting, and disseminating scientific and technological information by the Director of the National Science Foundation and the head of such other agency or agencies as the Director of the Office of Management and Budget may designate after appropriate consultation;

(2) Those with respect to programs of culture and educational development, health, nutrition, and sanitation by the Director of the International Communications Agency, the Department of State, and the head of any other appropriate agency;

(3) All others by such agency or agencies as the Director of the Office of Management and Budget may designate after appropriate consultation.

(4) The term "appropriate consultation" shall include consultation with the Secretary of State, the Director of the National Science Foundation, and the head of any other appropriate agency.

(e) Those under paragraph (b)(4) by the Department of State and any other agency or agencies designated by the Secretary of State.

(f) Those under paragraph (b)(5) by the Librarian of Congress.

(g) Those under paragraphs (d), (e), (f), (g), and (h) by the United States International Development Cooperation Agency.

(h) Those under paragraph (j) by the Department of the Treasury in consultation with the Department of State.

1–405. The functions vested in the President by Section 104 of the Act (7 U.S.C. 1704) are delegated as follows:

(a) Those under paragraph (f) of determining the manner in which the loans provided for in that paragraph shall be made to the Director of the United States International Development Cooperation Agency.

(b) Those under paragraph (j) of prescribing terms and conditions to the Secretary of the Treasury in consultation with the Secretary of State.

1–406. In negotiating international agreements pursuant to the Act, the Secretary of State shall avoid restrictions which would limit the application of normal budgetary and appropriation controls to the use of foreign currencies accruing under Title I of the Act (7 U.S.C. 1701, *et seq.*) which are available for operations of the United States Government.

1–5. Revocations.

1–501. Executive Order No. 10900 of January 5, 1961, as amended, is revoked.

1–502. The following Executive Orders which have previously been superseded, at least in part, are revoked:

(a) Executive Order No. 10560 of September 9, 1954;

(b) Executive Order No. 10685 of October 27, 1956;

(c) Executive Order No. 10708 of May 6, 1957;

(d) Executive Order No. 10746 of December 12, 1957;

(e) Executive Order No. 10799 of January 15, 1959;

(f) Executive Order No. 10827 of June 25, 1959;

(g) Executive Order No. 10884 of August 17, 1960; and

(h) Executive Order No. 10893, as amended, except Section 201 thereof.

Jimmy Carter

THE WHITE HOUSE,
June 27, 1980.

[FR Doc. 80–19900
Filed 6–27–80; 4:43 pm]
Billing code 3195–01–M

Presidential Documents

Executive Order 12221 of June 27, 1980

Improving Government Regulations

By the authority vested in me as President of the United States of America, and in order to continue existing procedures for improving government regulations pending the enactment of regulatory reform legislation, Section 8 of Executive Order No. 12044 of March 23, 1978, is hereby amended to read, "Unless extended this Order expires on April 30, 1981.".

Jimmy Carter

THE WHITE HOUSE,
June 27, 1980.

[FR Doc. 80-19901
Filed 6-27-80; 4:44 pm]
Billing code 3195-01-M

Rules and Regulations

Federal Register
Vol. 45, No. 128
Tuesday, July 1, 1980

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 204

Immigrant Visa Petitions for Adopted or Prospective Adoptive Alien Children; Valid Home Study Requirement

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final Rule.

SUMMARY: This Final Rule amends Service regulations pertaining to the filing of visa petitions to classify orphans as immediate relatives of United States citizens. The amendments require that an orphan petition filed for the purpose of issuance of an immigrant visa must be accompanied by a valid home study by an appropriate agency favorably recommending the adoption of the child. Further, the amendments set forth the minimal criteria necessary for a valid home study which will be acceptable to the Service. These rules are necessary to implement section 3 of Pub. L. 95–417 which requires a valid home study favorably recommending adoption of the child as a prerequisite to approval of a petition to classify an orphan as an immediate relative of a United States citizen.

EFFECTIVE DATE: July 1, 1980.

FOR FURTHER INFORMATION CONTACT: For general information—Stanley J. Kieszkiel, Instructions Office, Immigration and Naturalization Service, 425 Eye Street, N.W. Washington, DC 20536. Telephone: (202) 633–3048 and for specific information—Harry F. Klajbor, Adjudications Division, Immigration and Naturalization Service, 425 Eye Street, N.W., Washington, DC 20536. Telephone: (202) 633–3229.

SUPPLEMENTARY INFORMATION: On January 25, 1979, a final rule was published in the **Federal Register** (44 FR 5059) amending 8 CFR 204.2 to implement section 3 of Pub. L. 95–417 (92 Stat. 917). This section amended the Immigration and Nationality Act by requiring a favorable valid home study recommendation by a state agency, an agency authorized by a state, or an agency licensed in the United States before a visa petition can be approved to classify an orphan as an immediate relative of a United States citizen. Since expeditious publication of the rule was required to implement this new requirement in the law, publication of proposed rule making and delayed effective date were deemed unnecessary. Opportunity was provided to interested parties, however, to submit written comments and arguments by March 26, 1979, to allow the Service to consider such comments carefully and amend the rules if warranted.

Among the comments received, two commentators were opposed to the change in the statute itself which now requires a valid home study by an appropriate agency. The requirement of a home study to be performed by an appropriate agency under the jurisdiction of a state is now mandated by the Act, and regulations cannot be promulgated to defeat the Act. Four state agencies made recommendations to improve the wording or definition of certain terms used in the regulation. All recommendations were carefully considered. The Service has incorporated one of these recommendations in the revised regulation by clearer definition of a significant term. One state agency recommended that the Service publish guidelines or criteria for the qualifications of agencies, the officers of which are authorized to sign a statement recommending a proposed adoption. The publication of such guidelines or criteria is beyond the scope of the Service's jurisdiction and expertise. One commentator recommended that agencies in foreign countries doing home studies on families residing abroad not be required to be licensed in the United States. Pub. L. 95–417 plainly sets forth that the agency favorably recommending a home study must be an agency of the state of the child's proposed residence or an agency authorized by that state to conduct such a study, or, in the case of a child adopted abroad, an agency which is licensed in the United States. The regulations, however, have been worded in such a way that a responsible state agency or a licensed agency can accept a home study made by an unlicensed or foreign agency and use that home study as a basis for a favorable recommendation. Another commentator submitted a detailed analysis of the regulation as well as a new format for the regulation. We recognize that the format of the regulation can be improved and have revised it to improve readability with some minor changes in substance.

One commentator requested that consideration be given to amending the regulations to allow a G–4 nonimmigrant to sponsor his or her children for permanent resident status under the nonpreference category. While section 1 of Pub. L. 95–417 provides for issuance of nonpreference visas to adopted or prospective adoptive children of United States citizens or lawful permanent resident aliens when certain requirements are met, it specifically prohibits any unmarried alien child under sixteen from coming to the United States as an immigrant except when accompanying or following to join a natural parent who is in the process of immigrating or who has immigrated. A G–4 is a nonimmigrant in all respects and therefore cannot be considered as a permanent resident regardless of length of stay.

Several commentators expressed concern about the confidentiality of the home study which the regulation requires must accompany the visa petition. This record is protected by the Privacy Act and the Service's policy of confidential treatment of all files. The intent of Pub. L. 95–417 is to ensure that children will not be placed with families which would not properly care for them and to prevent the improper obtaining or transferring of children. The Federal government and state governments share in this responsibility, and the home study is the primary document necessary to make this evaluation.

One commentator noted that while the regulation sets forth criteria for valid home studies, there is no provision in the regulation for a licensed or official agency in the United States or a foreign country to assume legal responsibility for the child until he/she is adopted

legally in the United States. This leaves a child stranded without a legal guardian in the event the adoptive family requests removal of the child prior to legal adoption. We believe this is an important point to be raised and use this forum to highlight the problem; the law as presently enacted, however, does not extend the authority of the Attorney General beyond the petition and admission process. Historically, states have passed laws dealing with legal guardianship and the domestic relations of its citizens without Federal intervention, except perhaps, in cases of disagreements affecting two or more states.

The District Director of our Service office in Hong Kong suggested that the regulations be amended to require that a private adoption agency set forth in its recommendation that it is a licensed adoption agency, the state in which it is licensed, its license number, if any, and the period of validity of its license. Since this amendment would facilitate the recognition of valid home studies by our Service offices, particularly our offices overseas which may receive home studies from many states, it would be beneficial to the public because it would streamline the processing of orphan cases. The District Director's suggestion is therefore being treated as though it were a public comment, and the suggested amendment is being adopted. In addition, in 8 CFR 204.2(d)(1), another item is being added to the evidence which must accompany the petition, namely, death certificate(s) of the child's parent(s), if applicable. This change is advantageous to the public since specifically what documents are required if the child's parent or parents are deceased will be readily understood.

In view of the foregoing, 8 CFR 204.2(d)(1) is amended by setting out the first sentence which was amended at 44 FR 5060 (January 25, 1979) more clearly by skipping a line between each item, by adding one item to that sentence, by revising the following three sentences for editorial purposes only, and by adding a new sentence immediately preceding the existing first sentence. Also, 8 CFR 204.2(d)(2) published at 44 FR 5060 will be revised for editorial clarification, with minor changes in substance.

In consideration of the comments received as discussed above, the following amendments are hereby made to Chapter I of Title 8 of the Code of Federal Regulations:

PART 204—PETITION TO CLASSIFY ALIEN AS IMMEDIATE RELATIVE OF A UNITED STATES CITIZEN OR AS A PREFERENCE IMMIGRANT

8 CFR 204.2 is amended as follows:

1. Paragraph (d)(1) is amended by revising the first sentence and by adding a new sentence immediately preceding the existing first sentence. The amended language reads as set forth below.

2. Paragraph (d)(1), the existing second sentence is amended by deleting the comma between the words "illegitimate" and "and", and the existing third sentence is amended by deleting the comma between "deceased" and "and"; in the interests of clarity, the existing second and third sentences are amended by changing "second parent" in both sentences to read "stepparent"; the existing fourth sentence is amended by correcting the spelling of the word "irrevocable."

3. Paragraph (d)(2) (see 44 FR 5060) is revised as set below:

§ 204.2 Documents.

* * * * *

(d) *Evidence required to accompany petition for orphan*—(1) *General.* As used in these regulations, the term "agency" includes both organizations and individuals, and the term "responsible state agency" means the public adoption agency in any state in the United States authorized by statute or license to perform home studies. A petition filed on behalf of an orphan under § 204.1(b) must be accompanied by: (i) a valid home study which has been favorably recommended by an agency of the state of the child's proposed residence, or by an agency authorized by that state to conduct such a study, or, in the case of a child adopted abroad, by an appropriate public or a private adoption agency licensed in the United States; (ii) fingerprints on Form FD–258 of the United States citizen petitioner and spouse, if married; (iii) evidence of the age and the United States citizenship of the petitioner as provided for in paragraph (a) of this section; (iv) a marriage certificate of the married petitioner and spouse, if married and/or evidence of the termination of any previous marriages; if applicable; (v) the child's birth certificate, or, if a certificate is not available, other proof of age; (vi) evidence that the sole or surviving parent is incapable of providing for the orphan's care and has irrevocably released the orphan for emigration and adoption, if the orphan has only one parent; (vii) death certificate(s) of the child's parent(s), if applicable; and (viii) a certified copy of the adoption decree together with a copy of the certified translation if the child has been adopted abroad. * * *

(2) *Valid home study*—(i) *Child coming to the United States for adoption.* A home study for a child to be adopted in the United States is considered to be valid if it contains the following:

(A) A factual evaluation of the financial, physical, mental, and moral capabilities of the prospective parent or parents to rear and educate the child properly.

(B) A detailed description of the living accommodations where the prospective parent or parents currently reside.

(C) A detailed description of the living accommodations in the United States where the child will reside, if known.

(D) A statement or attachment recommending the proposed adoption signed by an official of the responsible state agency in the state of the child's proposed residence or signed by an official of an agency authorized by that state. When a home study contains a favorable recommendation by an agency claiming to be authorized by the state of the child's proposed residence, it will not be accepted as valid unless the District Director is satisfied that the recommending agency is authorized to conduct the home study. If the recommending agency is a licensed adoption agency, the recommendation shall set forth that it is licensed, the state in which it is licensed, its license number, if any, and the period of validity of its license. The District Director may require such proof of licensure as is deemed necessary. The authorized agency need not be located in the state of the child's proposed residence or anywhere in the United States.

(ii) *Child adopted abroad.* A home study for a child adopted abroad is considered to be valid if it contains the following:

(A) A factual evaluation of the financial, physical, mental, and moral capabilities of the adoptive parent or parents to rear and educate the child properly.

(B) A detailed description of the living accommodations where the adoptive parent or parents currently reside.

(C) A detailed description of the living accommodations in the United States where the child will reside, if known.

(D) A statement or attachment recommending or approving of the adoption signed by an official of an appropriate public or private adoption

agency which is licensed in any state in the United States. For purposes of this regulation, the responsible state agency in any state of the United States shall be considered to be an appropriate public agency which is licensed in the United States. The home study of any agency other than a responsible state agency will not be considered valid unless the District Director is satisfied that the agency is licensed by a state in the United States. The recommendation of such licensed agency shall set forth that it is licensed, the state in which it is licensed, its license number, if any, and the period of validity of its license. The District Director may require such proof of licensure as is deemed necessary. The licensed agency need not be located in the United States.

(iii) *Research and preparation of home study.* Research, including interviewing, and the preparation of the home study may be done by an individual or group in the United States or abroad, approved or authorized by the agency which makes the determination that the home study is favorably recommended.

* * * * *

(Sec. 103; 8 U.S.C. 1103 and Sec. 3 of Pub. L. 95–417; (92 Stat. 917))

These regulations are being published in accordance with section 552 of Title 5 of the United States Code, as amended by Pub. L. 93–502 (88 Stat. 1561), and the authority contained in section 103 of the Immigration and Nationality Act (8 U.S.C. 1103), 28 CFR 0.105(b) and 8 CFR 2.1.

Compliance with the provisions of section 553 of Title 5 of the United States Code as to notice of proposed rule making and delayed effective date is unnecessary in this instance because these amendments, except for one minor amendment intended to further clarify documentary requirements to the public, are editorial in nature and are made in response to the comments received following the publication of these rules in final form on January 25, 1979 at 44 FR 5059 to implement section 3 of Pub. L. 95–417 (92 Stat. 917).

Effective date: These amendments become effective on July 1, 1980.

Dated: June 26, 1980.

David Crosland,

Acting Commissioner of Immigration and Naturalization.

[FR Doc. 80–19772 Filed 6–30–80; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 78

Brucellosis Areas

AGENCY: Animal and Plant Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: These amendments add the county of Cimarron in Oklahoma to the list of Certified Brucellosis-Free Areas and delete it from the list of Modified Certified Brucellosis Areas. It has been determined that this county qualifies to be designated as a Certified Brucellosis-Free Area. The effect of this action will allow for less restrictions on cattle moved interstate from this area. These amendments also add the county of Morovis in Puerto Rico, to the list of Modified Certified Brucellosis Areas and delete it from the list of Certified Brucellosis-Free Areas because it has been determined that this county now qualifies only as a Modified Certified Brucellosis Area. The effect of this action will provide for more restrictions on cattle and bison moved interstate from this area.

DATES: July 1, 1980.

FOR FURTHER INFORMATION CONTACT: Dr. A. D. Robb, USDA, APHIS, VS, Room 805, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–8713.

SUPPLEMENTARY INFORMATION: A complete list of brucellosis areas was published in the **Federal Register** (44 FR 76751–76754) effective December 28, 1979. These amendments update the complete list. These amendments add the county of Cimarron in Oklahoma to the list of Certified Brucellosis-Free Areas in § 78.20 and delete it from the list of Modified Certified Brucellosis Areas in § 78.21, because it has been determined that it now comes within the definition of a Certified Brucellosis-Free Area contained in § 78.1(l) of the regulations. These amendments add the county of Morovis in Puerto Rico to the list of Modified Certified Brucellosis Areas in § 78.21 and delete it from the list of Certified Brucellosis-Free Areas in § 78.20, because it has been determined that it now qualifies only as a Certified Brucellosis Area as defined in § 78.1(m) of the regulations.

PART 78—BRUCELLOSIS

Accordingly, §§ 78.20, 78.21, and 78.22 of Part 78, Title 9, Code of Federal Regulations, designating Certified Brucellosis-Free Areas, Modified Certified Brucellosis Areas, and Noncertified Areas, respectively, are revised to read as follows:

§ 78.20 Certified brucellosis-free areas.

The following states, or specified portions thereof, are hereby designated as Certified Brucellosis-Free Areas:

(a) *Entire States.*

Arizona, California, Colorado, Connecticut, Delaware, Hawaii, Iowa, Indiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Montana, Nevada, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oregon, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, Washington, West Virginia, Wisconsin, Wyoming, Virgin Islands.

(b) *Specific Counties Within States.*

Alabama. Dale, Geneva.

Arkansas. Baxter, Bradley, Columbia, Crittenden, Dallas, Drew, Fulton, Garland, Grant, Jefferson, Marion, Monroe, Montgomery, Newton, Ouachita, Stone, Union, Woodruff.

Florida. Baker, Bay, Calhoun, Citrus, Dixie, Franklin, Holmes, Jackson, Leon, Liberty, Monroe, Okaloosa, Orange, Santa Rosa, Seminole, St. Johns, Taylor, Wakulla, Walton.

Georgia. Appling, Atkinson, Bacon, Banks, Brantley, Bryan, Bulloch, Burke, Butts, Camden, Candler, Charlton, Chatham, Chattahoochee, Clarke, Clayton, Cook, Crawford, De Kalb, Echols, Effingham, Evans, Fannin, Franklin, Glascock, Glynn, Greene, Habersham, Jeff Davis, Johnson, Lanier, Laurens, Liberty, Long, McIntosh, Monroe, Peach, Rabun, Richmond, Screven, Stephens, Taylor, Toombs, Treutlen, Twiggs, Upson, Ware, Wayne, Wheeler, White, Wilkinson.

Idaho. Ada, Adams, Bannock, Bear Lake, Benewah, Bingham, Blaine, Boise, Bonner, Bonneville, Boundary, Butte, Camas, Canyon, Caribou, Clark, Clearwater, Custer, Elmore, Gem, Idaho, Kootenai, Latah, Lemhi, Lewis, Minidoka, Nez Perce, Owyhee, Payette, Power, Shoshone, Teton, Valley, Washington.

Illinois. Adams, Alexander, Bond, Boone, Brown, Bureau, Calhoun, Carroll, Cass, Champaign, Christian, Clark, Clay, Clinton, Coles, Cook, Crawford, Cumberland, DeKalb, DeWitt, Douglas, Du Page, Edgar, Edwards, Effingham, Fayette, Ford, Franklin, Fulton, Gallatin, Greene, Grundy, Hamilton, Hancock, Hardin, Henderson, Henry, Iroquois, Jackson, Jasper, Jefferson, Jersey, Johnson, Kane, Kankakee, Kendall, Knox, Lake, La Salle, Lawrence, Lee, Livingston, Logan, Macon, Macoupin, Madison, Marion, Marshall, Mason, Massac, McDonough, McHenry,

McLean, Menard, Mercer, Monroe, Montgomery, Morgan, Moultrie, Ogle, Peoria, Perry, Piatt, Pike, Pope, Pulaski, Putnam, Randolph, Richland, Rock Island, St. Clair, Saline, Sangamon, Schuyler, Scott, Shelby, Stark, Stephenson, Tazewell, Union, Vermilion, Wabash, Warren, Washington, Wayne, White, Whiteside, Will, Williamson, Winnebago, Woodford.

Kansas. Anderson, Barber, Bourbon, Brown, Chase, Chautauqua, Cherokee, Cheyenne, Clark, Clay, Coffey, Comanche, Crawford, Decatur, Dickinson, Doniphan, Douglas, Edwards, Ellsworth, Finney, Ford, Geary, Gove, Graham, Grant, Gray, Greeley, Hamilton, Harvey, Haskell, Hodgeman, Jewell, Johnson, Kearney, Kingman, Kiowa, Labette, Lane, Leavenworth, Lincoln, Logan, Marion, Marshall, Meade, Miami, Mitchell, Ness, Norton, Osage, Osborne, Pawnee, Phillips, Pottawatomie, Pratt, Rawlins, Republic, Riley, Rooks, Rush, Saline, Scott, Seward, Shawnee, Sheridan, Sherman, Smith, Stanton, Stevens, Sumner, Thomas, Trego, Wabaunsee, Wallace, Washington, Wichita, Woodson, Wyandotte.

Kentucky. Bell, Breathitt, Campbell, Clay, Floyd, Harlan, Johnson, Kenton, Knott, Knox, Lawrence, Lee, Leslie, Letcher, Lewis, Magoffin, Martin, McCreary, Menifee, Morgan, Owsley, Pendleton, Perry, Pike, Robertson, Trimble, Whitley, Wolfe.

Mississippi. Harrison.

Missouri. Audrain, Dunklin, Gasconade, Hickory, Lewis, Moniteau, Montgomery, Perry, Platte, Pulaski, St. Louis, Schuyler, Shelby.

Nebraska. Banner, Box Butte, Burt, Chase, Cheyenne, Clay, Colfax, Cuming, Dakota, Deuel, Dodge, Douglas, Dundy, Franklin, Hitchcock, Jefferson, Lancaster, Nuckolls, Perkins, Saline, Seward, Sioux, Stanton, Thayer, Thurston, Washington, Wayne.

New Mexico. Catron, Colfax, De Baca, Dona Ana, Grant, Guadalupe, Harding, Hidalgo, Lincoln, Los Alamos, Luna, McKinley, Mora, Otero, Quay, Rio Arriba, Sandoval, San Juan, San Miguel, Santa Fe, Sierra, Socorro, Taos, Torrance, Union, Valencia.

Oklahoma. Alfalfa, Cimarron, Custer, Woodward.

South Dakota. Aurora, Beadle, Bennett, Bon Homme, Brookings, Brown, Brule, Buffalo, Butte, Campbell, Charles Mix, Clark, Clay, Codington, Corson, Custer, Davison, Day, Deuel, Dewey, Douglas, Edmunds, Fall River, Grant, Gregory, Haakon, Hamlin, Hand, Hanson, Harding, Hughes, Hutchison, Hyde, Jackson, Jerauld, Kingsbury, Lake, Lawrence, Lincoln, Lyman, Marshall, McCook, McPherson, Meade, Mellette, Miner, Minnehaha, Moody, Pennington, Perkins, Potter, Roberts, Sanborn, Shannon, Spink, Sully, Todd, Tripp, Turner, Union, Walworth, Washabaugh, Yankton, Ziebach.

Tennessee. Anderson, Blount, Campbell, Carter, Claiborne, Fentress, Grainger, Greene, Hamblen, Hancock, Johnson, Knox, Lake, Lewis, Meigs, Morgan, Perry, Polk, Roane, Robertson, Scott, Sequatchie, Sevier, Sullivan, Unicoi, Union, Van Buren.

Texas. Armstrong, Bandera, Borden, Brewster, Childress, Comal, Crane, Culberson, Ector, Gillespie, Glasscock, Gray, Hansford, Hartley, Hemphill, Hudspeth, Hutchinson, Irion, Jeff Davis, Kendall, Kerr, Kimble, Lipscomb, Llano, Loving, Martin, Mason, Menard, Midland, Moore, Newton, Ochiltree, Pecos, Presidio, Reagan, Real, Roberts, Schleicher, Sherman, Sterling, Sutton, Terrell, Tom Green, Val Verde, Ward, Winkler, Yoakum.

Utah. Beaver, Cache, Carbon, Daggett, Davis, Duchesne, Emery, Grand, Iron, Juab, Kane, Millard, Morgan, Piute, Rich, Salt Lake, San Juan, Sanpete, Sevier, Summit, Tooele, Uintah, Utah, Wasatch, Washington, Wayne, Weber.

Puerto Rico. Adjuntas, Aguada, Aguadilla, Aguas Buenas, Aibonito, Anasco, Arroyo, Barceloneta, Barranquitas, Bayamon, Cabo Rojo, Caguas, Canovanas (Loiza), Catano, Cayey, Ceiba, Ciales, Cidra, Coamo, Comerio, Corozal, Culebra, Dorado, Fajardo, Guanica, Guayama, Guaynabo, Guayanilla, Hormigueros, Humacao, Jayuya, Juana Diaz, Juncos, Lajas, Lares, Las Marias, Luquillo, Manati, Maricao, Maunabo, Mayaguez, Moca, Naranjito, Orocovis, Patillas, Penuelas, Ponce, Rincon, Rio Grande, Rio Piedras, Sabana Grande, Salinas, San German, San Juan, San Lorenzo, Santa Isabel, Toa Alta, Toa Baja, Trujillo Alto, Utuado, Vega Alta, Vega Baja, Vieques, Villalba, Yabucoa, Yauco.

§ 78.21 Modified certified brucellosis areas.

The following States, or specified portions thereof, are herby designated as Modified Certified Brucellosis Areas:

(a) *Entire States.*

Alaska.

(b) *Specific Counties Within States.*

Alabama. Autauga, Baldwin, Barbour, Bibb, Blount, Bullock, Butler, Calhoun, Chambers, Cherokee, Chilton, Choctaw, Clarke, Clay, Cleburne, Coffee, Colbert, Conecuh, Coosa, Covington, Crenshaw, Cullman, Dallas, De Kalb, Elmore, Etowah, Escambia, Fayette, Franklin, Greene, Hale, Henry, Houston, Jackson, Jefferson, Lamar, Lauderdale, Lawrence, Lee, Limestone, Lowndes, Macon, Madison, Marengo, Marion, Marshall, Mobile, Monroe, Montgomery, Morgan, Perry, Pickens, Pike, Randolph, Russell, St. Clair, Shelby, Sumter, Talladega, Tallapoosa, Tuscaloosa, Walker, Washington, Wilcox, Winston.

Arkansas. Arkansas, Ashley, Benton, Boone, Calhoun, Carroll, Chicot, Clark, Clay, Cleburne, Cleveland, Conway, Craighead, Crawford, Cross, Desha, Faulkner, Franklin, Greene, Hempstead, Hot Spring, Howard, Independence, Izard, Jackson, Johnson, Lafayette, Lawrence, Lee, Lincoln, Little River, Logan, Lonoke, Madison, Miller, Mississippi, Nevada, Perry, Phillips, Pike, Poinsett, Polk, Pope, Prairie, Pulaski, Randolph, Saline, Scott, St. Francis, Searcy, Sebastian, Sevier, Sharp, Van Buren, Washington, White, Yell.

Florida. Alachua, Bradford, Brevard, Broward, Clay, Collier, Columbia, Dade, De Sota, Duval, Escambia, Flagler, Gadsden, Gilchrist, Glades, Gulf, Hamilton, Hendry, Hillsborough, Indian River, Jefferson, Lafayette, Lake, Lee, Levy, Madison, Manatee, Marion, Martin, Nassau, Osceola, Palm Beach, Pasco, Pinellas, Polk, Putnam, St. Lucie, Sarasota, Sumter, Suwanee, Union, Volusia, Washington.

Georgia. Baker, Baldwin, Barrow, Bartow, Ben Hill, Berrien, Bibb, Bleckley, Brooks, Calhoun, Carroll, Catoosa, Chattooga, Cherokee, Clay, Clinch, Cobb, Coffee, Colquitt, Columbia, Coweta, Crisp, Dade, Dawson, Decatur, Dodge, Dooly, Dougherty, Douglas, Early, Elbert, Emanuel, Fayette, Floyd, Forsyth, Fulton, Gilmer, Gordon, Grady, Gwinnett, Hall, Hancock, Haralson, Harris, Hart, Heard, Henry, Houston, Irwin, Jackson, Jasper, Jefferson, Jenkins, Jones, Lamar, Lee, Lincoln, Lowndes, Lumpkin, Macon, Madison, Marion, McDuffie, Meriwether, Miller, Mitchell, Montgomery, Morgan, Murray, Muscogee, Newton, Oconee, Oglethorpe, Paulding, Pickens, Pierce, Pike, Polk, Pulaski, Putnam, Quitman, Randolph, Rockdale, Schley, Seminole, Spalding, Stewart, Sumter, Talbot, Taliaferro, Tattnail, Telfair, Terrell, Thomas, Tift, Towns, Troups, Turner, Union, Walker, Walton, Warren, Washington, Webster, Whitfield, Wilcox, Wilkes, Worth.

Idaho. Cassia, Franklin, Fremont, Gooding, Jefferson, Jerome, Lincoln, Madison, Oneida, Twin Falls.

Illinois. Jo Daviess.

Kansas. Allen, Atchison, Barton, Butler, Cloud, Cowley, Elk, Ellis, Franklin, Greenwood, Harper, Jackson, Jefferson, Linn, Lyon, McPherson, Montgomery, Morris, Morton, Nemaha, Neosho, Ottawa, Reno, Rice, Russell, Sedgwick, Stafford, Wilson.

Kentucky. Adair, Allen, Anderson, Ballard, Barren, Bath, Boone, Bourbon, Boyd, Boyle, Bracken, Breckinridge, Bullitt, Butler, Caldwell, Calloway, Carlisle, Carroll, Carter, Casey, Christian, Clark, Clinton, Crittenden, Cumberland, Daviess, Edmonson, Elliott, Estill, Fayette, Fleming, Franklin, Fulton, Gallatin, Garrard, Grant, Graves, Grayson, Green, Greenup, Hancock, Hardin, Harrison, Hart, Henderson, Henry, Hickman, Hopkins, Jackson, Jefferson, Jessamine, Larue, Laurel, Lincoln, Livingston, Logan, Lyon, Madison, Marion, Marshall, Mason, McCracken, McLean, Meade, Mercer, Metcalfe, Monroe, Montgomery, Muhlenberg, Nelson, Nicholas, Ohio, Oldham, Owen, Powell, Pulaski, Rockcastle, Rowan, Russell, Scott, Shelby, Simpson, Spencer, Taylor, Todd, Twigg, Union, Warren, Washington, Wayne, Webster, Woodford.

Louisiana. Acadia, Allen, Ascension, Assumption, Avoyelles, Beauregard, Bienville, Bossier, Caddo, Calcasieu, Caldwell, Catahoula, Claiborne, Concordia, De Soto, East Baton Rouge, East Carroll, East Feliciana, Evangeline, Franklin, Grant, Iberia, Iberville, Jackson, Jefferson, Jefferson Davis, Lafayette, La Salle, Lincoln, Livingston, Madison, Morehouse, Natchitoches, Orleans, Ouachita, Plaquemines, Pointe Coupee, Rapides, Red River, Richland, Sabine, St. Bernard, St. Charles, St. Helena, St. James, St. John The Baptist, St. Landry, St. Martin, St. Mary, St. Tammany, Tangipahoa, Tensas, Terrebonne, Union, Vermilion, Vernon, Washington, Webster, West Baton Rouge, West Carroll, West Feliciana, Winn.

Mississippi. Adams, Alcorn, Amite, Attala, Benton, Bolivar, Calhoun, Carroll, Chickasaw, Choctaw, Claiborne, Clarke, Clay, Coahoma, Copiah, Covington, De Soto, Forrest, Franklin, George, Greene, Grenada, Hancock, Hinds, Holmes, Humphreys, Issaquena, Itawamba, Jackson, Jasper, Jefferson, Jefferson Davis, Jones, Kemper, Lafayette, Lamar, Lauderdale, Lawrence, Leake, Lee, LeFlore, Lincoln, Lowndes, Madison, Marion, Marshall, Monroe, Montgomery, Neshoba, Newton, Noxubee, Oktibbeha, Panola, Pearl River, Perry, Pike, Pontotoc, Prentiss, Quitman, Rankin, Scott, Sharkey, Simpson, Smith, Stone, Sunflower, Tallahatchie, Tate, Tippah, Tishimingo, Tunica, Union, Walthall, Warren, Washington, Wayne, Webster, Wilkinson, Winston, Yalobusha, Yazoo.

Missouri. Adair, Andrew, Atchinson, Barry, Barton, Bates, Benton, Bollinger, Boone, Buchanan, Butler, Caldwell, Callaway, Camden, Cape Girardeau, Carroll, Carter, Cass, Cedar, Chariton, Christian, Clark, Clay, Clinton, Cole, Cooper, Crawford, Dade, Dallas, Daviess, DeKalb, Dent, Douglas, Franklin, Gentry, Greene, Grundy, Harrison, Henry, Holt, Howard, Howell, Iron, Jackson, Jasper, Jefferson, Johnson, Knox, Laclede, Lafayette, Lawrence, Lincoln, Linn, Livingston, Macon, Madison, Maries, Marion, McDonald, Mercer, Miller, Mississippi, Monroe, Morgan, New Madrid, Newton, Nodaway, Oregon, Osage, Ozark, Pemiscot, Pettis, Phelps, Pike, Polk, Putnam, Ralls, Randolph, Ray, Reynolds, Ripley, St. Charles, St. Clair, St. Francois, St. Genevieve, Saline, Scotland, Scott, Shannon, Stoddard, Stone, Sullivan, Taney, Texas, Vernon, Warren, Washington, Wayne, Webster, Worth, Wright.

Nebraska. Adams, Antelope, Arthur, Blaine, Boone, Boyd, Brown, Buffalo, Butler, Cass, Cedar, Cherry, Custer, Dawes, Dawson, Dixon, Fillmore, Frontier, Furnas, Gage, Garden, Garfield, Gosper, Grant, Greeley, Hall, Hamilton, Harlan, Hayes, Holt, Hooker, Howard, Johnson, Kearney, Keith, Keya Paha, Kimball, Knox, Lincoln, Logan, Loup, Madison, McPherson, Merrick, Morrill, Nance, Nemaha, Otoe, Pawnee, Phelps, Pierce, Platte, Polk, Redwillow, Richardson, Rock, Sarpy, Saunders, Scotts Bluff, Sheridan, Sherman, Thomas, Valley, Webster, Wheeler, York.

New Mexico. Bernalillo, Chaves, Curry, Eddy, Lea, Roosevelt.

Oklahoma. Adair, Atoka, Beaver, Beckham, Blaine, Bryan, Caddo, Canadian, Carter, Cherokee, Choctaw, Cleveland, Coal, Comanche, Cotton, Craig, Creek, Delaware, Dewey, Ellis, Garfield, Garvin, Grady, Grant, Garvin, Grady, Grant, Greer, Harmon, Harper, Haskell, Hughes, Jackson, Jefferson, Johnson, Kay, Kingfisher, Kiowa, Latimer, Le Flore, Lincoln, Logan, Love, Major, Marshall, Mayes, McClain, McCurtain, McIntosh, Murray, Muskogee, Noble, Nowata, Okfuskee, Oklahoma, Okmulgee, Osage, Ottawa, Pawnee, Payne, Pittsburg, Pontotoc, Pottawatomie, Pushmataha, Roger Mills, Rogers, Seminole, Sequoyah, Stephens, Texas, Tillman, Tulsa, Wagoner, Washington, Washita, Woods.

South Dakota. Faulk, Jones, Stanley.

Tennessee. Bedford, Benton, Bledsoe, Bradley, Cannon, Carroll, Cheatham, Chester, Clay, Cocke, Coffee, Crockett, Cumberland, Davidson, Decatur, DeKalb, Dickson, Dyer, Fayette, Franklin, Gibson, Giles, Grundy, Hamilton, Hardeman, Hardin, Hawkins, Haywood, Henderson, Henry, Hickman, Houston, Humphreys, Jackson, Jefferson, Lauderdale, Lawrence, Lincoln, Loudon, Macon, Madison, Marion, Marshall, Maury, McMinn, McNairy, Monroe, Montgomery, Moore, Obion, Overton, Pickett, Putnam, Rhea, Rutherford, Shelby, Smith, Stewart, Sumner, Tipton, Trousdale, Warren, Washington, Wayne, Weakley, White, Williamson, Wilson.

Texas. Anderson, Andrews, Angelina, Aransas, Archer, Atascosa, Austin, Bailey, Bastrop, Baylor, Bee, Bell, Bexar, Blanco, Bosque, Bowie, Brazoria, Brazos, Briscoe, Brooks, Brown, Burleson, Burnet, Caldwell, Calhoun, Callahan, Cameron, Camp, Carson, Cass, Castro, Chambers, Cherokee, Clay, Cochran, Coke, Coleman, Collin, Collingsworth, Colorado, Comanche, Concho, Cooke, Coryell, Cottle, Crockett, Crosby, Dallam, Dallas, Dawson, Deaf Smith, Delta, Denton, De Witt, Dickens, Dimmitt, Donley, Duval, Eastland, Edwards, Ellis, El Paso, Erath, Falls, Fannin, Fayette, Fisher, Floyd, Foard, Fort Bend, Franklin, Freestone, Frio, Gaines, Galveston, Garza, Goliad, Gonzales, Grayson, Gregg, Grimes, Guadalupe, Hale, Hall, Hamilton, Hardeman, Hardin, Harris, Harrison, Haskell, Hays, Henderson, Hidalgo, Hill, Hockley, Hood, Hopkins, Houston, Howard, Hunt, Jack, Jackson, Jasper, Jefferson, Jim Hogg, Jim Wells, Johnson, Jones, Karnes, Kaufman, Kenedy, Kent, King, Kinney, Kleberg, Knox, Lamar, Lamb, Lampasas, La Salle, Lavaca, Lee, Leon, Liberty, Limestone, Live Oak, Lubbock, Lynn, McCulloch, McLennan, McMullen, Madison, Marion, Matagorda, Maverick, Medina, Milam, Mills, Mitchell, Montague, Montgomery, Morris, Motley, Nacogdoches, Navarro, Nolan, Nueces, Oldham, Orange, Palo Pinto, Panola, Parker, Parmer, Polk, Potter, Rains, Randall, Red River, Reeves, Rufugio, Robertson, Rockwall, Runnels, Rusk, Sabine, San Augustine, San Jacinto, San Patricio, San Saba, Scurry, Shackelford, Shelby, Smith, Somervell, Starr, Stephens, Stonewall, Swisher, Tarrant, Taylor, Terry, Throckmorton, Titus, Travis, Trinity, Tyler, Upshur, Upton, Uvalde, Van Zandt, Victoria, Walker, Waller, Washington, Webb, Wharton, Wheeler, Wichita, Wilbarger, Willacy, Williamson, Wilson, Wise, Wood, Young, Zapata, Zavala.

Utah. Box Elder, Garfield.

Puerto Rico. Arecibo, Camuy, Carolina, Gurabo, Hatillo, Isabela, Las Piedras, Morovis, Naguabo, Quebradillas, San Sebastian.

§ 78.22 Noncertified areas.

The following States, or specified portions thereof, are hereby designated as Noncertified Brucellosis Areas:

(a) *Entire States.*

Yellowstone National Park.

(b) *Specific Counties Within States.*

Florida. Charlotte, Hardee, Hernando, Highlands, Okeechobee; *Louisiana.* Cameron, Lafourche.

(Secs. 4–7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791–792, as amended; sec. 3, 33 Stat. 1265, as amended; sec. 2, 65 Stat. 693; and secs. 3 and 11, 76 Stat. 130, 132, 21 U.S.C. 111–113, 114a–1, 115, 117, 120, 121, 125, 134b, 134f; 37 FR 28464, 28477; 38 FR 19141, 9 CFR 78.25.)

These amendments designating areas as Certified Brucellosis-Free Areas relieve restrictions presently imposed on cattle moved in interstate commerce. These restrictions are no longer necessary to prevent the spread of brucellosis, and these amendments must be made effective immediately in order to permit affected persons to move cattle interstate from such areas without unnecessary restrictions.

The amendment designating an area as a Modified Certified Brucellosis Area imposes restrictions presently not imposed on cattle and bison moved from that area in interstate commerce. The restrictions are necessary in order to prevent the spread of brucellosis from such area.

Therefore, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this final rule are impracticable and contrary to the public interest and good cause is found for making this final rule effective less than 30 days after publication of this document in the **Federal Register.**

Further, this final rule has not been designated as "significant," and is being published in accordance with the emergency procedures in Executive Order 12044 and Secretary's Memorandum 1955. It has been determined by Paul Becton, Director, National Brucellosis Eradication Program, APHIS, VS, USDA, that the emergency nature of this final rule warrants publication without opportunity for public comment and preparation of an impact analysis statement at this time.

This final rule will be scheduled for review under provisions of Executive Order 12044 and Secretary's Memorandum 1955.

Done at Washington, D.C., this 26th day of June, 1980.

J. K. Atwell,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 80–19748 Filed 6–30–80; 8:45 am]

BILLING CODE 3410–34–M

FEDERAL RESERVE SYSTEM

12 CFR Part 207

[Regulation G; Docket No. R-0311]

Securities Credit by Persons Other Than Banks, Brokers or Dealers; Combined Credit for Exercising Employee Stock Options and Paying Income Taxes Incurred as a Result of Such Exercise

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final interpretation.

SUMMARY: This interpretation allows plan lenders, as defined under § 207.4 of Regulation G, who currently extend purpose credit to employees under stock option plans, to also extend credit to employees covered by the plans to pay income taxes due as a result of the exercise of such options.

EFFECTIVE DATE: July 1, 1980.

FOR FURTHER INFORMATION CONTACT: Patsy Abelle, Senior Attorney, or Michael J. Schoenfeld, Senior Securities Regulation Analyst, Securities Regulation Section, Division of Banking Supervision and Regulation, Board of Governors of the Federal Reserve System, Washington, D. C. 20551 (202–452–2781).

SUPPLEMENTARY INFORMATION: On several occasions the question has been raised under Regulation G in connection with stock option plans as to whether a loan to pay income taxes associated with the acquisition of stock under such plans would also be considered purpose credit. Since loans to pay income taxes has never been regarded as purpose credit under any of the Board's margin regulations, a problem has always existed under Regulation G because § 207.1(h) generally prohibits the extension of purpose and nonpurpose credit in excess of $5,000 to the same person when secured by the same collateral. Arguments have been presented as to the unfairness of this position for those persons with a large tax liability in connection with the exercise of stock options, especially when an employer is willing to make both loans. The problem has become particularly acute with respect to nonqualified stock option plans due to a recent Internal Revenue Service regulation, § 1.83–6(a)(2), which denies a business expense deduction to the employer, unless it withholds from the employee an amount necessary to pay the taxes due as the result of the exercise of the option. If the amount to be withheld is large and the employee is unable to borrow the funds, he may hesitate to exercise his option due to the tax complications, thus defeating the purpose of a plan.

The procedures of 5 U.S.C. 553(b) regarding notice, public comment and deferred effective date were not followed in connection with this interpretation because such rulemaking procedures do not apply to interpretative rules.

Under the Board's authority pursuant to sections 7 and 23 of the Securities Exchange Act of 1934, as amended (15 U.S.C. 78g and w), 12 CFR Part 207 is amended by adding a new § 207.111 to read as follows:

§ 207.111 Combined credit for exercising employee stock options and paying income taxes incurred as a result of such exercise.

(a) The Board of Governors has been asked whether § 207.1(h) of Regulation G prevents a lender under an employee stock option plan that meets the requirements of § 207.4(a) from extending credit to an employee to pay the income taxes incurred as a result of the exercise of the stock option, in addition to the credit to cover the purchase price of the stock.

(b) Section 207.1(h) prohibits a lender governed by Regulation G from extending purpose credit if it is secured by collateral including margin securities, which also secures any other credit to the same person in excess of $5,000. Unless credit to pay income taxes is also treated as purpose credit, it could not be extended in an amount in excess of $5,000 when the borrower also has a purpose loan outstanding with the lender, secured by margin securities, since such collateral would be deemed to be also securing the income tax loan. "Purpose credit" is defined in § 207.2(c) of the regulation as "credit which is for the purpose, whether immediate, incidental, or ultimate, of purchasing or carrying a margin security."

(c) Section 207.4(a), which provides special treatment for credit extended under employee stock option plans, was designed to encourage their use in recognition of their value in giving an employee a proprietary interest in the business. Taking a position that might discourage the exercise of options because of tax complications would conflict with the purpose of § 207.4(a).

(d) Accordingly, the Board has concluded that the combined loans for the exercise of the option and the payment of the taxes in connection therewith under plans complying with § 207.4(a) may be regarded as credit which is for the purpose of purchasing or carrying a margin security within the meaning of § 207.2(c). Since the

combined loans are treated as purpose credit, § 207.1(h) does not prohibit the transaction, irrespective of amount.

Board of Governors of the Federal Reserve System, June 25, 1980.

Griffith L. Garwood,

Deputy Secretary of the Board.

[FR Doc. 80-19769 Filed 6-30-80; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF COMMERCE

Economic Development Administration

13 CFR Parts 305 and 309

Miscellaneous Amendments to Requirements Regarding Nonrelocation and Regarding Industrial Park Projects

AGENCY: Economic Development Administration (EDA), Department of Commerce.

ACTION: Final rule.

SUMMARY: This rule makes two minor revisions to the regulation which sets forth the statutory prohibition against extending assistance to establishments relocating from one area to another. One revision affects projects involving establishments in the apparel and garment trades within the textile industry; the other affects projects indirectly involving retail establishments. This rule also revises the regulation setting forth requirements regarding industrial park projects by deleting the paragraph which prohibits such projects from benefiting one firm. The intended effect of this rule is to remove or relax certain provisions of these regulations in order to provide EDA with greater flexibility to fund those projects which hold the greatest potential for economic development.

DATES: Effective date: July 1, 1980.

FOR FURTHER INFORMATION CONTACT: James F. Marten, Assistant Chief Counsel for Field Operations, 202–377–5441.

SUPPLEMENTARY INFORMATION: This rule publishes in final certain changes made to EDA's regulations regarding the nonrelocation prohibition and program requirements for industrial park projects.

1. On April 2, 1980 (45 FR 21611), EDA published an interim rule which amended § 309.3 of EDA's regulations by deleting paragraph (f). This regulation implements the prohibition of section 202(b)(1) of EDA's basic statutory authority, the Public Works and Economic Development Act of 1965, as amended (42 U.S.C. 3121, 3142) ("PWEDA"). Under PWEDA, EDA may provide assistance for projects which will create or retain employment opportunities in economically distressed areas. Types of assistance which EDA may extend include public works grants to public and quasi-public bodies, loans and guarantees to private enterprises, and grants for planning and technical assistance. In order to ensure that the EDA assistance creates or retains jobs in a distressed area and does not result in merely transferring jobs from one area to another, section 202(b)(1) of PWEDA prohibits EDA from extending any assistance which would aid establishments in relocating from one area to another.

Prior to the change of April 2, 1980, subsection (f) of § 309.3 provided that EDA would not extend financial assistance for programs, projects, facilities, or purchases which would be used by or for "highly mobile, intensely competitive industries, such as the apparel or garment trades within the textile industry." Because of the requirement of § 309.3(f), any project involving the garment or apparel trades was ineligible for consideration for funding. With respect to other types of projects, involving other types of establishments, EDA determined whether the project would comply with section 202(b)(1) of PWEDA on a case-by-case basis.

EDA published the interim rule regarding § 309.3(f) because Congress indicated that EDA's interpretation of the nonrelocation prohibition was overbroad, at least insofar as it made projects involving the apparel and garment trades ineligible for funding simply because they involved those trades. The Chairman of the House Committee on Public Works and Transportation requested EDA to delete this categorical prohibition of any assistance which would aid the apparel and garment trades. In addition, the Chairman of the House Subcommittee on Economic Development noted during a debate on amendments to PWEDA that EDA's interpretation was no longer necessary (Cong. Rec. H 10673, November 14, 1979). In that debate, the Chairman of the Subcommittee remarked that EDA should review projects involving the apparel and garment trades in the same manner as other projects in order to retain the flexibility provided by PWEDA to fund projects which will save or generate jobs in economically distressed areas.

This final rule deletes subsection (f) of § 309.3 for the reasons noted above. As a result of this deletion, projects involving the apparel and garment trades are no longer categorically ineligible for assistance. Proposals involving such projects will be considered for funding in a manner similar to that for any other proposal. EDA will henceforth determine whether such projects violate the nonrelocation prohibition of section 202(b)(1) of PWEDA on a case-by-case basis.

2. This rule also publishes in final the revision of § 309.3(g) which was published on March 16, 1979 (44 FR 16003). That interim rule modified subsection (g) of § 309.3 to add an exception to the nonrelocation prohibition. Prior to the revision of March 16, 1979, subsection (g) denied financial assistance to any applicant or establishment which had relocated within 24 months of applying for EDA assistance or which was relocating or would relocate with the EDA assistance. Paragraphs (g) (1) through (4) of the interim regulation exempt retail stores provided that such stores have multiple outlets, are not directly aided by EDA financial assistance, are not engaging in a pattern of operations to transfer operations from one region to another, and provided that such stores will not experience a significant reduction in employment in their entire operations by participating indirectly in the EDA project. As drafted, the amendment affected only indirect beneficiaries of EDA assistance and did not apply to applicants for, or direct recipients of, EDA assistance.

This rule publishes the interim regulation in final without change. This amendment distinguishes between retail stores and manufacturing firms with respect to EDA's requirement of an assurance on past and future nonrelocation. EDA distinguishes retail stores from manufacturing firms because they are essentially different in terms of relocation activities. The principal difference is that the area served by a retail store is governed by the market area for its goods. This market area is normally local and within a labor area. Since such relocations within a labor area would not normally involve a loss in the number of job opportunities in the area, they do not fall within the scope of activities prohibited by section 202(b)(1) of PWEDA. Manufacturing firms, on the other hand, most frequently serve areas which are regional, national or international. Such firms can, and do, relocate from one labor area to another for such purposes as reducing costs of production. These relocations reduce available job opportunities in a labor area and, consequently, would violate section 202(b)(1) and act as a bar to EDA assistance.

Section 202(b)(1) of PWEDA, the statutory basis for the nonrelocation regulation, supports such a distinction. Following its prohibition of assistance which would aid establishments relocating from one area to another, section 202(b)(1) states:

Provided, however, That such limitations shall not be construed to prohibit assistance for the expansion of an existing business entity through the establishment of a new branch, affiliate, or subsidiary of such entity if the Secretary finds that the establishment of such branch, affiliate, or subsidiary will not result in an increase in unemployment of the area of original location or in any other area where such entity conducts business operations. . . . (42 U.S.C. 3142)

EDA believes that the amendment to 13 CFR 309.3 furthers the expressed intent of Congress with respect to the relationship of EDA assistance and relocation of business establishments.

3. This rule also publishes in final the change to § 305.43 made by the interim regulation of March 10, 1980 (45 FR 15173). The interim rule revised requirements regarding a type of project which EDA may fund under title I of PWEDA, public works and development facility projects which will serve industrial parks or sites owned by public entities. Prior to the interim regulation of March 10, 1980, paragraph (a)(3) of the regulation generally prohibited the extension of assistance for such projects if the project facilities would be transferred for the exclusive benefit of one user. Sub-paragraphs (i) and (ii) of § 305.43(c) allowed exceptions to this rule if the "benefit" consisted of measures to prevent soil erosion or if the project facilities would be made available to other users without the approval or consent of the single user.

EDA has determined that the limitations of § 305.43(a)(3) unnecessarily restricted EDA's flexibility in funding projects which hold the greatest potential for creating or retaining jobs. Since the provisions of § 305.43(a)(3) were based on administrative considerations which EDA now has determined to be outweighed by the need for additional flexibility, EDA is deleting § 305.43(a)(3) in this final rule. With the elimination of this paragraph, EDA will have greater flexibility in the program to fund projects which can attract or retain substantial firms to an area.

EDA has reviewed the revisions of § 309.3 and § 305.43 with respect to the requirements of Executive Order 12044 regarding improving government regulations. Under the criteria of that order for determining the "significance" of a regulation, EDA has determined that this rule is not "significant". Since this rule is not a "significant regulation", it is not subject to the procedural requirements imposed on issuing significant regulations.

In the spirit of the Executive Order, EDA published the regulations in interim form and encouraged interested individuals and organizations to submit written comments. With respect to § 305.43, EDA received 11 comments from county and regional planning organizations. All eleven comments were in support of the interim regulation as drafted. With respect to § 309.3, EDA received one comment in support of the deletion of § 309.3(f). EDA received no other significant comments concerning the revisions to § 309.3.

Accordingly, EDA amends 13 CFR § 305.43 and 13 CFR § 309.3 as follows:

PART 305—PUBLIC WORKS AND DEVELOPMENT FACILITIES PROGRAM

1. 13 CFR § 305.43(a)(3) is amended as follows:

§ 305.43 Industrial parks and sites.

(a) * * *
(1) * * *
(2) * * *
(3) [Deleted]

* * * * *

2. 13 CFR § 309.3(f) is deleted, and (g) is amended to read as follows:

PART 309—GENERAL REQUIREMENTS FOR FINANCIAL ASSISTANCE

§ 309.3 Nonrelocation

* * * * *

(f) [Deleted]

(g) EDA financial assistance is not available to any establishment or applicant which has relocated within 24 months of applying for EDA assistance or which is relocating or will relocate in the future with EDA assistance. Retail stores are exempt from this requirement provided:

(1) The retail store has multiple outlets;

(2) The retail store is not a direct recipient of EDA financial assistance;

(3) The retail store is not engaged in a pattern of operations which would result in relocating a substantial portion of its operations from one region to another; and

(4) The indirect participation by the retail store will not result in a significant reduction of employment in the retail store's entire operation.

* * * * *

(Sec. 701, Pub. L. 89-136, 79 Stat. 570 (42 U.S.C. 3211); Department of Commerce Organization Order 10-4, as amended (40 FR 56702, as amended).)

Dated: June 20, 1980.

Robert T. Hall,

Assistant Secretary for Economic Development.

[FR Doc. 80-19753 Filed 6-30-80; 8:45 am]

BILLING CODE 3510-24-M

CHRYSLER CORPORATION LOAN GUARANTEE BOARD

13 CFR Part 400

Imposition of Fees and Schedule of Fees for Specific Services; Rules of Procedure

AGENCY: Chrysler Corporation Loan Guarantee Board.

ACTION: Final rule.

SUMMARY: The Board has adopted a final regulation establishing procedures for the imposition of fees, including a schedule of fees for specific services, in connection with providing members of the public with access to and copies of Board records.

DATE: This rule is effective (June 24, 1980).

FOR FURTHER INFORMATION CONTACT: Brian M. Freeman, Executive Director and Secretary, Chrysler Corporation Loan Guarantee Board, Room 3208 Main Treasury Building, 15th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20220. Telephone Number: 202/566-5888.

SUPPLEMENTARY INFORMATION: On February 11, 1980, the Board published an interium rule establishing procedures for the imposition of fees for services in connection with providing members of the public with access to and copies of Board records (see 45 FR 8942(1980)). The rule was adopted as an interim rule because the Board, as a new agency, had no existing procedures for charging fees for such services and needed to have procedures under which it could function temporarily in providing information to members of the public. Thus, at the same time the interim rule was published, the Board invited the public to submit comments on the interim rule during a 60-day period and stated that all comments would be considered before the issuance of a final rule on the matter. No comments have been received. Accordingly, the Board has adopted the interim rule, without change, as a final rule. This final rule establishes procedures for imposing fees and sets forth a schedule of fees for duplication of records, search time for locating records, and travel and transportation expenses incurred in providing members of the public with access to the requested records of the

Board. The rule also specifies circumstances under which no fees are to be charged.

In view of the fact that the Board has adopted the interim rule without change, the Board finds for good cause that the provision of section 553 of Title 5 of the United States Code, relating to deferred effective date of final rules and regulations, is not being followed in connection with the adoption of this final rule.

Chapter IV of Title 13 of the Code of Federal Relgulations is amended such that Paragraph (g) of § 400.7 now reads as follows:

PART 400—RULES OF PROCEDURE

§ 400.7 Access to Records.

* * * * *

(g) *Fees for Services.* (1) *General.* A person requesting access to or copies to particular records shall pay the costs of searching for and copying such records. The fees indicated in this section shall be charged only for search and duplication and no fee shall be charged for determining whether an exemption can or should be asserted, deleting exempt matter being withheld from records, or monitoring a person's inspection of records.

(2) *Documents available through Government Printing Office.* While certain relevant publications are available for sale through the Government Printing Office and are made available for inspection by the Secretary of the Board, such publications are not available for sale at the offices of the Board. Persons desiring to purchase such publications should contact the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. However, copies of pages of such publications may be obtained in accordance with the schedule of fees set forth in this section.

(3) *Form of Payment.* Payment of fees shall be made by check or money order payable to the Chrysler Corporation Loan Guarantee Board.

(4) *Waiver or Reduction of Fees.* In accordance with Section 552(a)(4)(A) of Title 5 of the United States Code, documents may be furnished without charge or at a reduced charge where the Secretary of the Board determines that waiver or reduction of the fees in the public interest because furnishing the information can be considered as primarily benefiting the general public. Any request for waiver or reduction of fees shall be submitted as part of the initial request for the information involved. An appeal from denial of a request for waiver or reduction of fees shall be determined in accordance with the procedures set forth in paragraph (e) of this section.

(5) *Avoidance of Unexpected Fees.* In order to protect a person from unexpected fees, all requests for records shall state the agreement of the person to pay the fees determined in accordance with this section or state the maximum amount of fees that the person is willing to pay in connection with the request. When the fees for processing the request are estimated to exceed that limit, or when the request does not state a limit and the costs are estimated to exceed $50 and the Secretary of the Board has not then determined to waive or reduce the fees, a notice shall be sent to the person. This notice shall:

(i) Inform the person of the estimated costs;

(ii) Extend an offer to the person to confer with Board personnel in an attempt to reformulate the request in a manner that will reduce the fees and still meet the person's needs; and

(iii) Inform the person that the running of the time period, within which the Board is obliged to make a determination on the request, shall be tolled pending a reformulation of the request or the receipt of advance payment or an agreement from the person to bear the estimated costs.

(6) *Fee Schedule.* (i) *Duplication.* Fees for photocopies of material shall be charged at the rate of 10 cents for each page up to a size of 8½" by 14", except that no charge shall be imposed for copying 10 or less pages. Fees for duplicating other materials, including photographs or films, shall be charged on the basis of actual cost.

(ii) *Search Services.* Fees for the services of personnel to locate records shall be charged at the rate of $5 per hour and each portion of an hour, except that no charge shall be imposed for the first hour of search time involved for a request.

(iii) *Computer Records.* Where, because of the nature of the records requested and the manner in which records are stored, a computer search is involved, fees for such services shall be charged at a rate of $5 for each hour (and each portion of an hour) of personnel time associated with the search plus an amount that reflects the actual costs of extracting the stored information in the format in which it is normally produced, based on computer time and supplies necessary to comply with the request.

(iv) *Searches Requiring Travel or Transportation.* Fees for shipping records from one location to another, or for the transportation of personnel to the site of requested records when it is necessary to locate rather than examine the records, shall be charged at the rate of the actual cost of such shipping or transportation.

Dated: June 24, 1980.

Brian M. Freeman,

Secretary, Chrysler Corporation Loan Guarantee Board.

[FR Doc. 80-19771 Filed 6-27-80; 8:45 am]

BILLING CODE 4810-27-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket No. C-3021]

Eli Lilly and Co.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Final order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order requires, among other things, an Indianapolis, Indiana manufacturer and seller of pharmaceuticals and other chemical substances, to cease engaging in several anticompetitive practices involving the United States finished insulin industry. Additionally the order requres Eli Lilly and Co. to grant certain licenses covering its existing and future insulin-related technology to existing and prospective competitors.

DATES: Complaint and order issued April 29, 1980.[1]

FOR FURTHER INFORMATION CONTACT: Paul W. Turley, Director, 3R, Chicago Regional Office, Federal Trade Commission, 55 East Monroe St., Suite 1437, Chicago, Ill. 60603. (312) 353-4423.

SUPPLEMENTARY INFORMATION: On Friday, Sept. 21, 1979, there was published in the **Federal Register**, 44 FR 54726, a proposed consent agreement with analysis In the Matter of Eli Lilly and Company, a corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order. On Tuesday, December 18, 1979, there was published in the **Federal Register**, 44 FR 74845, a notice extending the period of time for filing comments on the consent agreement for thirty days to January 17, 1980.

Comments were filed and considered by the Commission. The Commission

[1] Copies of the Complaint and the Decision and Order filed with the original document.

has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart-Combining or Conspiring: § 13.384 Combining or conspiring; § 13.388 To control allocations and solicitation of customers; § 13.395 To control marketing practices and conditions; § 13.435 To fix prices through patent license agreements; § 13.450 To limit distribution or dealing to regular, established or acceptable channels or classes; § 13.470 To restrain or monopolize trade. Subpart-Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; § 13.533–43 Grant license(s). Subpart-Using Patents, Rights or Privileges Unlawfully: § 13.2485 Using patents, rights or privileges unlawfully.

(Sec. 6, 38 Stat. 721; (15 U.S.C. 46). Interpret or apply sec. 5, 38 Stat. 719, as amended; sec. 7, 38 Stat. 731, as amended; (15 U.S.C. 45, 18))

Carol M. Thomas,

Secretary.

[FR Doc. 80-19710 Filed 6-30-80; 8:45 am]

BILLING CODE 6750-01-M

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16 CFR Part 13

[Docket No. C-3020]

Hooper Holmes, Inc.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Final order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order requires, among other things, a Basking Ridge, N.J. firm, through its Credit Index Division, a consumer reporting and collection agency, to cease violating federal credit laws by failing to maintain reasonable procedures designed so as to ensure that reports are furnished only for lawful purposes and assure the maximum accuracy of reported information. In its role as a debt collector, the agency is required to include in collection communications prescribed notices informing consumers of their rights under federal credit laws. Consumers requesting information in their credit files have to be provided with a copy of this information. Additionally, the agency is required to mail to its subscribers, each year for a five year period, a prescribed notice informing them of their statutory obligations.

DATES: Complaint and order issued June 11, 1980.[1]

FOR FURTHER INFORMATION CONTACT: Leroy Richie, Director, 8R, New York Regional Office, Federal Trade Commission, 2243–EB Federal Bldg., 26 Federal Plaza, New York, N.Y. 10007. (212) 264–1207.

SUPPLEMENTARY INFORMATION: On Monday, April 7, 1980, there was published in the **Federal Register**, 45 FR 23466, a proposed consent agreement with analysis In the Matter of Hooper Holmes, Inc., a corporation through its Credit Index Division, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart-Coercing and Intimidating: § 13.356 Delinquent debtors. Subpart-Collecting, Assembling, Furnishing or Utilizing Consumer Reports and/or Information: § 13.382 Collecting, assembling, furnishing or utilizing consumer reports and/or information; § 13.382–1 Confidentiality, accuracy, relevancy, and proper utilization; § 13.382–1(a) Fair Credit Reporting Act; § 13.382–5 Formal regulatory and/or statutory requirements; § 13.382–5(a) Fair Credit Reporting Act. Subpart Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; § 13.533–20 Disclosures; § 13.533–37 Formal regulatory and/or statutory requirements. Subpart-Enforcing Dealings or Payments Wrongfully: § 13.1045 Enforcing dealings or payments wrongfully. Subpart-Failing To Comply With Affirmative Statutory Requirements: § 13.1048 Failing to comply with affirmative statutory requirements; § 13.1048–10 Fair Credit Reporting Act. Subpart-Neglecting, Unfairly or Deceptively, To Make Material Disclosure: § 13.1852 Formal regulatory and statutory requirements; § 13.1852–60 Fair Credit Reporting Act; § 13.1895 Scientific or other relevant facts.

(Sec. 6, 38 Stat. 721; (15 U.S.C. 46). Interpret or apply sec. 5, 38 Stat. 719, as amended; 84 Stat. 1128–36; (15 U.S.C. 1681–1681t))

Carol M. Thomas,

Secretary.

[FR Doc. 80-19711 Filed 6-30-80; 8:45 am]

BILLING CODE 6750-01-M

[1] Copies of the Complaint, and Decision and Order filed with the original document.

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16 CFR Parts 300, 301, and 303

Regulation Under Specific Acts of Congress; Amendments

AGENCY: Federal Trade Commission.

ACTION: Final rule.

SUMMARY: On May 5, 1980, an Act to amend the Wool Products Labeling Act of 1939, was approved, (Pub. L. 96–242, 94 Stat. 344). The Act defines the term "recycled wool" and directs the use of this term for labeling in lieu of the previously defined terms "reprocessed wool" and "reused wool." As a consequence, the Rules and Regulations as issued by the Federal Trade Commission under the Wool Products Labeling Act of 1939, must be amended to reflect this Congressional change in the law. Minor amendments are also needed to correct references to these terms in the Rules and Regulations issued by the Federal Trade Commission under the Fur Products Labeling Act and the Textile Fiber Products Identification Act. This notice amends all references in the regulations to "reprocessed wool" and "reused wool" to read "recycled wool."

EFFECTIVE DATE: These amendments are effective on July 4, 1980.

FOR FURTHER INFORMATION CONTACT: Earl W. Johnson, 202–724–1362, Attorney, Federal Trade Commission, Washington, D.C. 20580.

SUPPLEMENTARY INFORMATION: The Wool Products Labeling Act of 1939 (Public No. 850, 76th Cong. 3d Sess., 15 Stat. 1128, 15 U.S.C. 68 et. seq.) defined the terms "reprocessed wool" and "reused wool" and directed the use of these terms in the labeling of wool products. The Federal Trade Commission issued rules and regulations to implement this Act effective July 15, 1941 (16 CFR Part 300). Congress has recently amended the Wool Act, eliminating the two terms "reprocessed" and "reused," and defining the new term "recycled wool" to be used in their stead. (Pub. L. 96–242, 94 Stat. 344, approved May 5, 1980. The original Wool Act defined the term "reprocessed wool" as:

". . . the resulting fiber when wool has been woven or felted into a wool product

which, without ever having been utilized in any way by the ultimate consumer, subsequently has been made into a fibrous state."

The term "reused wool" was defined as:

". . . the resulting fiber when wool or reprocessed wool has been spun, woven, knitted, or felted into a wool product which after having been used in any way by the ultimate consumer, subsequently has been made into a fivbrous state."

The amendment to the Wool Act mandates the use of "recycled" in lieu of the two terms "reprocessed" and "reused" and defines "recycled wool" as:

". . . (1) the resulting fiber when wool has been woven or felted into a wool product which, without ever having been utilized in any way by the ultimate consumer, subsequently has been made into a fibrous state, or (2) the resulting fiber when wool or reprocessed wool has been spun, woven, knitted, or felted into a wool product which, after having been used in anyway by the ultimate consumer, subsequently has been made into a fibrous state."

This notice amends the affected terminology used throughout the Commission's implementing regulations issued under the Wool Act to correspond with this Congressional action.

Minor reference is made to the terms "reprocessed" and "reused", as used in the Wool Act, in rules and regulations issued by the Commission under Fur Products Labeling Act (See 16 CFR Part 301) and the Textile Fiber Products Identification Act (See CFR Part 303). The regulations under the Fur Act contain only a single reference to wool which is located in the first example under Rule 32. [16 CFR 301.32] Rule 32 permits the label of a fur product to contain additional information when required by other statutes administered by the Commission. The first example in Rule 32 illustrates the proper label for a wool coat trimmed with fur with an interlining made of "reused wool". These labeling requirements are derived from the Wool Act and the Fur Act. Thus, that section of the regulations under the Fur Act, which illustrates requirements of the Wool Act, should be amended to correspond to the new requirements of the Wool Act as amended. The regulations under the Textile Act contain, under Rule 1, *Terms Defined,* the definition of "wool," "repocessed wool" and "reused wool". [16 CFR 303.1] Thereafter, under Rule 6, *"Generic Names to Be Used",* the use of these three terms is required when a textile fiber product contains any one or more of the fibers, as defined, in an amount of five per centum or more. [16 CFR 303.6] These provisions were added to the Textile Act to obtain uniformity in terminology used to label wool fibers under both the Textile Act and the Wool Act. This uniformity should be maintained by amending these terms in the Textile Act to conform with the amendment under the Wool Act. This notice also amends these regulations to reflect the Congressional action.

It is the policy of the Federal Trade Commission to allow time for interested parties to take part in the rulemaking process including the amendment of rules. However, § 1.26(b) of Commission's rules of procedure provides an exception to this requirement if the Commission, for good cause, finds it unnecessary to the public interest and incorporates such findings and a brief statement of the reasons therefor in the rule. The amendments being made at this time are mandated by Congress. The changes are administrative in nature and not discretionary. Accordingly, the opportunity for public comment is deemed unnecessary.

Accordingly, pursuant to the authority contained in Section 6 of the Wool Products Labeling Act of 1939 (15 U.S.C. 68d.) Section 7 of the Textile Fiber Products Identification Act (15 U.S.C. 70(e).) and Section 8 of the Fur Products Labeling Act (15 U.S.C. 69(f).), the Commission gives notice of the following amendments, effective July 4, 1980:

PART 300—RULES AND REGULATIONS UNDER THE WOOL PRODUCTS LABELING ACT OF 1939

A. 16 CFR Part 300 is amended as follows:

1. Section 300.1 is amended by revising paragraph (a) as follows:

§ 300.1 Terms defined.

(a) The term "Act" means the Wool Products Labeling Act of 1939 (approved October 14, 1940, Public No. 850, 76th Congress, Third Session, 54 Stat. 1128, 15 U.S.C. 68 et. seq. as amended by Pub. L. 96–242, 94 Stat. 344).

2. Section 300.3 is amended by revising paragraph (b) as follows:

§ 300.3 Revised label information.

* * * * *

(b) In disclosing the constituent fibers in information required by the Act and regulations or in any non-required information, no fiber present in the amount of less than five percentum shall be designated by its generic name or fiber trademark but shall be designated as "other fiber," except that the percentage of wool or recycled wool shall always be stated, in accordance with Section 4(a)(2)(A) of the Act. Where more than one of such fibers, other than wool or recycled wool, are present in amounts of less than five per centum, they shall be designated in the aggregate as "other fibers." Provided, however, that nothing contained herein shall prevent the disclosure of any fiber present in the product which has a clearly established and definite functional significance where present in the amount stated and the functional significance of such fiber is clearly and non-deceptively stated on the label in conjunction with such disclosure.

3. Section 300.8 is amended by revising paragraph (a) as follows:

§ 300.8 Use of fiber trademark and generic names.

(a) Except where another name is required or permitted under the Act or regulations, the respective common generic name of the fiber shall be used when naming fibers in the required information; as for example, "wool," "recycled wool," "cotton," "rayon," "silk," "linen," "acetate," "nylon," "polyester."

* * * * *

4. Section 300.10 is amended by deleting the word "reused" in the example and substituting the word "recycled."

5. Section 300,16 is amended by deleting the word "reused" in each of the examples and substituting the word "recycled" in each place.

6. Section 300.17 is amended by revising the text as follows:

§ 300.17 Use of the term "all" or "100%."

Where the fabric or product to which the stamp, tag, label, or mark of identification applies is composed wholly of one kind of fiber, either the word "all" or the term "100%" may be used with the correct fiber name; as for example "100% Wool," "All Wool," "100% Recycled Wool," "All Recycled Wool." If any such product is composed wholly of one fiber with the exception of fiber ornamentation not exceeding 5%, such term "all" or "100%" as qualifying the name of the fiber may be used, provided it is immediately followed by the phrase "exclusive of ornamentation," or by a phrase of like meaning; such as, for example:

"All Wool—Exclusive of Ornamentation"

or

"100% Wool—Exclusive of Ornamentation."

7. Section 300.18 is amended by revising paragraph (a)l as follows:

§ 300.18 Use of name of specialty fiber.

(a) In setting forth the required fiber content of a product containing any of the specialty fibers named in Section 2(b) of the Act, the name of the specialty fiber present may be used in lieu of the word "wool," provided the percentage of each named specialty fiber is given, and provided further that the name of the specialty fiber so used is qualified by the word "recycled" when the fiber referred to is "recycled wool" as defined in the Act. The following are examples of fiber content designation permitted under this rule:

"55% Alpaca—45% Camel Hair"

"50% Recycled Camel Hair—50% Wool"

"60% Recycled Alpaca—40% Rayon"

"35% Recycled Llama—35% Recycled Vicuna—30% Cotton"

"60% Cotton—40% Recycled Llama."

* * * * * * *

8. Section 300.19 is amended by revising paragraph (a) as follows:

§ 300.19 Use of terms "mohair" and "cashmere."

(a) In setting forth the required fiber content of a product containing hair of the Angora goat known as mohair or containing hair or fleece of the Cashmere goat known as cashmere, the term "mohair" or "cashmere," respectively, may be used for such fiber in lieu of the word "wool," provided the respective percentage of each such fiber designated as "mohair" or "cashmere" is given, and provided further that such term "mohair" or "cashmere" where used is qualified by the word "recycled" when the fiber referred to is "recycled wool" as defined in the Act. The following are examples of fiber content designations permitted under this rule:

"50% Mohair—50% Wool"

"60% Recycled Mohair—40% Cashmere"

"60% Cotton—40% Recycled Cashmere."

* * * * * * *

9. Section 300.24 is amended by revising paragraph (a)(1) as follows:

§ 300.24 Lining, paddings, stiffening, trimmings and facings.

(a) * * *

(1) if such linings, trimmings or facings contain, purport to contain or are represented as containing wool, or recycled wool; or

* * * * *

10. Section 300.26 is amended by deleting the word "reused" in the second example and substituting the word "recycled."

11. Section 300.27 is amended by deleting the word "reprocessed" in the example and substituting the word "recycled."

12. Section 300.28 is amended by revising paragraphs (b), (c), (d), and (e) as follows:

§ 300.28 Undetermined quantities of reclaimed fibers.

(a) * * *

(b) Where a wool product is composed in part of wool, or recycled would and in part of unknown and, for practical purposes, undeterminable non-woolen fibers reclaimed from any spun, woven, knitted, felted, braided, bonded or otherwise manufactured or used product, the required fiber content disclosure may, when truthfully applicable, in lieu of the fiber content disclosure otherwise required by the Act and regulations, set forth (1) the percentages of wool or recycled wool, and (2) the generic names and the percentages of all other fibers whose presence is known or practically ascertainable and (3) the percentage of the unknown and undeterminable reclaimed fibers, designating such reclaimed fibers as "unknown reclaimed fibers" or "undetermined reclaimed fibers," as for example:

"75% Recycled Wool—25% Unknown Reclaimed Fibers."

"35% Recycled Wool—30% Acetate—15% Cotton—20% Undetermined Reclaimed Fibers."

In making the required fiber content disclosure any fibers referred to as "unknown reclaimed fibers" or "undetermined reclaimed fibers" shall be listed last.

(c) The terms "unknown recycled fibers" and "undetermined recyled fibers" may be used in describing the unknown and undeterminable reclaimed fibers referred to in paragraph (b) of this rule in lieu of the terms specified therein, provided, however, that the same standard is used in determining the applicability of the term "recycled" as is used in defining "recycled wool" in Section 2(c) of the Act.

(d) For purposes of this rule undetermined or unascertained amounts of wool or recycled wool may be classified and designated as recycled wool.

(e) Nothing contained in this rule shall excuse a full and accurate disclosure of fiber content with correct percentages if the same is known or practically ascertainable, or permit a deviation from the requirements of Section 4(a)(2)(A) of the Act with respect to products not labeled under the provisions of this rule or permit a higher classification of wool or recycled wool than that provided by Section 2 of the Act.

13. Section 300.29 is amended by revising paragraphs (a) and (d) as follows:

§ 300.29 Garments or products composed of or containing miscellaneous cloth scraps.

(a) * * *

(1) Where the product contains chiefly cotton as well as woolen fibers in the minimum percentage designated for recycled wool:

"Made of Miscellaneous Cloth Scraps Composed Chiefly of Cotton With Minimum of ——% Recycled Wool."

(2) Where the product contains chiefly rayon as well as woolen fibers in the minimum percentage designated for recycled wool:

"Made of Miscellaneous Cloth Scraps Composed Chiefly of Rayon With Minimum of ——% Recycled Wool."

(3) Where the product is composed chiefly of a mixture of cotton and rayon as well as woolen fibers in the minimum percentage designated for recycled wool:

"Made of Miscellaneous Cloth Scraps Composed Chiefly of Cotton and Rayon With Minimum of ——% Recycled Wool."

(4) Where the product contains chiefly woolen fibers with the balance of undetermined mixtures of cotton, rayon or other non-woolen fibers:

"Made of Miscellaneous Cloth Scraps Containing Cotton, Rayon and Other Non-Woolen Fibers, With Minimum of ——% Recycled Wool."

(b) * * *

(c) * * *

(d) For purposes of this rule, undetermined or unascertained amounts of wool or recycled wool which may be contained in the product may be classified and designated as recycled wool.

14. Section 300.31 is amended by revising paragraph (a)(1) as follows:

§ 300.31 Maintenance of records.

(a) * * *

(1) The percentage by weight of wool, recycled wool, and of each fiber other than wool, placed in the respective wool products of such manufacturer in the form of fiber, yarn, fabric or other form;

* * * * *

PART 301—RULES AND REGULATIONS UNDER FUR PRODUCTS LABELING ACT

B. 16 CFR Part 301 is amended as follows:

1. Section 301.32 is amended by deleting the word "reused" in the first example in paragraph (a) and substituting the word "recycled."

PART 303—RULES AND REGULATIONS UNDER THE TEXTILE FIBER PRODUCTS IDENTIFICATION ACT

C. 16 CFR Part 303 is amended as follows:

1. Section 303.1 is amended by deleting paragraphs (t) and (u) and adding a new paragraph (t) as follows:

§ 303.1 Terms defined.

* * * * *

(t) The term "recycled wool" means (1) the resulting fiber when wool has been woven or felted into a wool product which, without ever having been utilized in any way by the ultimate consumer, subsequently has been made into a fibrous state, or (2) the resulting fiber when wool or reprocessed wool has been spun, woven, knitted, or felted into a wool product which, after having been used in any way by the ultimate consumer, subsequently has been made into a fibrous state.

2. Section 303.6 is amended by revising paragraph (d) as follows:

§ 303.6 Generic names of fibers to be used.

* * * * *

(d) Where textile fiber products subject to the Act contain (1) wool or (2) recycled wool in amounts of five percentum or more of the total fiber weight, such fibers shall be designated and disclosed as wool or recycled wool as the case may be.

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 80-19763 Filed 6-30-80; 8:45 am]

BILLING CODE 6750-01-M

TREASURY DEPARTMENT

Customs Service

19 CFR Part 101

[T.D. 80-176]

Changes in the Customs Field Organization; General Provisions

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations to change the field organization of the Customs Service by establishing, on a 2-year experimental basis, a new Customs port of entry at Huntsville, Alabama, in the Mobile, Alabama, Customs district. The change is part of Customs continuing program to obtain more efficient use of its personnel, facilities, and resources, and to provide better service to carriers, importers, and the public.

EFFECTIVE DATE: July 30, 1980.

FOR FURTHER INFORMATION CONTACT: Richard C. Coleman, Office of Inspection, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229 (202-566-5354).

SUPPLEMENTARY INFORMATION:

Background

As part of a continuing program to obtain more efficient use of its personnel, facilities, and resources, and to provide better services to carriers, importers, and the public, Customs published a notice in the **Federal Register** on February 15, 1980 (45 FR 10365), proposing to establish, on a 2-year experimental basis, a new Customs port of entry at Huntsville, Alabama, in the Mobile, Alabama, Customs district (Region V).

Interested parties were given until April 15, 1980, to submit comments regarding this change. No comments were received.

After review of the proposal, Customs has determined to establish a new port of entry at Huntsville, Alabama, on a 2-year experimental basis. Establishing a port of entry at Huntsville will be helpful in redistributing the Customs workload from the congested Los Angeles, California, and Chicago, Illinois, ports of entry which now clear most imported merchandise destined to the Huntsville area.

Change in Customs Field Organization

Under the authority vested in the President by section 1 of the Act of August 1, 1914, 38 Stat. 623, as amended (19 U.S.C. 2), and delegated to the Secretary of the Treasury by Executive Order No. 10289, September 17, 1951 (3 CFR 1949-1953 Comp., Ch. II), and pursuant to authority provided by Treasury Department Order No. 101-5 (44 FR 31057), Huntsville, Alabama, is designated as a Customs port of entry in the Mobile, Alabama, Customs district (Region V), on a 2-year experimental basis. The geographical boundaries of the Huntsville, Alabama, district include all the territory within the counties of Limestone, Madison, Morgan, and Marshall, all in the State of Alabama.

Amendment to the Regulations

To reflect this change, the list of Customs regions, districts, and ports of entry in the Mobile, Alabama, Customs district (Region V), in § 101.3(b), Customs Regulations (19 CFR 101.3(b)), is amended by inserting "Huntsville, Ala., including the territory described in T.D. 80-176" directly below "Gulfport, Miss." in the column headed "ports of entry."

Evaluation at End of 2-Year Period

To determine whether (1) the inland port at Huntsville relieves the workload at Los Angeles and Chicago and other border ports, and (2) there is sufficient need for Customs services continuing in the area, the Huntsville port of entry is established on a 2-year basis. At the conclusion of the 2-year period, Customs will evaluate the amount of international business, continued need for Customs services in the area, and the adequacy of Customs facilities. If the extent of that business or the adequacy of the facilities fail to meet the criteria used by Customs to determine port of entry eligibility, the designation of Huntsville as a port of entry will be revoked.

Regulation Determined To Be Nonsignificant

In a directive published in the **Federal Register** on November 8, 1978 (43 FR 52120), implementing Executive Order 12044, "Improving Government Regulations," the Treasury Department stated that it considers each regulation or amendment to an existing regulation published in the **Federal Register** and codified in the Code of Federal Regulations to be "significant." However, regulations which are nonsubstantive, essentially procedural, do not materially change existing or establish new policy, and do not impose substantial additional requirements or costs on, or substantially alter the legal rights or obligations of, those affected, with Secretarial approval, may be determined not to be significant. Accordingly, it has been determined that this amendment does not meet the Treasury Department criteria in the directive for "significant" regulations.

Drafting Information

The principal authors of this document were Betty A. Stemley and Laurie Strassberg Amster, Regulations and Research Division, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

Dated: June 16, 1980.

Richard J. Davis,

Assistant Secretary of the Treasury.

[FR Doc. 80-19523 Filed 6-30-80; 8:45 am]

BILLING CODE 4810-22-M

DEPARTMENT OF LABOR

Employment Standards Administration

20 CFR Part 725

Claims for Black Lung Benefits

AGENCY: Employment Standards Administration, Labor.

ACTION: Final rule.

SUMMARY: This document extends the deadline for Part-B miner-beneficiaries to file claims for medical benefits under the Black Lung Benefits Reform Act of 1977. The new deadline is December 31, 1980. This action is being taken because according to our information there are more than 7,000 Part-B miner-beneficiaries who have not filed claims, and the Department of Labor wants to ensure that no otherwise eligible miner is deprived of the right to seek medical benefits.

DATES: This amendment is effective on July 1, 1980. Claims must be filed on or before December 31, 1980.

FOR FURTHER INFORMATION CONTACT: Ralph M. Hartman, Director, office of Workers' Compensation Programs, U.S. Department of Labor, Room S-3524, 200 Constitution Avenue, N.W., Washington, D.C. 20210, Telephone: 202-523-7503.

SUPPLEMENTARY INFORMATION: By FR Doc. No. 78-30632 dated October 24, 1978, and publshed on October 27, 1978, at 43 FR 50171, §§ 725.308(b) and 725.701A(a) of Title 20 of the Code of Federal Regulations were revised to state that claims for medical benefits filed pursuant to section 11 of the Black Lung Benefits Reform Act of 1977 (Pub. L. 95-239) must be filed by June 30, 1979, unless the period is extended for good cause shown. This period was extended to June 30, 1980 by notice published in 45 FR 27 (January 2, 1980). This document amends those sections of the regulations to provide that such claims must be filed on or before December 31, 1980.

The Department of Health, Education, and Welfare notified all part B miner-beneficiaries of their right to file claims for part C medical benefits on May 3 and 4, 1978. The time for filing claims was previously extended to June 30, 1980, because the Department of Labor had been advised that many part B miner-beneficiaries failed to file claims under section 11 of the Black Lung Benefits Reform Act of 1977 because they believe that an adverse decision on their claim for medical benefits may result in a termination of the right to continuing compenstion benefits under part B of title IV of the Act. The Social Security Administration, by letter dated March 3, 1979, notified 97,000 part B miner-beneficiaries and their continued entitlement to such benefits cannot and will not be affected in any way by a decision on the claim for part C medical benefits. There are reported to be more than 7,000 part B miner-beneficiaries who have not filed for their benefits.

To ensure that no otherwise eligible miner is deprived of the right to seek medical benefits, and because there are reported to be more than 7,000 Part B miner-beneficiaries who have not filed claims for medical benefits, I find good cause exists, and it is in the public interest in effectuating the remedial purposes of the Reform Act to amend the provisions of §§ 725.308(b) and 725.701A(a) to provide that claims for medical benefits under section 11 of the Reform Act may be filed up to and including December 31, 1980. I further find that since the current six month period will expire on or about June 30, 1980, that notice and public procedure on this amendment to the rules are contrary to the public interest.

PART 725—CLAIMS FOR BENEFITS UNDER PART C OF TITLE IV OF THE FEDERAL MINE SAFETY AND HEALTH ACT, AS AMENDED

Accordingly, 20 CFR Part 725 is amended as follows:

1. Paragraph (b) of § 725.308 is revised to read as follows:

§ 725.308 Time limits for filing claims.

* * * * *

(b) A miner who is receiving benefits under part B of title IV of the Act and who is notified by HEW of the right to seek medical benefits may file a claim for medical benefits under part C of title IV of the Act and this part. The Secretary of Health, Education, and Welfare is required to notify each miner receiving benefits under part B of this right. Notwithstanding the provisions of paragraph (a) of this section, a miner notified of his or her rights under this paragraph may file a claim under this part on or before December 31, 1980. Any claim filed after that date shall be untimely unless the time for filing has been enlarged for good cause shown.

* * * * *

2. Paragraph (a) of § 725.701A is revised to read as follows:

§ 725.701A Claims for medical benefits only under section 11 of the Reform Act.

(a) Section 11 of the Reform Act directs the Secretary of Health, Education, and Welfare to notify each miner receiving benefits under part B of title IV of the Act that he or she may file a claim for medical treatment benefits described in this subpart. Section 725.308(b) of this subpart provides that a claim for medical treatment benefits shall be filed on or before December 31, 1980, unless the period is enlarged for good cause shown. This section sets forth the rules governing the processing adjudication, and payment of claims filed under section 11.

* * * * *

(30 U.S.C. 901 *et seq.*)

Signed this 26 day of June, 1980, at Washington, D.C.

Ray Marshall,

Secretary of Labor.

[FR Doc. 80-19770 Filed 6-30-80; 8:45 am]

BILLING CODE 4510-27-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 520

Oral Dosage Form New Animal Drugs Not Subject to Certification; Piperazine Adipate Capsules

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) amends the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Carson Chemicals, Inc., providing for safe and effective use of piperazine adipate capsules in dogs and cats for removal of large roundworms.

EFFECTIVE DATE: July 1, 1980.

FOR FURTHER INFORMATION CONTACT: Bob G. Griffith, Bureau of Veterinary Medicine (HFV-112), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3430.

SUPPLEMENTARY INFORMATION: Carson Chemicals, Inc., New Castle, IN 47362, filed an NADA (118-508) providing for use of piperazine adipate capsules, in addition to its current approval for use of the powder, for removing certain large roundworms from dogs and cats. Provisions for use of Carson Chemicals' piperazine adipate powder are codified in 21 CFR 520.1801 (redesignated 21 CFR 520.1801a). This approval provides for dispensing that powder in capsules. The drug is administered by opening the

capsule and mixing the powder with the animal's feed. The conditions of use for both dosage forms are the same except for substituting a different roundworm specie (*Toxacara mystax*) for use of the capsule in cats. The agency is approving this substitution without having required the firm to demonstrate by adequate and well-controlled investigations its product's effectiveness against *T. mystax* in cats. The requirement for the investigation was waived under provision of 21 CFR 514.111(a)(5)(ii)(*a*)(*4*) on the basis that *T. mystax* is simply another roundworm species of the genus *Toxocara* found to be susceptible to piperazine salts by the National Academy of Sciences/National Research Council (NAS/NRC), Drug Efficacy Study Group in the review published in the **Federal Register** of February 14, 1969. NAS/NRC omitted *T. mystax as* an acceptable claim only because none of the products reviewed happend to be labeled for this particular species. Additionally, the firm has submitted literature citations supporting the drug's effectiveness against *T. mystax*. Accordingly, the regulations are amende to add provisions for use of the additional dosage form.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))), under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 520 is amended by redesignating the existing § 520.1801 as § 520.1801a, by adding a new § 520.1801 and § 520.1801b to read as follows:

§ 520.1801 Piperazine adipate oral dosage forms.

§ 520.1801a Piperazine adipate powder.

* * * * *

§ 520.1801b Piperazine adipate capsules.

(a)(1) *Specifications.* Each capsule contains 324 milligrams of piperazine adipate (equivalent to 120 milligrams piperazine base).

(2) *Sponsor.* See 011769 in § 510.600(c) of this chapter.

(3) *Special considerations.* Consult your veterinarian for assistance in the diagnosis, treatment, and control of parasitism.

(4) *Conditions of use*—(i) *Amount.* 24 milligrams of piperazine base per pound of body weight.

(ii) *Indications for use*—(*a*) *Dogs.* Removal of large roundworms (*Toxocara canis* and *Toxascaris leonina*).

(*b*) *Cats.* Removal of large roundworms (*Toxocara mystax* and *Toxascaris leonina*).

(iii) *Limitations.* Administer orally by mixing contents of the capsule(s) with ½ of the regular feed. Repeat treatment in 10 to 20 days to remove immature roundworms which may have entered the intestines from the lungs after the first dose. Laboratory fecal examinations should always be done to determine the need for treatment. Never worm a sick animal.

(b) [Reserved]

Effective date. This regulation shall be effective July 1, 1980.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)).)

Dated: June 20, 1980.

Terence Harvey,

Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 80-19758 Filed 6-30-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 1220

[Docket No. 80N-185]

Regulations Under the Tea Importation Act; Tea Standards

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document establishes tea standards for the year beginning May 1, 1980, and ending April 30, 1981. The tea standards are provided for under the Tea Importation Act.

DATES: Effective July 1, 1980; comments by July 31, 1980.

FOR FURTHER INFORMATION CONTACT: John C. Taylor, Bureau of Foods (HFF-310), Food and Drug Administration, 200 C St. SW., Washington , D.C. 20204, 202-245-1186.

SUPPLEMENTARY INFORMATION: This amendment is based on the recommendation of the Board of Tea Experts, which is comprised of ten experts drawn from the Food and Drug Administration and the tea trade, who are representative of the trade as a whole. By law the tea standards are to be revised annually effective May 1. Because this date has passed, FDA has concluded that use of notice and public procedure on this regulation is impracticable and that good cause exists under 5 U.S.C. 533(b)(2)(B) to issue this regulation as a final rule, effective immediately. FDA is offering interested persons the opportunity to submit comments by July 31, 1980 to determine whether the regulation should be modified or revoked. If any action is to be taken on the basis of the comments, FDA will publish a notice in the **Federal Register** discussing the comments and announcing the action it determines to be necessary.

The agency has determined pursuant to 21 CFR 25.24(b)(13)(proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Therefore, under the authority vested in the Secretary of Health and Human Services by the Tea Importation Act (secs. 3, 10, 29 Stat. 605, 607, 41 Stat. 712, 54 Stat. 1237, 67 Stat. 631 (21 U.S.C. 43, 50)) and delegated to the Commissioner of Food and Drugs (21 CFR 5.1), the regulations for the enforcement of the act under Part 1220 (21 CFR Part 1220) are amended by revising § 1220.40(a) to read as follows:

§ 1220.40 Tea standards.

(a) Samples for standards of the following teas, prepared, identified, and submitted by the Board of Tea Experts on March 1, 1980, are hereby fixed and established as the standards of purity, quality, and fitness for consumption under the Tea Importantion Act for the year beginning May 1, 1980, and ending April 30, 1981:

(1) Formosa Ooling.

(2) Black Tea (to be used for all black teas except those from China and Formosa.).

(3) Black tea (to be used for all black teas from China and Formosa).

(4) Green Tea.

(5) Canton Oolong (to be used for all Canton types from Formosa and China).

(6) Scented Black Tea.

(7) Spiced Tea.

There standards apply to tea shipped from abroad on or after May 1, 1980. Tea shipped prior to May 1, 1980 will be governed by the standards that became effective May 1, 1979.

* * * * *

Effective: July 1, 1980.

(Secs. 3, 10, 29 Stat. 605, 607, 41 Stat. 712, 54 Stat. 1237, 67 Stat. 631 (21 U.S.C. 43, 50).)

Dated: June 23, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-19760 Filed 6-30-80; 8:45 am]

BILLING CODE 4110-03-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Parts 1304 and 1306

Records and Reports of Registrants; Central Recordkeeping Permits

AGENCY: Drug Enforcement Administration.

ACTION: Final rule.

SUMMARY: This rule amends § 1304.04(a) of Title 21 of the Code of Federal Regulations by eliminating Central Recordkeeping Permits but still provides a means whereby qualified registrants will be able to keep certain required records at a central location. The amendment will establish a simplified notification system in lieu of requiring a central recordkeeping permit necessary under current regulations.

EFFECTIVE DATE: July 1, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Ronald W. Buzzeo, Chief, Compliance Division, Office of Compliance and Regulatory Affairs, Drug Enforcement Administration, 1405 I Street, Northwest, Washington, D.C. 20537, Telephone Number (202) 633-1321.

SUPPLEMENTARY INFORMATION: On April 3, 1980, the Administrator of the Drug Enforcement Administration issued a Notice of Proposed Rulemaking (45 FR 24198, April 9, 1980) which would eliminate the requirement for a Central Recordkeeping Permit and substitute a simplified notification system whereby qualified registrants would be able to keep certain required records at a central location.

The Notice requested that responsive comments and objections be submitted to DEA on or before May 12, 1980.

Comments were received from the American Pharmaceutical Association and the Wisconsin Pharmacy Examining Board in support of the proposal. The APhA suggested that the 48 hour delivery requirement be amended to two working days to allow for holidays and weekends. This suggestion was accepted and has been incorporated into the Final Rule.

No other comments or suggestions were received nor were there any requests for a hearing.

Therefore, pursuant to the authority vested in the Attorney General by 21 U.S.C. 821 and 871(b) as delegated by 28 CFR 0.100 to the Administrator of the Drug Enforcement Administration, the Administrator hereby orders that Parts 1304 and 1306 of Title 21 of the Code of Federal Regulations be amended as follows:

PART 1304—RECORDS AND REPORTS OF REGISTRANTS

Section 1304.04 (b), (c), and (d) are redesignated as (f), (g), and (h); (a) is revised and new (b), (c), and (d), are added to read as follows:

§ 1304.04 Maintenance of records and inventories.

(a) Every inventory and other records required to be kept under this Part shall be kept by the registrant and be available, for at least 2 years from the date of such inventory or records, for inspection and copying by authorized employees of the Administration, except that financial and shipping records (such as invoices and packing slips but not excuted order forms subject to paragraph 1305.13 of this chapter) may be kept at a central location, rather than at the registered location, if the registrant has notified the Administration of his intention to keep central records. Written notification must be submitted by registered or certified mail, return receipt requested, in triplicate, to the Regional Director of the Administration in the region in which the registrant is located. Unless the registrant is informed by the Regional Director that permission to keep central records is denied, the registrant may maintain central records commencing 14 days after receipt of his notification by the Regional Director.

All notifications must include:

(1) The nature of the records to be kept centrally.

(2) The exact location where the records will be kept.

(3) The name, address, DEA registration number and type of DEA registration of the registrant whose records are being maintained centrally.

(4) Whether central records will be maintained in a manual, or computer readable form.

(b) All registrants that are authorized to maintain a central recordkeeping system shall be subject to the following conditions:

(1) The records to be maintained at the central record location shall not include executed order forms, prescriptions and/or inventories which shall be maintained at each registered location.

(2) If the records are kept on microfilm, computer media or in any form requiring special equipment to render the records easily readable, the registrant shall provide access to such equipment with the records. If any code system is used (other than pricing information), a key to the code shall be provided to make the records understandable.

(3) The registrant agrees to deliver all or any part of such records to the registered location within two business days upon receipt of a written request from the Administration for such records, and if the Administration chooses to do so in lieu of requiring delivery of such records to the registered location, to allow authorized employees of the Administration to inspect such records at the central location upon request by such employees without a warrant of any kind.

(4) In the event that a registrant fails to comply with these conditions, the Regional Director may cancel such central recordkeeping authorization, and all other central recordkeeping authorizations held by the registrant without a hearing or other procedures. In the event of a cancellation of central recordkeeping authorizations under this sub-paragraph the registrant shall, within the time specified by the Regional Director, comply with the requirements of this section that all records be kept at the registered location.

(c) Registrants need not notify the Regional Director or obtain central recordkeeping approval in order to maintain records on an in-house computer system.

(d) ARCOS participants who desire authorization to report from other than their registered locations must obtain a separate central reporting identifier. Request for central reporting identifiers will be submitted to: ARCOS Unit, P.O. Box 28293, Central Station, Washington, D.C. 20005.

(e) All central recordkeeping permits previously issued by the Administration will expire on September 30, 1980. Registrants who desire to continue maintaining central records will make notification to the local Regional Director as provided in (a) above.

PART 1306—PRESCRIPTIONS

§ 1306.22 [Deleted]

Section 1306.22(d) is hereby deleted.

Dated: June 17, 1980.

Peter B. Bensinger,

Administrator.

[FR Doc. 80-19777 Filed 6-30-80; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Parts 841 and 860

[Docket No. R-80-830]

Public Housing Program; Development Phase and Income Limits With Respect to Admission to and Occupancy of Low-Income Housing Owned by Public Housing Agencies or Leased by Public Housing Agencies From Private Owners

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Final rule.

SUMMARY: The purpose of this Amendment is to transfer the Department's regulation pertaining to residency requirements and preferences in the Low-Income Public Housing Program from Part 841, which governs public housing development to Part 860, Subpart B, which governs program operations and policies, including public housing tenant selection criteria. This provision clarifies that Public Housing Agencies (PHAs) operating low-income public housing may establish residency requirements and preferences for admission to the program, provided that such requirements are not based on the identity or location of the housing, or duration of residency in the community.

EFFECTIVE DATE: August 26, 1980.

FOR FURTHER INFORMATION CONTACT: Edward C. Whipple, Chief, Rental and Occupancy Branch, 451 7th Street, S.W., Washington, D.C. 20410, (202) 755-5840. (This is not a toll free number.)

SUPPLEMENTARY INFORMATION: The purpose of this amendment is to transfer the Department's regulation pertaining to residency requirements and preferences in the public housing program to the appropriate part of the regulations which governs program operations and policies. This amendment merely involves the transfer and redesignation of a provision that currently appears as 24 CFR 841.115(c)(5), to 24 CFR 860.204(e). Since this does not result in a change to the current HUD policy, the Department has determined that it is not necessary to publish this amendment for comment. A Finding of Inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. A copy of the Finding of Inapplicability will be available for public inspection during regular business hours at the Office of the Rules Docket Clerk, Office of the General Counsel, Room 5218, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410.

This rule is not listed in the Department's semiannual agenda of significant rules, published pursuant to Executive Order 12044.

Accordingly, 24 CFR, Chapter VIII is amended as follows:

(1) Section 841.115(c)(5) is transferred to 24 CFR, Part 860 and redesignated as § 860.204(e). Paragraph (c)(5) at 24 CFR 841.115 is vacated and reserved.

§ 841.115 Development program.

* * * * *

(c) * * *

(5) [Reserved]

* * * * *

(2) Section 860.204(e) is revised to read:

§ 860.204 PHA tenant selection policies.

* * * * *

(e) Requirements or preferences for those living in the jurisdiction of the PHA at the time of application are permissible subject to the following: No requirement or preference may be based upon the identity or location of the housing which is occupied or proposed to be occupied by the applicant nor upon the length of time the applicant has resided in the jurisdiction; applicants who are working or who have been notified that they are hired to work in the jurisdiction shall be treated as residents of the jurisdiction.

(Sec. 7(d)), Department of Housing and Urban Development Act, 42 U.S.C. 3536(d); Sections 8 and 10(b), United States Housing Act of 1937, 42 U.S.C. 1408 and 1410(b); and Section 101 of the Housing and Community Development Act of 1974, 42 U.S.C. 5301.

Issued at Washington, D.C., May 30, 1980.

Lawrence B. Simons,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 80-19747 Filed 6-30-80; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF JUSTICE

28 CFR Part 0

[Order No. 898-80]

Delegation of Authority to the Drug Enforcement Administration To Release Seized Property Without Initiating Forfeiture Proceedings

AGENCY: Department of Justice.

ACTION: Final order.

SUMMARY: Existing Department of Justice regulations on the remission or mitigation of civil forfeitures insure that innocent owners, and innocent secured parties, of seized property will be granted executive relief from forfeiture (28 CFR Part 9). Nevertheless, these innocent parties frequently lose the use of their property for significant periods of time pending completion of formal proceedings. Their property, particularly vehicles, often depreciates rapidly during this period. Moreover, the United States must devote substantial resources to the forfeiture and remission process. All this is undesirable when the facts at the time of seizure clearly demonstrate that the owners will ultimately be relieved of any forfeiture.

This final order delegates authority to the Administrator of the Drug Enforcement Administration to develop and implement a procedure to release property seized under the Controlled Substances Act, when the Administrator, in his discretion, determines it is not in the interests of justice to initiate forfeiture proceedings against the property. This authority extends to all property seized for forfeiture under the Controlled Substances Act. It is independent of the remission and mitigation process contained in 28 CFR Part 9, and vests in the Administrator the discretion to release property to any innocent party having an immediate right to possession of the property.

EFFECTIVE DATE: June 23, 1980.

FOR FURTHER INFORMATION CONTACT: William M. Lenck, Chief Counsel, Drug Enforcement Administration, Department of Justice, Washington, D.C. 20537, (202-633-1276).

By virtue of the authority vested in me by 28 U.S.C. 509, 510 and 21 U.S.C. 881(d) § 0.101 of Part 0 of Title 28, Code of Federal Regulations, is amended by adding at the end of the section the following new paragraph:

* * * * *

"(c) The development and implementation of a procedure to release property seized under Section 511 of the Controlled Substances Act (21

U.S.C. 881) to any innocent party having an immediate right to possession of the property, when the Administrator, in his discretion, determines it is not in the interests of justice to initiate forfeiture proceedings against the property."

Dated: June 23, 1980.

Benjamin R. Civiletti,

Attorney General.

[FR Doc. 80-19737 Filed 6-30-80; 8:45 am]

BILLING CODE 4410-01-M

Attorney General

28 CFR Part 55

[Order No. 901-80]

Implementation of the Provisions of the Voting Rights Act Regarding Language Minority Groups; Interpretative Guidelines; Technical Amendments to Appendix

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: The Appendix to 28 CFR Part 55 lists those jurisdictions covered under sections 4(f)(4) and 203(c) of the Voting Rights Act of 1965, as amended by the Voting Rights Act Amendments of 1975. This Appendix is reprinted below with technical amendments correcting errors and incorporating changes made by 44 FR 43719 (July 26, 1979).

EFFECTIVE DATE: June 26, 1980.

FOR FURTHER INFORMATION CONTACT: David H. Hunter, Attorney, Voting Section, Civil Rights Division, Department of Justice, Washington, D.C. 20530 (202-724-7189).

SUPPLEMENTARY INFORMATION: This rule makes no change in the coverage of any jurisdiction under the minority language provisions of the Voting Rights Act. The listings in the Appendix for the following jurisdictions have been corrected or updated: Greenlee County, Arizona; Hawaii County, Hawaii; Maui County, Hawaii; Cyde Township (Allegan County), Michigan, San Miguel County, New Mexico; Choctaw County, Oklahoma; McCurtain County, Oklahoma; Todd County, South Dakota; the State of Texas; Wharton County, Texas, and Zavala County, Texas.

By virtue of the authority vested in me by 5 U.S.C. 301, 28 U.S.C. 509, 510, and Pub. L. 94-73, the Appendix to Part 55 of Chapter 1 of Title 28, Code of Federal Regulations, is revised to read as set forth below.

Dated: June 26, 1980.

Benjamin R. Civiletti,

Attorney General.

Appendix—*Jurisdictions covered under secs. 4(f)(4) and 203(c) of the Voting Rights Act of 1965, as amended by the Voting Rights Act Amendments of 1975*

| Applicable language minority group(s)

Jurisdiction	Coverage under sec. 4(f)(4)	Coverage under sec. 203(c)
Alaska	Alaskan Natives	
Election District 1		Alaskan Natives.
Election District 2		Do.
Election District 3		Do.
Election District 4		Do.
Election District 5		Do.
Election District 13		Do.
Election District 14		Do.
Election District 15		Do.
Election District 16		Do.
Election District 17		Alaskan Natives.
Election District 18		Alaskan Natives.
Election District 19		Do.
Election District 21		Do.
Election District 22		Do.
Arizona	Spanish heritage.	
Apache County	American Indian.	Spanish heritage, American Indian.
Cochise County		Spanish heritage.
Coconino County	American Indian.	American Indian, Spanish heritage.
Gila County		Do.
Graham County		Do.
Greenlee County		Spanish heritage.
Maricopa County		Do.
Mohave County		Do.
Navajo County	American Indian.	American Indian, Spanish heritage.
Pima County		Spanish heritage.
Pinal County	American Indian.	American Indian, Spanish heritage.
Santa Cruz County		Spanish heritage.
Yavapai County		Do.
Yuma County		Do.
California:		
Alameda County		Do.
Amador County		Do.
Colusa County		Do.
Contra Costa County		Do.
Fresno County		Do.
Imperial County		Do.
Inyo County		American Indian.
Kern County		Spanish heritage.
Kings County	Spanish heritage.	Do.
Lassen County		Do.
Los Angeles County		Do.
Madera County		Do.
Merced County	Spanish heritage.	Do.
Monterey County		Do.
Napa County		Do.
Orange County		Do.
Placer County		Do.
Riverside County		Do.
Sacramento County		Do.
San Benito County		Do.
San Bernardino County		Do.
San Diego County		Do.
San Francisco County		Spanish heritage, Chinese American.
San Joaquin County		Spanish heritage.
San Luis Obispo County		Do.
San Mateo County		Do.
Santa Barbara County		Do.
Santa Clara County		Do.
Santa Cruz County		Do.
Sierra County		Do.
Solano County		Do.
Sonoma County		Do.
Stanislaus County		Do.
Sutter County		Do.
Tulare County		Do.
Tuolumne County		Do.
Ventura County		Do.
Yolo County		Do.
Yuba County	Spanish heritage.	Do.
Colorado:		
Adams County		Do.
Alamosa County		Do.
Archuleta County		Do.
Bent County		Do.
Boulder County		Do.
Chaffee County		Do.
Clear Creek County		Do.
Conejos County		Do.
Costilla County		Do.
Crowley County		Do.
Delta County		Do.
Denver County		Do.
Eagle County		Do.
El Paso County	Spanish heritage.	Do.
Fremont County		Do.
Huerfano County		Do.
Jackson County		Do.
Lake County		Do.
La Plata County		Do.
Las Animas County		Do.
Mesa County		Do.
Moffat County		Do.
Montezuma County		Spanish heritage, American Indian.
Montrose County		Spanish heritage.
Morgan County		Do.
Otero County		Do.
Prowers County		Do.
Pueblo County		Do.
Rio Grande County		Do.
Saguache County		Do.
San Juan County		Do.
San Miguel County		Do.
Sedgwick County		Do.
Weld County		Do.
Connecticut:		
Bridgeport Town (Fairfield County).		Do.
Florida:		
Collier County	Spanish heritage.	Do.
Dade County		Do.
Glades County		American Indian.
Hardee County	Spanish heritage.	Spanish Heritage.
Hendry County	do	Do.
Hillsborough County	do	Do.
Monroe County	do	Do.
Hawaii:		
Hawaii County	Spanish	Filipino American, Japanese American.
Honolulu County		Chinese American, Filipino American.
Kauai County		Filipino American, Japanese American.
Maui County		Filipino American.
Idaho:		
Bingham County		American Indian.
Cassia County		Spanish heritage.
Kansas:		
Finney County		Do.
Grant County		Do.
Wichita County		Do.
Louisiana:		
St. Bernard Parish		Do.
Maine:		
Passamaquoddy Pleasant Point Indian Reservation (Washington County).		American Indian.

Appendix—*Jurisdictions covered under secs. 4(f)(4) and 203(c) of the Voting Rights Act of 1965, as amended by the Voting Rights Act Amendments of 1975*—Continued

Jurisdiction	Coverage under sec. 4(f)(4)	Coverage under sec. 203(c)
	[Applicable language minority group(s)]	
Michigan:		
Clyde Township (Allegan County)	Spanish heritage.	
Orangeville Township (Barry County)		Spanish heritage.
Sugar Island Township (Chippewa County)		American Indian.
Imlay Township (Lapeer County)		Spanish heritage.
Adrian City (Lenawee County)		Do.
Madison Township (Lenawee County)		Do.
Grant Township (Newaygo County)		Do.
Buena Vista Township (Saginaw County)	Spanish heritage.	Do.
Saginaw City (Saginaw County)		Do.
Minnesota:		
Beltrami County		American Indian.
Cass County		Do.
Mississippi:		
Neshoba County		Do.
Montana:		
Blaine County		Do.
Glacier County		Do.
Hill County		Do.
Lake County		Do.
Roosevelt County		Do.
Rosebud County		Do.
Valley County		Do.
Nebraska:		
Scotts Bluff County		Spanish heritage.
Turuston County		American Indian.
Nevada:		
Elko County		Spanish heritage, American Indian.
Mineral County		American Indian.
Nye County		Spanish heritage.
White Pine County		Do.
New Mexico:		
Bernalillo County		Do.
Catron County		Do.
Chaves County		Do.
Colfax County		Do.
Curry County		Do.
De Baca County		Do.
Dona Ana County		Do.
Eddy County		Do.
Grant County		Do.
Guadalupe County		Do.
Harding County		Do.
Hidalgo County		Do.
Lea County		Do.
Lincoln County		Do.
Los Alamos County		Do.
Luna County		Do.
McKinley County		American Indian, Spanish heritage.
Mora County		Spanish heritage.
Otero County		Do.
Quay County		Do.
Rio Arriba County		American Indian, Spanish heritage.
Roosevelt County		Spanish heritage.
Sandoval County		American Indian, Spanish heritage.
San Juan County		Do.
San Miguel County		Spanish heritage.
Santa Fe County		Do.
Sierra County		Do.
Socorro County		Do.
Taos County		American Indian, Spanish heritage.
Torrance County		Spanish heritage.
Union County		Do.
Valencia County		American Indian, Spanish heritage.
New York:		
Bronx County	Spanish heritage.	Spanish heritage.
Kings County	do.	Do.
New York County		Do.
North Carolina:		
Hoke County		American Indian.
Jackson County	American Indian.	Do.
Robeson County		Do.
Swain County		Do.
North Dakota:		
Benson County		Do.
Dunn County		Do.
McKenzie County		Do.
Mountrail County		Do.
Rolette County		Do.
Oklahoma:		
Adair County		Do.
Blaine County		Do.
Caddo County		Do.
Cherokee County		Do.
Choctaw County		Do.
Coal County		Do.
Craig County		Do.
Delaware County		Do.
Harmon County		Spanish heritage.
Hughes County		American Indian.
Johnston County		Do.
Latimer County		Do.
McCurtain County		Do.
McIntosh County		Do.
Mayers County		Do.
Okfuskee County		Do.
Okmulgee County		Do.
Osage County		Do.
Ottawa County		Do.
Pawnee County		Do.
Pushmataha County		Do.
Rogers County		Do.
Seminole County		Do.
Sequoyah County		Do.
Tilman County		Spanish heritage.
Oregon:		
Jefferson County		American Indian.
Malheur County		Spanish heritage.
South Dakota:		
Bennett County		American Indian.
Charles Mix County		Do.
Carson County		Do.
Lyman County		Do.
Millette County		Do.
Shannon County	American Indian.	
Washabaugh County		Do.
Todd County	American County.	
Texas	Spanish heritage[1].	
Andrews County		American Indian.
Aransas County		Do.
Atascosa County		Do.
Bailey County		Do.
Bandera County		Do.
Bastrop County		Do.
Bee County		Do.
Bell County		Do.
Bexar County		
Blanco County		Do.
Borden County		Do.
Brazoria County		Do.
Brazos County		Do.
Brewster County		Do.
Briscoe County		Do.
Brooks County		Do.
Burleson County		Do.
Burnet County		Do.
Caldwell County		Do.
Calhoun County		Do.
Cameron County		Do.
Castro County		Do.
Cochran County		Do.
Coke County		Do.
Colorado County		Do.
Comal County		Do.
Concho County		Do.
Coryell County		Do.
Cottle County		Do.
Crane County		Do.
Crockett County		Do.
Crosby County		Do.
Culberson County		Do.
Dallam County		Do.
Dawson County		Do.
Deaf Smith County		Do.
De Witt County		Do.
Dickens County		Do.
Dimmit County		Do.
Duval County		Do.
Ector County		Do.
Edwards County		Do.
Ellis County		Do.
El Paso County		Do.
Falls County		Do.
Fisher County		Do.
Floyd County		Do.
Foard County		Do.
Fort Bend County		Do.
Frio County		Do.
Gaines County		Do.
Galveston County		Do.
Garza County		Do.
Gillespie County		Do.
Glasscock County		Do.
Goliad County		Do.
Gonzales County		Do.
Grimes County		Do.
Guadalupe County		Do.
Hale County		Do.
Hall County		Do.
Hansford County		Do.
Harris County		Do.
Haskell County		Do.
Hays County		Do.
Hidalgo County		Do.
Hockley County		Do.
Howard County		Do.
Hudspeth County		Do.
Jackson County		Do.
Jeff Davis County		Do.
Jim Hogg County		Do.
Jim Wells County		Do.
Jones County		Do.
Karnes County		Do.
Kendall County		Do.
Kenedy County		Do.
Kerr County		Do.
Kimble County		Do.
Kinney County		Do.
Kleberg County		Do.
Knox County		Do.
Lamb County		Do.
Lampasas County		Do.
La Salle County		Do.
Live Oak County		Do.
Lubbock County		Do.
Lynn County		Do.
McCulloch County		Do.
McLennan County		Do.
McMullen County		Do.
Madison County		Do.
Martin County		Do.
Mason County		Do.
Matagorda County		Do.
Maverick County		Do.
Medina County		Do.
Menard County		Do.
Midland County		Do.
Milam County		Do.
Mitchell County		Do.
Moore County		Do.

Appendix—*Jurisdictions covered under secs. 4(f)(4) and 203(c) of the Voting Rights Act of 1965, as amended by the Voting Rights Act Amendments of 1975*—Continued

[Applicable language minority group(s)]

Jurisdiction	Coverage under sec. 4(f)(4)	Coverage under sec. 203(c)
Nolan County		Do.
Nueces County		Do.
Parmer County		Do.
Pecos County		Do.
Potter County		Do.
Presidio County		Do.
Reagan County		Do.
Real County		Do.
Reeves County		Do.
Refugio County		Do.
Robertson County		Do.
Runnels County		Do.
San Patricio County		Do.
San Saba County		Do.
Schleicher County		Do.
Scurry County		Do.
Sherman County		Do.
Starr County		Do.
Sterling County		Do.
Sutton County		Do.
Swisher County		Do.
Taylor County		Do.
Terrell County		Do.
Terry County		Do.
Throckmorton County		Do.
Tom Green County		Do.
Travis County		Do.
Upton county		Do.
Uvalde County		Do.
Val Verde County		Do.
Victoria County		Do.
Ward County		Do.
Webb County		Do.
Wharton County		Do.
Willacy County		Do.
Williamson County		Do.
Wilson County		Do.
Winkler County		Do.
Yoakum County		Do.
Zapata County		Do.
Zavala County		Do.
Utah:		
Carbon County		Do.
San Juan County		American Indian.
Tooele County		Spanish heritage.
Uintah County		American Indian.
Virginia: Charles City County		Do.
Washington:		
Adams County		Spanish heritage.
Columbia County		Do.
Grant County		Do.
Okanogan County		American Indian.
Yakima County		Spanish heritage.
Wisconsin:		
Nashville Town (Forest County)		American Indian.
Bovina Town (Outagamie County)		Spanish heritage.
Oneida Town (Outagamie County)		American Indian.
Hayward City (Sawyer County)		Do.
Wyoming:		
Carbon County		Spanish heritage.
Fremont County		American Indian.
Laramie County		Spanish heritage.
Sweetwater County		Do.
Washakie County		Do.

[1] Statewide coverage.

[Order No. 655–76, 41 FR 29998, July 20, 1976, as amended by Order No. 733–77, 42 FR 35971, July 13, 1977]

[FR Doc. 80–19756 Filed 6–30–80; 8:45 am]

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POSTAL SERVICE

39 CFR Parts 265, 266, and 268

Miscellaneous Modifications

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: This final rule makes certain minor or clarifying modifications to the regulations which define Postal Service policy for its Records and Information Management Program. No change in policy concepts is reflected by these modifications.

EFFECTIVE DATE: July 1, 1980.

ADDRESS: USPS Records Officer, U.S. Postal Service, Washington, DC 20260.

FOR FURTHER INFORMATION CONTACT: A. Scott Hamel, (202) 245–4142.

SUPPLEMENTARY INFORMATION: The following modifications do not alter the basic concepts or thrust of Postal Service Policy in the area of records and information management, but rather, are clarifications of existing policy.

The modifications to Part 265—Release of Information—reflect editorial changes; delete procedural information for sake of consistency; revise longstanding fees to reflect current labor and administrative costs; and include the price of the Public Index.

The modifications to Part 266—Privacy of Information—reflect editorial changes which clarify existing policy and responsibilities. The modifications to Part 268—Privacy of Information—Employee Rules of Conduct—reflect editorial changes which clarify existing policy and responsibilities.

Accordingly, 39 CFR is amended as follows:

PART 265—RELEASE OF INFORMATION

§ 265.2 [Amended]

1. In § 265.2, paragraph (a) is amended by striking out the word "exceptions" and inserting the word "exemptions" in lieu thereof; and paragraph (b) is amended by striking out the words "should be" in the second sentence and inserting the word "is" in lieu thereof.

2. In § 265.3, paragraph (c) is amended by capitalizing the first letter of the word "counsel" in the title of the paragraph; and paragraph (b) is revised to read:

§ 265.3 Responsibility

* * * * *

(b) *Records Officer.* The USPS Records Officer is responsible for the overall administration of this part, including the issuance of detailed instructions to custodians.

(c) [Amended]

3. Section 265.4 is revised to read:

§ 265.4 Inquiries

Inquiries regarding the availability of Postal Service records should be directed to the appropriate records custodian. If the appropriate custodian is not known, inquiries should be directed to the USPS Records Officer, United States Postal Service, Washington, DC 20260, telephone number (202) 245–4142.

§ 265.5 [Amended]

4. Section 265.5 is amended by deleting the comma after the word "Plaza" and by inserting the word "in" between the words "listed" and "paragraphs".

5. In § 265.6, the first sentence of paragraph (a)(1) is amended by striking out "§ 265.(b) through 265.(f)" and inserting "§ 265.6(b) through 265.6(g)" in lieu thereof; paragraph (a)(2) is amended by striking out "474 L'Enfant Plaza, West" and inserting "475 L'Enfant Plaza West" in lieu thereof; the second sentence of paragraph (d)(4) is amended to read as follows: "The postmaster may furnish this information when he is satisfied from the entries appearing on Form 1093, *Application for Post Office Box or Caller Number*, or from evidence furnished by the requester, such as an advertising circular, that a box is being used for such a business purpose."; and paragraphs (a)(4)(ii), (b)(3)(ii), (e)(2) and (f) are revised to read as follows:

§ 265.6 Availability of records.

(a) * * *

(4) * * *

(ii) The index contains references to matters issued after July 4, 1967 and may reference matters issued prior to that date.

* * * * *

(b) * * *

(3) * * *

(ii) Records of money orders, except as provided in 940 of the *Domestic Mail Manual (DMM).*

* * * * *

(e) * * *

(2) Records or other documents which are classified or otherwise specifically authorized by Executive Order 12065 and implementing regulations to be kept secret in the interest of the national defense or foreign policy are not subject to disclosure pursuant to this part.

(f) *Protection of the right of privacy.* If any record required or permitted by this part to be disclosed contains the name of, or other identifying details concerning, any person, including an employee of the Postal Service, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, the name or other identifying details shall be deleted before the record is disclosed and the requester so informed.

6. In § 265.7, paragraph (a)(1) is amended by deleting the second sentence, inserting a comma after the word "stated" in the last sentence, and revising the third sentence to read as follows: "A request shall be clearly and prominently identified as such on the envelope or other cover."; paragraph (a)(2) is amended by revising the second sentence to read as follows: "If the location of the record is not known, inquiry should be directed to the USPS Records Officer, United States Postal Service, Washington, D.C. 20260, telephone (202) 245–4142."; paragraph (b)(1) is amended by inserting a comma after the word "necessary" in the last sentence; paragraph (b)(2) is amended by revising the second sentence to read as follows: "The custodian and the requester may, by mutual agreement, preferably in writing, establish a different response period."; paragraph (f)(2) is amended by striking out the words "General Counsel" in the third sentence and inserting "Headquarters Library" in lieu thereof; and paragraph (b)(4) is revised to read as follows:

§ 265.7 Procedures for inspection and copying of records.

(b) * * *

(4) The ten working day response period allowed above may be extended by the custodian, after consultation with Regional Counsel or with the General Counsel if the custodian is at Headquarters, for a period not to exceed an additional ten working days when, and to the extent, reasonably necessary to permit the proper processing of a particular request, under one or more of the following unusual circumstances:

* * * * *

7. In § 265.8, paragraphs (b)(1), (b)(2), and (b)(3) are amended by striking out "$2.00", "$2.75", and "1977" respectively, and inserting "$3.35", "$4.00", and "1980" respectively, in lieu thereof; paragraph (d)(3) is amended by striking out "§ 265.641" and inserting "§ 265.5(d)(1)" in lieu thereof; the second and third sentences of paragraph (e)(6) are amended by striking out the word "Officer" and inserting "officer" in lieu thereof; the second sentence of paragraph (e)(8)(iii) is amended by striking out "PSM" and inserting "*Domestic Mail Manual (DMM)*" in lieu thereof; paragraph (f) is deleted; paragraphs (c)(1) and (e)(7) are revised; and new paragraph (e)(9) is added reading as follows:

§ 265.8 Schedule of fees.

* * * * *

(c) * * *

(1) Except where otherwise specifically provided in postal regulations, the fee for reproducing any record or publication is $.10 per page. The reproduction fee is in addition to any fee authorized by paragraph (b) of this section for the retrieval of the same records.

* * * * *

(e) * * *

(7) *Waiver by officer.* Any officer of the Postal Service, as defined in § 221.7, his designee, or the USPS Records Officer, may waive in whole or in part any fee required by this part or the requirement for advance payment or advance deposit of any fee.

* * * * *

(9) *Price of Public Index.* The fee for a copy of the public index is $10.00. Sections of the index may be purchased separately. Section II of the index lists Postal Service directives and publications and may be purchased for a fee of $1.00. Section III of the index lists final legal opinions and orders and may be purchased for a fee of $9.00. (Section I, the introduction, is furnished to all requesters at no extra cost.)

8. Section 265.9 is revised to read as follows:

§ 265.9 Annual reports.

A report concerning the administration of the Freedom of Information Act and this part for the preceding calendar year is submitted to the Congress by March 1 of each year. The Records Officer shall prescribe the form and content of the report.

9. Appendix A is revised to read as follows:

Appendix A—Information Services Price List in Effect January 1, 1980

Whenever an individual requests information which must be retrieved by computer, standard charges will be incurred based upon resources required to furnish this information. Estimates will be provided to the requester in advance and will be based upon the following standard price list.

Description of services	PDC rate	Washington rate	Unit
A. System utilization services:			
Central processor unit (CPU)			Hour.
370/158–1	183.20	296.00	
370/158–3	224.10		
370/155	124.60		
Amdahl V–7	953.25		
Multiplexor channel	24.38	6.00	Hour.
Tape block multiplexor	5.53	31.00	Hour.
Disk usage channel	151.50	255.00	Hour.
Volume mounts	.50	.50	Mount.
Minimum job charge, flushed	1.00	1.00	Job.
Executed	2.00	2.00	Job.
Dedicated system service:			
158–1	714.00	380.00	Hour.
158–3	750.00		
155	490.00		
Amdahl V–7	3,725.00		
B. System occupancy charges:			
Main core	.05	.10	K/core hour.
Virtual core	.00	.10	K/core hour.
Tape occupancy	11.25	15.00	Hour.
Unit record device occupancy:			
1288		98.00	Hour.
1404	190.40		Hour.
Teleprocessing occupancy	1.85	3.00	Hour.
C. System spooling charges:			
Cards read:			
Local	1.90	6.27	1,000 cards.
Remote	.20	.60	1,000 cards.
Lines printed:			
Local	.80	1.00	1,000 lines.
Remote	.45	.60	1,000 lines.
Cards punched:			
Local	8.88	.60	1,000 cards.
Remote	.88	.60	1,000 cards.
D. Peripheral charges:			
Keypunching	6.00	5.17	100 cards.
Keystroking (key-to-tape)	24.60		Hour.
Magnetic tape	11.75	11.75	Reel.
Programming support	23.00	23.00	Hour.
Systems analysis support	28.00.	28.00	Hour.
Xeroxing on X1200	4.75	2.25	100 pages.
Microfilm processing, offline	.0224		Frame.
Wilkes-Barre or St. Louis ADPC:			
Master processing service	190.71		Hour.
Nuclear processing service	13.00		1,000 transactions.

PART 266—PRIVACY OF INFORMATION

10. Section 266.2 is revised to read:

§ 266.2 Policy.

It is the policy of the U.S. Postal Service to ensure that any record within its custody that identifies or describes any characteristic or provides historical information about an individual or that affords a basis for inferring personal characteristics, or things done by or to such individual, including the record of any affiliation with an organization or activity, or admission to an institution, is accurate, complete, timely, relevant, and reasonably secure from unauthorized access. Additionally, it is the policy to provide the means for individuals to know: (a) Of the existence of all Postal Service Privacy Act systems of records, (b) The recipients and usage made of such information, (c) What information is optional or mandatory to provide to the Postal Service, (d) The procedures for individuals to review and request update to all information maintained about themselves, (e) The reproduction fees for releasing records, and (f) The procedures for individual legal appeal in cases of dissatisfaction.

11. In § 266.3, paragraph (c) is revised reading as follows:

§ 266.3 Responsibility.

* * * * *

(c) *Information System Executive.* These managers are responsible for reporting to the Records Officer the existence or proposed development of Privacy Act systems of records. They also must report any change that would alter the systems description as published in the **Federal Register.** They establish the relevancy of information within those systems.

12. In § 266.4, paragraph (b)(5) is amended by inserting a comma after the word "separation"; paragraphs (a), (a)(1)(i), (a)(1)(iii), (a)(2), (a)(4), (b)(1), (b)(4) and (d)(1) are revised to read as follows:

§ 266.4 Collection and disclosure of information about individuals.

(a) The following rules govern the collection of information about individuals throughout Postal Service operations:

(1) The Postal Service will:

(i) Collect, solicit and maintain only such information about an individual as is relevant and necessary to accomplish a purpose required by statute or Executive Order.

* * * * *

(iii) Inform any individual who has been asked to furnish information about himself whether that disclosure is mandatory or voluntary, by what authority it is being solicited, the principal purposes for which it is intended to be used, the routine uses which may be made of it, and any penalties and specific consequences for the individual, which are known to the Postal Service, which will result from refusal to furnish it.

(2) The Postal Service will not discriminate against any individual who fails to provide information about himself unless that information is required or necessary for the conduct of the system or program in which the individual desires to participate.

* * * * *

(4) The Postal Service will not require individuals to furnish their Social Security account number or deny a right, privilege or benefit because of an individual's refusal to furnish the number unless it must be provided by Federal law.

(b) *Disclosures.*

(1) *Disclosure: Limitations On.* The Postal Service will not disseminate information about an individual unless reasonable efforts have been made to assure that the information is accurate, complete, timely and relevant and unless:

* * * * *

(4) *Employee Credit References.* A credit bureau or commercial firm from which an employee is seeking credit may be given the following information upon request: grade, duty status, length of service, job title, and salary.

* * * * *

(d) *Recording of Disclosure.* (1) An accurate accounting of each disclosure will be kept in all instances except those in which disclosure is made to the subject of the record, or to Postal Service employees in the performance of their duties or is required by the Freedom of Information Act (5 U.S.C. 552).

* * * * *

§ 266.5 [Amended]

13. In § 266.5, paragraph (b) is amended by deleting the last sentence, which appears in parentheses.

14. In § 266.6, paragraph (c) is redesignated as (b)(6), and the last sentence thereof is amended to read as follows: "This reply shall include a statement regarding the determining factors of denial, and the right to appeal the denial to the General Counsel."; the heading, initial paragraph and paragraphs (a)(1) and (b)(4) are revised, and new paragraphs (c) and (d) are added reading as follows:

§ 266.6 Procedures for requesting inspection, copying or amendment of records.

The purpose of this section is to provide procedures by which an individual may have access and request amendment to personal information within a Privacy Act System of Records.

(a) *Submission of Requests.*

(1) Manner of Submission. Inquiries regarding the contents of records systems or access or amendment to personal information should be submitted in writing to the custodian of the official record, if known, or to the Records Officer, United States Postal Service, Washington, D.C. 20260. Inquiries should be clearly marked, "Privacy Act Request". Any inquiry concerning a specific system of records should provide the Postal Service with the information contained under "Notification" for that system as published in the **Federal Register.** If the information supplied is insufficient to locate or identify the record, the requester will be notified promptly and, if possible, informed of additional information required. If the requester is not a Postal Service employee, he should designate the post office at which he wishes to review or obtain copies of records. Amendment requests contest the relevance, accuracy, timeliness or completeness of the record and will include a statement of the amendment requested.

* * * * *

(b) *Compliance With Request for Access.*

* * * * *

(4) Special Rules for Medical Records. A medical record shall be disclosed to the requester to whom it pertains unless, in the judgment of the medical officer, access to such record could have an adverse effect upon such individual. When the medical officer determines that the disclosure of medical information could have an adverse effect upon the individual to whom it pertains, the medical officer will transmit such information to a medical

doctor named by the requesting individual.

* * * * *

(c) *Compliance With Request for Amendment.* (1) Correct or eliminate any information that is found to be incomplete, inaccurate, not relevant to a statutory purpose of the Postal Service, or not timely and notify the requester when this action is complete, or

(2) Not later than thirty (30) working days after receipt of a request to amend, notify the reqester of a determination not to amend and of the requester's right to appeal, or to submit, in lieu of an appeal, a statement of reasonable length setting forth a position regarding the disputed information to be attached to the contested personal record.

(d) *Availability of Assistance in Exercising Rights.* The USPS Records Officer is available to provide an individual with assistance in exercising rights pursuant to this part.

15. In § 266.7, paragraphs (a), (b) and (d) are deleted; paragraphs (c) and (e) are redesignated (a) and (c) respectively; redesignated paragraph (a)(1) is amended by striking out the word "may" and the words "U.S. Postal Service Privacy Appeals Officer" and inserting the word "shall" and the words "General Counsel" respectively, in lieu thereof; redesignated paragraph (a)(4) is amended by striking out the words "U.S. Postal Service Privacy Appeals Officer" and inserting the words "General Counsel" in lieu thereof; the heading is revised and new paragraph (b) is added reading as follows:

§ 266.7 Appeal procedure.

* * * * *

(b) *Submission of Statement of Disagreement.* If the final decision concerning a request for the amendment of a record does not satisfy the requester, any statement of reasonable length provided by that individual setting forth a position regarding the disputed information will be accepted and attached to the relevant personal record.

§ 266.9 [Amended]

16. In § 266.9,

(a) Paragraph (b)(1) is amended by stiking out "Postal Inspection Service Investigative Files System" and inserting "Inspection Requirements—Investigative File System, USPS 080.010," in lieu thereof;

(b) Paragraph (b)(2) is amended by striking out "Postal Inspection Service Mail Cover Program Records" and inserting "Inspection Requirements—Mail Cover Program, USPS 080.020," in lieu thereof;

(c) Paragraph (b)(3) is amended by striking out "Postal Service Personnel Investigations Records" and inserting "Personnel Records—Preemployment Investigation Records, USPS 120.110," in lieu thereof;

(d) Paragraph (b)(4) is amended by striking out "Postal Service Recruiting, Examining, and Appointment Records" and inserting "Personnel Records—Recruiting, Examining, and Appointment Records, USPS 120.151," in lieu thereof;

(e) Paragraph (b)(5) is amended by striking out "Postal Service Research and Test Validating Records" and inserting "Personnel Records—Personnel Research & Test Validation Records, USPS 120.120," in lieu thereof;

(f) Paragraph (b)(6) is amended by striking out "Postal Service Equal Employment Opportunity Discrimination Complaint Investigations and Counselings" and inserting "Equal Employment Opportunity—EEO Discrimination Complaint Investigations, USPS 030.010," in lieu thereof;

(g) Paragraph (b)(7) is amended by striking out "Postal Service Postmaster Selection Program Records" and inserting "Personnel Records—Postmaster Selection Program Records, USPS 120.130," in lieu thereof; and

(h) Paragraph (b)(8) is amended by striking out "Postal Service Career Development and Training Records" and inserting "Personnel Records—Career Development and Training Records, USPS 120.152," in lieu thereof;

PART 268—PRIVACY OF INFORMATION—EMPLOYEE RULES OF CONDUCT

17. Section 268.1 is revised to read as follows:

§ 268.1 General Principles.

In order to conduct its business, the Postal Service has the need to collect various types of personally identifiable information about its customers, employees and other individuals. Information of this nature has been entrusted to the Postal Service, and employees handling it have a legal and ethical obligation to hold it in confidence and to actively protect it from uses other than those compatible with the purpose for which the information was collected. This obligation is legally imposed by the Privacy Act of 1974, which places specific requirements upon all Federal agencies, including the Postal Service, and their employees. In implementation of these requirements, the following rules of conduct apply:

(a) Except as specifically authorized in § 266.4(b)(2) of this chapter, no employee shall disclose, directly or indirectly, the contents of any record about another individual to any person or organization. Managers are to provide guidance in this regard to all employees who must handle such information.

(b) No employee will maintain a secret system of records about individuals. All records systems containing personally identifiable information about individuals must be reported to the Records Officer.

(c) All employees shall adhere strictly to the procedures established by the United States Postal Service to ensure the confidentiality and integrity of information about individuals that is collected, maintained and used for official Postal Service business. Employees shall be held responsible for any violation of these procedures.

(39 U.S.C. 401)

W. Allen Sanders,

Associate General Counsel for General Law and Administration.

[FR Doc. 80-19757 Filed 6-30-80; 8:45 am]

BILLING CODE 7710-12-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL 1527-5]

Revision to the New York State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: On February 5, 1980 (45 FR 7803) and on May 21, 1980 (45 FR 33981), the Environmental Protection Agency (EPA) promulgated conditions on its approval of the New York State Implementation Plan (SIP) for four upstate areas (generally identified as the Capital District and Town of Catskill, Rochester, Syracuse and Southern Tier) and for the New York City metropolitan area, respectively, with regard to their ability to meet the requirements of Part D ("Plan Requirements for Nonattainment Areas") of the Clean Air Act, as amended. These conditions required, among other things, the following revisions to Title 6, New York Code of Rules and Regulations:

(1) Changes to Part 229, "Gasoline Storage and Transfer," to regulate statewide the storage of all petroleum liquids in fixed roof tanks and to lower the annual throughput exemption for gasoline station storage tanks in the New York City metropolitan area;

(2) Clarification of Part 231, "Major Facilities," to provide (a) that major facilities located in nonattainment areas will be subject to "lowest achievable emission rate" control requirements and,

(b) that major facilities located outside nonattainment areas, but impacting significantly on nonattainment areas, will be subject to the provisions of Part 231; and

(3) A change to Part 200, "General Provisions," to revise the definition of the term, "owner," in a manner consistent with that provided in Section 173 of the Clean Air Act.

Since these revision requirements are relevant statewide, they were also discussed in an April 29, 1980 Federal Register notice of proposed rulemaking (45 FR 28371) addressing the Niagara Frontier area.

Today's notice advises the public that these conditions have been fulfilled via the submission of the required documentation under cover of a May 1, 1980 letter, and that EPA is taking final action to approve the State's submission. Furthermore, EPA is incorporating the provisions of the State's submission into the approved SIP, and is revoking the applicable conditions on its approval of the plan. Until all conditions are met, however, conditional approval of the SIP will continue.

EFFECTIVE DATE: This action becomes effective immediately upon publication in as much asit provides no additional burden upon any affected party.

ADDRESSES: Copies of the State's submission are available for inspection at the following addresses:

Environmental Protection Agency, Air Programs Branch, Region II Office, 26 Federal Plaza—Room 908, New York, New York 10007.

New York State Department of Environmental Conservation, Division of Air, 50 Wolf Road, Albany, New York 12233.

Environmental Protection Agency, Public Information Reference Unit, 401 M Street, S.W., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: William S. Baker, Chief, Air Programs Branch, Environmental Protection Agency, 26 Federal Plaza—Room 908, New York, New York 10007 (212) 264–2517.

SUPPLEMENTARY INFORMATION: On February 5, 1980 at 45 FR 7803, and on May 21, 1980 at 45 FR 33981, the Environmental Protection Agency (EPA) promulgated conditions on its approval of the New York State Implementation Plan (SIP) for four upstate areas (generally identified as the Capital District and Town of Catskill, Rochester, Syracuse, and Southern Tier) and the New York City metropolitan area, respectively, with regard to its ability to meet the requirements of Part D of the Clean Air Act, as amended. The reader is referred to these Federal Register notices for a detailed discussion of EPA's findings. Today's notice discusses EPA action with regard to a State submittal to meet five of these conditions on EPA's approval of the New York SIP. Also, since these conditions involve parts of Title 6 of the New York Code of Rules and Regulations (NYCRR) which apply statewide, they are also discussed in an April 29, 1980 Federal Register notice of proposed rulemaking (45 FR 28371) addressing the Niagara Frontier area.

Under cover of a May 1, 1980 letter, the State submitted corrections in response to the following conditions on approval of its SIP:

(1) *Changes to Part 229, "Gasoline Storage and Transfer," to regulate the storage of all petroleum liquids in fixed roof tanks and to reduce the throughput exemption for storage tanks at gasoline filling stations located in the New York City Metropolitan area* (promulgated at 40 CFR 52.1674(a)(2) and (f)(1)).

The State has:

(a) Changed the title of Part 229 to read "Petroleum Liquids, Storage and Transfer," an administrative change not required, but made to provide for consistency with the revised control requirements;

(b) Provided a definition of "petroleum liquids" in Section 229.2 in a manner consistent with the EPA-issued Control Technology Guideline document for the petroleum liquid storage category;

(c) Substituted the term "petroleum liquids" for "gasoline" in the applicable provisions of its regulation;

(d) Revised the applicability of its exemption of storage tanks at gasoline filling stations in the New York City metropolitan area from those with an annual throughput of 400,000 gallons or less to those with an annual throughput of 120,000 gallons or less in Section 229.3; and

(e) Extended the deadlines for submission of compliance schedules and for achieving compliance with the provisions of this regulation, an administrative change to Section 229.4 not required, but made to provide adequate time for compliance by previously unaffected sources which are now regulated. Since this revision provides for compliance in generally the same time frame as the previous version of the regulation, and is consistent with the December 31, 1982 deadline for attaining the ozone national ambient air quality standard, EPA finds no reason for changing its earlier approval of Part 229.

(2) *Clarification of Part 231, "Major Facilities," to provide that major facilities located in nonattainment areas will be subject to "lowest achievable emission rate" (LAER) control requirements, and that major facilities located outside nonattainment areas, but impacting significantly on nonattainment areas, will be subject to the provisions of Part 231* (promulgated at 40 CFR 52.1674(d)(1) and (2)).

The State has revised Section 231.3(b) of Part 231 to indicate that, regardless of whether or not a major facility will have a significant impact on an area's air quality, LAER will be required if such facility is located in an area where standards are violated. Sections 231.6(a) and 231.9(d) have also been modified to make the provisions of Part 231 applicable to new major facilities and major modifications locating in other than a nonattainment area, but significantly impacting the air quality of a nonattainment area.

(3) *Revision of the definition of the term "owner," in a manner consistent with that provided in Section 173 of the Clean Air Act* (promulgated at 40 CFR 52.1674(d)(3)).

The State has revised Section 231.6 to provide that requirements applicable to a "source owner" are also applicable to "any entity controlling, controlled by, or under common control with such person." Since the substance of the condition was fully met, EPA accepts the change being made in Part 231 rather than in Part 200, "General Provisions."

Based on its review of the submitted documents, EPA finds that the five conditions it promulgated on the New York SIP have been fully met. Therefore, EPA is incorporating the changes to 6 NYCRR Parts 229 and 231 into the SIP and revoking the applicable conditions. Furthermore, this action serves to continue EPA's conditional approval.

EPA finds that further notice and comment on these issues are unnecessary (see 5 U.S.C. Section 553(b)(B)—the Administrative Procedure Act) insofar as the corrective action was clearly identified in EPA's promulgation and the State's submittal clearly addresses the specified criteria for approval.

Under Executive Order 12044 EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order of whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." I have reviewed this regulation and

determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

Dated: June 24, 1980.

Douglas M. Costle,

Administrator, Environmental Protection Agency.

(Sections 110, 172 and 301 of the Clean Air Act, as amended (42 U.S.C. 7410, 7502, and 7601)).

Title 40, Chapter I, Subchapter C, Code of Federal Regulations is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Subpart HH—New York

1. Section 52.1670 paragraph (c) is amended by adding new subparagraph (c)(52) as follows:

§ 52.1670 Identification of plans.

* * * * *

(c) * * *

(52) Revisions to Parts 229 and 231 of Title 6, New York Code of Rules and Regulations, submitted on May 1, 1980 by the New York State Department of Environmental Conservation.

§ 52.1674 [Amended]

2. Section 52.1674 is amended by revoking and reserving paragraphs (a)(2), (d)(1), (d)(2), (d)(3), and (f)(1).

[FR Doc. 80-19732 Filed 6-30-80; 8:45 am]

BILLING CODE 6560-01-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

41 CFR Chapter 7

[AIDPR Notice 80-1]

Miscellaneous Revisions to the AID Procurement Regulations

AGENCY: Agency for International Development (AID).

ACTION: Final rule.

SUMMARY: This AIDPR Notice makes administrative and editorial revisions throughout the AID Procurement Regulations (AIDPR), incorporating current office titles, up-dating cross-references, and formally incorporating into the text of the AIDPR material previously issued within AID as Contract Information Bulletins of other forms of internal procedural instructions.

EFFECTIVE DATE: June 23, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. James M. Kelly, CM/SD/POL Agency for International Development, International Development Cooperation Agency, Washington, D.C. 20523. Telephone: (703) 235-9107.

PART 7-1—GENERAL

Subpart 7-1.3—General Policies

In § 7-1.313, paragraphs (a)(6), (a)(14), and (a)(17) are revised to read as follows:

§ 7-1.313 Record of contract actions.

(a) * * *

(6) A copy of each signed bid or proposal received (the successful bid or proposal will be retained in the official contract file; unsuccessful bids or proposals must be retained in the official file for 6 months following execution of the contract);

* * * * *

(14) Any required approvals and clearances (such as General Counsel, Security, Project Office, Mission, Office of Small and Disadvantaged Business Utilization, Office of Data Management, Communications Review Board):

* * * * *

(17) Any exceptions or exemptions to the Buy American Act, Foreign Assistance Act, or AID's Nationality policy (FPR 1-6 and AIDPR 7-6);

* * * * *

2. Add a new § 7-1.327 as follows:

§ 7-1.327 Protection of the privacy of individuals.

The Privacy Act of 1974 is implemented in § 1-1.327 of the FPR, which summarizes statutory and regulatory requirements, and specifies procedures, notification requirements, and a contract clause.

Subpart 7-1.4—Procurement Responsibility and Authority

3. § 7-1.451-3, AID/Washington procurement activities, is amended by deleting all references to "* * * Office of Public Safety * * *" and "* * * Public Safety * * *", and by revising the last sentence as follows:

§ 7-1.451-3 AID/Washington procurement activities.

* * * Delegations of authority to AID/Washington procuring activities are published in the Federal Register, and in AID Handbook 5, Delegations of Authority.

Subpart 7-1.6—Debarred, Suspended, and Ineligible Bidders

§ 7-1.602 [Amended]

4. § 7-1.602, Establishment and maintenance of a list of firms or individuals debarred, suspended, or declared ineligible, is amended by deleting the reference to "* * *the Small Business Office* * *" and in its place inserting "* * *the Office of Small And Disadvantaged Business Utilization* * *".

Subpart 7-1.7—Small Business Concerns

§§ 7-1.702, 7-1.704-2, 7-1.704-3, 7-1.704-4, 7-1.704-5, 7-1.704-6, and 7-1.704-7 [Amended]

5. Subpart 7-1.7 is amended by deleting the term "* * *Small Business Office* * *" and in its place inserting the term "* * * Office of Small and Disadvantaged Business Utilization* * *". This change affects: § 7-1.702, paragraphs (d), (e), (f), (g)(2), (h), and (k); § 7-1.704-2, title and paragraphs (a), (b), and (b)(12); § 7-1.704-3, paragraphs (g), (i), (j), (l), and (m); § 7-1.704-4, paragraphs (a) and (b); § 7-1.704-5, paragraph (a); § 7-1.704-6, paragraphs (a), (b)(1), (b)(3), (c), (c)(1), (c)(2), (d)(1), (d)(2), (d)(3), (e)(1), (e)(2), and (e)(3); and § 7-1.704-7, paragraphs (a), (a)(1), (b), and (c).

6. § 7-1702, Small business policies, is amended by revising paragraph (d)(3) as follows:

§ 7-1.702 Small business policies.

* * * * *

(d) * * *

(3) That will result in an institution building contract (see AIDPR 7-1.704-6(a)(3)) with an educational or non-profit institution; or that will result in a collaborative assistance contract with an educational institution, international research center, or cooperative development organization, pursuant to AIDPR 7-4.58 and Appendix H of Handbook 14;

* * * * *

§ 7-1.704-2 [Amended]

7. § 7-1.704-2 is retitled as "The AID Office of Small and Disadvantaged Business Utilization"; paragraph (b) of § 7-1.704-2 is amended by deleting the title "* * * Special Assistant for Small Business * * *" and in its place inserting "* * * Director, Office of Small and Disadvantaged Business Utilization * * *".

8. § 7-1.704-6, Small business screening procedure, is amended by revising paragraph (a)(3) as follows:

§ 7-1.704-6 Small business screening procedures.

(a) * * *

(3) Contracts with educational or non-profit institution, the object of which is "institution building", *i.e.*, the development of a counterpart capability

in the host country by the educational or non-profit institution; or collaborative assistance contracts with educational institutions, international research centers, or cooperative development organizations pursuant to AIDPR 7-4.58 and Appendix H of Handbook 14;
* * * * *

Subpart 7-1.10—Publicizing Procurement Actions

§ 7-1.1001 [Amended]

9. Paragraph (b)(2) of § 7-1.1001, General policy, is amended by deleting the term "* * * Small Business Office * * *" and in its place inserting "* * * Office of Small and Disadvantaged Business Utilization * * *".

PART 7-3—PROCUREMENT BY NEGOTIATION

Subpart 7-3.1—Use of Negotiation

10. A new § 7-3.103-50 is added as follows:

§ 7-3.103-50 Debriefing of unsuccessful offerors.

(a) FPR 1-3.103(b) provides general guidance on post-award notification and debriefing of unsuccessful offerors. This AIDPR 7-1.103-50 provides additional guidance regarding notification and debriefing requirements and procedures.

(b) *Notification.* (1) The FPR provides for notification and debriefing *after* award. However, there are circumstances which make it proper to notify unsuccessful offerors *prior* to award; these are:

(i) When the procurement is limited to educational institutions or international research centers, pursuant to AIDPR 7-4.57;

(ii) When it is expected that negotiations with offerors whose proposals are in competitive range are likely to exceed 30 days; or

(iii) When the procurement involves a small business set-aside under a negotiated procurement.

Notifications pursuant to (b)(1)(i) should be limited to a statement that the unsuccessful offeror's proposal was not in competitive range, advising that further negotiations with the offeror are not contemplated, and that no revised proposal will be considered. Notifications pursuant to (b)(1)(iii) shall be issued upon final completion of negotiations and determinations of responsibility, but prior to award. The contracting officer shall inform each unsuccessful offeror by written notice of the name and location of the apparently successful offeror(s). Each apparently unsuccessful offeror should be advised that any subsequent revisions of his proposal will not be considered, since no further negotiations are contemplated. No further contact with the contracting officer should be made regarding the procurement unless the unsuccessful offeror has grounds to challenge the small business size status of the apparently successful offeror(s).

(2) Except as provided in paragraph (b)(1), above, notification of unsuccessful offerors will be made *after* award. Following the award of any negotiated contract over $10,000, all unsuccessful offerors will be promptly notified that their offer has not been accepted. It is not necessary to volunteer a debriefing in this notification, but the contracting officer may do so if desired. The notification will, as a minimum, tell the unsuccessful offerors the name(s) and address(es) of the contractor(s) receiving the award, the contract number(s), and the amount(s). The notification should also include, *in general terms,* the reasons why the unsuccessful offeror's proposal was rejected.

(c) *Debriefing.* (1) If, after-post award notification, an unsuccessful offeror requests a debriefing, the contracting officer should take the following steps:

(i) Notify the cognizant project office, and arrange to have a project officer who was directly involved in the selection made available.

(ii) Establish a mutually convenient time for the project office, the contracting office, and the unsuccessful offeror, for the debriefing.

(iii) The cognizant project officer and negotiator should have a pre-debriefing meeting to establish the contents of the debriefing (see paragraph (c)(2), below).

(iv) Conduct the debriefing (see paragraph (c)(2), below).

(v) A summary of the debriefing will be retained as part of the contract file.

(2) *Conduct of post-award debriefing.* (i) It is essential that debriefings be conducted in a scrupulously fair, objective, and impartial manner. Debriefing information given unsuccessful offerors shall be factual and consistent with the evaluation. While offerors should be informed of the areas in which their technical or management proposals were weak or deficient, point-by-point comparisons with the technical or management proposals of the other offerors shall not be made. An offeror may be told the quantitative values attached to the technical criteria, including any minimum rankings necessary for acceptability. He may also be told his score both overall or for each single criterion. The firm being debriefed shall not be permitted to examine or review any part of any other firm's proposal. They should be advised to put any such requests in writing to the Freedom of Information Officer.

(ii) Debriefings shall not reveal:

(A) Trade secrets;

(B) Privileged or confidential manufacturing processes and techniques;

(C) Commercial and financial information which is privileged or confidential; or

(D) The relative merits or technical standing of other competitors or their evaluation scores. An offeror shall not be allowed to see, or be furnished with, copies of AID's evaluation plan, the evaluation of any other proposal, or the selection memorandum.

Subpart 7-3.7—Negotiated Overhead Rates

§ 7-3.705 [Amended]

11. § 7-3.705, Procedure, is amended by deleting the reference to "* * * AIDPR 7-16.9 * * *" and in its place inserting "* * * AIDPR 7-16.557 * * *".

Subpart 7-3.8—Price Negotiation Policies and Techniques

12. Paragraph (a) of § 7-3.807-50 is revised as follows:

§ 7-3.807-50 Offeror's analysis of cost proposal.

(a) The Offerors Analysis of Cost Proposal (form AID 1420-18) provides for a standardized analysis of estimated costs, suitable for detailed review, to be submitted by an offeror. Except as provided in paragraph (b) of this section, the Offerors Analysis of Cost Proposal shall be used for all negotiated procurements for which written cost or pricing data is required under FPR 1-3.807-3, and may be used in other procurements at the discretion of the contracting officer. The offeror must also submit supplementary information as detailed on the form AID 1420-18.
* * * * *

PART 7-4—SPECIAL TYPES AND METHODS OF PROCUREMENT

Subpart 7-4.9—Unsolicited Proposals

§ 7-4.908 [Amended]

13. § 7-908, Agency point of contact, is amended by deleting the reference to "* * * SER/CM/SB, Room 601 PP" and in its place inserting "* * * SDB/SB, Room 740 PP."

Subpart 7-4.10—Architect-Engineer Services

§ 7-4.1003 [Amended]

14. Paragraph (b) of § 7-4.1003, Public announcements, is amended by deleting

the reference to "* * * Small Business Office * * *" and in its place inserting "* * * Office of Small and Disadvantaged Business Utilization * * *".

§ 7-4.1004-2 [Amended]

15. Paragraph (a) of § 7-4.1004-2, Functions of the evaluation boards, is amended by deleting the reference to "* * * Small Business Office * * *", and in its place inserting "* * * Office of Small and Disadvantaged Business Utilization * * *".

Subpart 7-4.55—Pharmaceutical Products

§ 7-4.5500 [Amended]

16. § 7-4.5500, General, is amended by revising the last sentence as follows:

* * * Applicable policies and procedures are set forth in AID Handbook 15, AID-Financed Commodities, and in AID Handbook 1, Supplement B, Procurement Policies, Chapter 4C3.

Subpart 7-4.56—General Selection Procedure

§ 7-4.5601 [Amended]

17. § 7-4.5601, Definition, is amended by deleting paragraph (b), and redesignating paragraphs (c), (d), and (e) as (b), (c), and (d) respectively.

18. § 7-4.5605, Solicitation, is amended by revising the first sentence of paragraph (c) as follows:

§ 7-4.5605 Solicitation.

* * * * *

(c) The project officer shall consult the Contractor's Index maintained in the AID Office of Small and Disadvantaged Business Utilization, and if appropriate, the Registry of Institutional Resources maintained by the BIFAD staff, to develop a recommended list of all potential contractors.* * *

* * * * *

§ 7-4.5606 [Amended]

19. § 7-4.5606, Request for proposal, is amended by deleting the phrase "* * * (see FPR 1-3.405-5)" as it appears in paragraph (a), and in its place inserting "* * * (see FPR 1-3.405-5(e))"; and by deleting the phrase "* * * Subpart 7-7.50 or 7-7.55 * * *" as it appears in paragraph (c)(3), in its place inserting" * * * Part 7-7 * * *".

Subpart 7-4.57—Educational Institution and International Research Center Selection Procedure

§ 7-4.570 [Amended]

20. § 7-4.5701, Definitions, is amended by deleting the reference to "* * * Bureau for Technical Assistance" and in its place inserting "* * * Bureau for Development Support."

Subpart 7-4.58—Collaborative Assistance Selection Procedure

21.20. § 7-4.5801, Definition, is revised as follows:

§ 7-4.5801 Definition.

(a) A collaborative assistance project is any project for which it has been determined (see 7-4.5804 of this subpart) that:

(1) A continuing collaborative relationship between AID, the host country, and the contractor is required from project design through completion of the project. AID, host country, and contractor participation in a continuing review and evaluation of the project is essential for its proper execution; and

(2) The project requires the services of either an educational institution, international research center (as defined in AIDPR 7-4.5701), or cooperative development organization (which are organizations recognized and listed as such by the Assistant Administrator, Bureau for Private and Development Cooperation).

(b) The collaborative assistance concept is fully defined and discussed in AID Handbook 14, Appendix H—Use of Collaborative Assistance Method for AID Direct Contracts for Technical Assistance.

22. § 7-4.5804, Determinations, is revised as follows:

§ 7-4.5804 Determinations.

In order to prepare a contract pursuant to the collaborative assistance method, the determinations in 7-4.5801 of this subpart must be made in accordance with the following procedures:

(a) The responsible project office makes a preliminary finding that a project should be classed as collaborative assistance in accordance with 7-4.5801 (a) (1) and (2) of this subpart.

(b) Based upon this preliminary finding, the project office shall establish an evaluation panel consisting of a representative of the project office as Chairman; a representative of the Bureau for Development Support, for projects where the services of an educational institution or international research center are deemed necessary; a representative of the Bureau for Private and Development Cooperation for projects where the services of a cooperative development organization are deemed necessary; a representative of the Office of Contract Management; and any other representatives considered appropriate by the Chairman.

(c) The evaluation panel will review the proposed project; based on the panel's findings, the Chairman will make the formal, written determinations as to whether or not the project is collaborative assistance as required by 7-4.5801 (a) (1) and (2) of this subpart.

23. (a) Paragraph (d) of § 7-4.5805, Evaluation and selection, is amended by adding a new final sentence as follows:

§ 7-4.5805 Evaluation and selection.

* * * * *

(d) * * * Guidelines for preparation of expressions of interest are contained in Attachment 1 to Appendix H of Handbook 14.

* * * * *

(B) Paragraph (f) of § 7-4.5805 is amended by deleting the term "* * * institution (or institutions) * * *" and in its place inserting the term "* * * prospective contractor (s) * * *".

PART 7-7—CONTRACT CLAUSES

Subpart 7-7.1—Fixed Price Supply Contracts

§ 7-7.102-14 [Amended]

24. § 7-7.102-14, Buy American Act, is amended by deleting the reference to "* * * AIDPR 7-7" in the last sentence, and in its place inserting a reference to "* * * AIDPR 7-6.5103."

§ 7-7.103-23 [Amended]

25. § 7-7.103-23, Mandatory use of visa eligibility Form DSP 66A by participants, is redesignated as § 7-7.103-50.

Subpart 7-7.6—Fixed Price Construction Contracts

§§ 7-7.602-9, 7-7.602-10 and 7-7.602-11 Redesignated as §§ 7-7.603-9, 7-7.602-27 and 7-7.603-50

26. § 7-7602-9, Workmen's compensation insurance (Defense Base Act); § 7-7.602-10, Federal, State, and local taxes; and § 7-7.602.11, Mandatory use of visa eligibility Form DSP 66A by participants, are redesignated as § 7-7.603-9, 7-7602-27, and 7-7.603-50, respectively.

Subpart 7-7.50—Clauses for Cost Reimbursement Type Contracts

27. Subpart 7-7.50 is retitled as follows:

27. Subpart 7-7.50—Clauses for Cost Reimbursement Contracts

28. § 7-7.5001-7, Inspection, is revised as follows:

§ 7-7.5001-7 Inspection.

Insert the clause set forth in FPR 1-7.402-5(c).

29. § 7-7.5001-16, Reports, is revised as follows:

§ 7-7.5001-16 Reports.

Insert the clause set forth in AIDPR 7-7.5501-13.

§ 7-7.5001-20. Utilization of small business concerns, is revised and retitled as follows:

§ 7-7.5001-20 Utilization of small business and small disadvantaged business concerns.

Insert the clause specified in paragraph A of OFPP Policy Letter 80-2, as contained in Attachment A of FPR Temporary Regulation 50, Supplement 2, and the following paragraph (e):

(e) Small Business Provision. To permit AID in accordance with the Small Business Provisions of the Foreign Assistance Act, to give United States Small Business firms an opportunity to participate in supplying equipment supplies and services financed under this contract, the Contractor shall, to the maximum extent possible, provide the following information to the Office of Small and Disadvantaged Business Utilization, AID, Washington, D.C. 20523, at least 45 days prior to placing any order in excess of five thousand dollars ($5,000), except where a shorter time is requested of, and granted by the Small Business Office:

(1) Brief general description and quantity of commodities or services;

(2) Closing date for receiving quotations or bids; and

(3) Address where invitations or specifications may be obtained.

31. § 7-7.5001-26, Disputes, is revised as follows:

§ 7-7.5001-26 Disputes.

Insert the clause set forth in FPR Temporary Regulation 55.

§ 7-7.5001-35 [Amended]

32. § 7-7.5001-35 Officials not to benefit, is amended by deleting the reference to "* * * FPR 1-7.102-17", and in its place inserting "* * * AIDPR 7-7.102-17".

33. § 7-7.5001-40, Utilization of Minority Business Enterprises, is retitled and revised as follows:

§ 7-7.5001-40 Small business and small disadvantaged business subcontracting plan/incentive subcontracting program.

Insert the appropriate clause from paragraphs C, D, or E of OFPP Policy Letter 80-2, as contained in Attachment A of FPR Temporary Regulation 50, Supplement 2, under the conditions specified therein.

34. § 7-7.5001-41, Listing of Employment Openings, is retitled and revised as follows:

§ 7-7.5001-41 Disabled veterans and veterans of the Vietnam era.

Insert the clause set forth in FPR Temporary Regulation 39

§ 7-7.5001-42 [Reserved]

35. § 7-7.5001-42, Payment of Interest on Contractor's Claims, is deleted and reserved.

36. § 7-75001-43, Employment of the Handicapped is revised as follows:

§ 7-7.5001-43 Employment of the handicapped.

Insert the clause set forth in FPR Temporary Regulation 38.

37. A new § 7-7.5001-45, Use of Government Facilities or Personnel, is added as follows:

§ 7-7.5001-45 Use of Government facilities or personnel.

Use of Government Facilities or Personnel (May 1978)

(a) The Contractor and any employee or consultant of the Contractor is prohibited from using U.S. Government facilities (such as office space or equipment) or U.S. Government clerical or technical personnel in the performance of the services specified in the Contract, *unless* the use of Government facilities or personnel is specifically authorized in the Contract, or is authorized in advance, in writing, by the contracting officer.

(b) If at any time it is determined that the Contractor, or any of its employees or consultants have used U.S. Government facilities or personnel without authorization either in the Contract itself, or in advance, in writing, by the contracting officer, then the amount payable under the Contract shall be reduced by an amount equal to the value of the U.S. Government facilities or personnel used by the Contractor, as determined by the contracting officer.

(c) If the parties fail to agree on an adjustment made pursuant to this clause, it shall be considered a dispute, and shall be dealt with under the terms of the Disputes clause of the Contract.

38. A new § 7-7.5001-46, Utilization of Women-Owned Business Concerns, is added as follows:

§ 7-7.5001-46 Utilization of women-owned business concerns.

Insert the clause entitled "Utilization of Women-Owned Business Concerns (Over $10,000)" as specified in OFPP Policy Letter 80-4, as contained in Attachment A of FPR Temporary Regulation 54.

§ 7-7.5002-5 [Amended]

39. § 7-7.5002-5, Marking, is amended by deleting the reference to "* * * Small Business Office * * *" in the third and fourth paragraphs, in its place inserting "* * * Office of Small and Disadvantaged Business Utilization * * *".

40. A new § 7-7.5003-8, Protection of the Individual as a Research Subject, is added as follows:

§ 7-7.5003-8 Protection of the individual as a research subject.

Protection of the Individual as a Research Subject (October 1979)

(a) Safeguarding the rights and welfare of human subjects involved in research supported by AID is the responsibility of the institution to which support is awarded. It is the policy of AID that no work shall be initiated under a grant, award, or contract for the support of research involving human subjects unless the research is given initial and continuing review and approval by an appropriate committee of the applicant institution. This review shall assure that (1) the rights and welfare of the individuals involved are adquately protected, (2) the methods used to obtain informed consent are adequate and appropriate, and (3) the risks and potential medical benefits of the investigation are assessed.

(b) The institution must provide written assurance to AID that it will abide by this policy for all research involving human subjects supported by AID. This assurance shall consist of a written statement of compliance with the requirements regarding initial and continuing review of research involving human subjects and a description of the institution's review committee structure, its review procedures, and the facilities and personnel available to protect the health and safety of human subjects. In addition to providing the assurance, the institution must also certify to AID for each proposal involving human subjects that its committee has reviewed and approved the proposed research before any work may be initiated.

(c) Since the welfare of the subject is a matter of concern to AID as well as to the institution, AID advisory groups, consultants, and staff may independently review all research involving human subjects, and prohibit research which presents unacceptable hazards. This provision, however, shall not derogate in any manner from the responsibility of the institution set forth herein.

(d) All of the above provisions apply to any research involving human subjects conducted outside of the United States and, in addition, such overseas research will conform to legal and other requirements governing human research in the country where they are conducted.

(e) In addition to the procedures set forth above, studies with unmarketed drugs will be carried out in accordance with provisions applicable in the country where the study is conducted. In the United States, the regulations of the Food and Drug

Administration will be followed and evidence of such compliance provided to AID.

(f) Guidance on procedures to safeguard human subjects involved in research is found in Title 45, Part 46, of the Code of Federal Regulations. Compliance with these procedures, except as modified above, is required.

41. A new § 7–7.5003–9, Health and Accident Coverage for AID Participant Trainees, is added as follows:

§ 7–7.5003–9 Health and accident coverage for AID participant trainees.

Health and Accident Coverage for AID Participant Trainees (February 1980)

(a) The Contractor shall enroll all non-U.S. participants (hereinafter referred to as "participants"), whose training in the U.S. is financed by AID under this Contract, in the Agency for International Development's Health and Accident Coverage (HAC) program.

(b) The Contractor shall, prior to the initiation of travel by each participant financed by AID under this Contract, fill out and mail to AID a self-addressed, postage prepaid, HAC enrollment card (AID form 1380–98). The Contractor can obtain a supply of these cards and instructions for completing them, from the Office of International Training, AID, Washington, D.C. 20523.

(c) The Contractor shall assure that enrollment shall begin immediately upon the participant's departure for the United States for the purpose of participating in a training program financed by AID and that enrollment shall continue in full force and effect until the participant returns to his/her country of origin, or is released from AID's responsibility, whichever is the sooner. The Contractor shall continue enrollment for participants whose departure is delayed due to medical or other compelling reasons, with the written concurrence of the AID Project Manager and subject to the requirements of paragraph (d).

(d) The Contractor shall submit the HAC Program Participant Enrollment Card to AID, as specified in paragraph (b) of this section, to enable the participant(s), or the provider of medical services, to submit bills for medical costs resulting from illness and accident to the HAC Administrator, Trust Fund Administrators, Inc., 1030 15th Street, N.W., Suite 500, Washington, D.C. 20005. The HAC Administrator, not the Contractor, shall be responsible for paying all reasonable and necessary charges, not otherwise covered by student health service or other insurance programs (see paragragaphs (e) and (f)), subject to the availability of funds for such purposes, in accordance with the standards of coverage established by AID under the HAC program, and subject to the payment of the fee specified in paragraph (d)(1), of this section. (1) Within thirty (30) days after enrollment, the Contractor shall send an enrollment fee computed on the basis of the fixed rate per participant per month* (the minimum period for calculation of fee is one month—that is, one participant-month, 30 days, *not* one calendar month—premiums may not be prorated for fractional periods of less than 30 days), to: Agency for International Development, Office of Financial Management, Program Accounting Division, Non Project Assistance, Washington, D.C. 20523.

The enrollment fee should cover a minimum period of up to one year or the current training period for which funds are obligated under this contract, whichever is less. As applicable, payments for additional periods of enrollment shall be made 30 days prior to the beginning of each new enrollment period or new period of funding of this Contract (the monthly enrollment fee for succeeding fiscal years may be obtained by calling the AID Office of International Training). All such fee payments shall be made by check, payable to the "Agency for International Development (HAC)." If payments are not made within 30 days, a late payment charge of ¾ of 1% shall apply for each 30-day period or portion thereof the payment is delayed. The late payment charge shall be applied to any portion of the fees in arrears and be remitted together with the fees as a separately identified item on the covering memorandum.

(2) Whenever possible, fee payments for groups of several participants entering the HAC Program within the thirty-day reporting period shall be consolidated and covered by a single check. Participants covered by the fee payment shall be listed individually in a covering letter, identifying each participant (the name reported must be identical to that on the HAC enrollment card), showing period of enrollment (or period of coverage for which payment is remitted if this is different from the enrollment period), fee amount paid, Contract number, and U.S. Government appropriation number (as shown under the "Accounting and Appropriation Data" block of the Contract).

(e) The Contractor, to the extent that it is an educational institution with a student health service program, shall also enroll all participants in their institution's student health service program. Medical costs which are covered under the institution's student health service shall not be eligible for payment under AID's HAC program. The Contractor shall provide the HAC Administrator with a copy of information showing what medical costs are covered by the institution's student health service program; medical costs that are not covered by the institution's student health service program shall be submitted to the HAC Administrator.

(f) If the Contractor has a mandatory, non-waivable health and accident insurance program for students, the costs of such insurance will be allowable under this Contract. Any claims eligible under such insurance will not be payable under AID's HAC plan or under this Contract. Even thought the participant is covered by the Contractor's mandatory, non-waivable health and accident insurance program, the participant MUST be enrolled in AID's more comprehensive HAC program, *and* HAC payments MUST be made to AID as provided in above. In addition, a copy of the mandatory insurance policy must be forwarded to the HAC Administrator.

(g) Any payments for medical costs not covered by the Contractor's student health service program, or mandatory, non-waivable health and accident insurance program, or AID's HAC program shall be reimbursable under this Contract only with specific written approval of the Contracting Office and subject to the availability of funds.

(h) The HAC Administrator, for the period February 1, 1980 through January 31, 1983, is: Trust Fund Administrators, Inc., 1030 15th Street, N.W., Suite 500, Washington, D.C. 20005.

42. A new § 7–7.5003–10, Women-Owned Business Concerns Subcontracting Program, is added as follows:

§ 7–7.5003–10 Women-owned business concerns subcontracting program.

Insert the clause entitled "Women-Owned Business Concerns Subcontracting Program (Over $500,000 or $1,000,000 for Construction of Any Public Facility)" specified in OFPP Policy Letter 80–4, as contained in Attachment A of FPR Temporary Regulation 54.

Subpart 7–7.52—[Reserved]

43. Subpart 7–7.52—Basic Ordering Agreement for Participant Training, is deleted and reserved.

Subpart 7–7.53—Contracts for Participant Training

44. § 7–7.5301–2, Travel and transportation, is revised as follows:

§ 7–7.5301–2 Travel and transportation.

Travel and Transportation (October 1970)

The Contractor shall be reimbursed for necessary and actual transportation costs and travel allowances of travelers in accordance with the established practice of the Contractor for travel within the United States directly referable to the Contract, provided they shall not exceed the rates and basis for computation of such rates as provided in the Federal Travel Regulations, as from time to time amended. Such transportation costs shall not be reimbursed in an amount greater than the cost of, and time required for, economy class commercial air travel scheduled by the most expeditious route unless economy travel or economy travel space are not available and the Contractor certifies to the facts in the voucher or other documents required to be submitted in accordance with the clause of this Contract entitled Method of Payment.

45. § 7–7.5301–3, Changes in tuition and fees, is revised as follows:

§ 7–7.5301–3 Changes in tuition and fees.

Changes in Tuition and Fees (October 1970)

While educational programs for participants will be established utilizing the Contractor's currently applicable tuition and

*The rate is $25 per participant-month for Fiscal Years 1980 and 1981.

fee schedule, the parties understand that such standard tuition and fees may be subject to change during the course of the program. If such event results in an increase in the cost of the program, AID agrees to pay such increased standard tuition and fees in the next applicable academic term as a condition for the continuation of the program. If such change results in a decrease in the cost of the program, the Contractor agrees to charge to AID only the amount of such revised standard tuition and fees in the next applicable academic term. The Contractor shall undertake to keep AID currently advised as to changes in its standard tuition and fees. At such time as increases in the amounts of tuition and fees results in there being inadequate funds remaining in this contract to meet the costs of the next academic term, the Contractor will so advise AID. AID may then provide such additional funds as required to complete the program.

46. § 7–7.5301–4, Conflicts between contract and catalog, is revised as follows:

§ 7–7.5301–4 Conflict between contract and catalog.

Conflicts Between Contract and Catalog (September, 1974)

In the event of any inconsistency between the provisions of this Contract and any catalog, or other document incorporated in this Contract by reference or otherwise or any of the Contractor's rules and regulations, the provisions of this Contract shall govern.

47. § 7–7.5301–5, Mandatory use of visa eligibility form DSP 66A by participants, is amended by deleting the reference to "* * * AIDPR 7–7.5201–5 * * *" and in its place inserting "* * * AIDPR 7–7.5003–6 * * *".

48. § 7–7.5301–6, Withdrawal of students, is revised as follows:

§ 7–7.5301–6 Withdrawal of students.

Withdrawal of Students (September, 1974)

(a) The Government may, at its option and at any time, withdraw any student.

(b) The Contractor may request withdrawal by the Government of any student for academic or disciplinary reasons.

(c) If such withdrawal occurs prior to the end of a term, the Government shall pay any tuition and fees due for the current term in which the student may be enrolled, and the Contractor shall credit the Government with any charges eligible for refund under the Contractor's standard procedures for civilian students in effect on the effective date of such withdrawal.

(d) Withdrawal of students by the Government shall not be the basis for any special charge or claim by the Contractor other than as provided by the Contractor's standard procedures.

49. § 7–7.5301–10, Inspection, is revised as follows:

§ 7–7.5301–10 Inspection.

Insert the clause set forth in FPR 1–7.402–5(c).

50. § 7–7.5301–11, Modification or amendment, is revised as follows:

§ 7–7.5301–11 Modification or amendment.

Modification or Amendment (November, 1973)

No changes, modifications, or amendments shall be made to this Contract except as may be mutually agreed upon in writing by authorized representatives of the parties hereto.

51. § 7–7.5301–12, Material change in conditions, is revised as follows:

§ 7–7.5301–12 Material change in conditions.

Material Change in Conditions (November, 1973)

If the Contractor advises the Contracting Officer of a material change in the conditions which substantially interferes with or impedes the performance of this Contract in accordance with its terms or with sound professional standards, the parties will mutually consider appropriate action to be taken, which might include, but is not limited to, modification of the Contract or its termination in whole or in part pursuant to the clause of this Contract entitled "Termination." Failure of the parties to agree on the existence of such circumstances and consequent refusal of the Government to terminate after receipt of a written request to do so will be a dispute concerning a question of fact within the meaning of the general provision entitled "Disputes".

52. § 7–7.5301–13, Termination, is revised as follows:

§ 7–7.5301–13 Termination.

Termination (November, 1973)

(a) Either party may terminate this Contract by giving thirty (30) days advance written notice of the effective date of termination. In the event of termination, the Govenment shall have the right, at its option, to continue to receive educational services for those students already enrolled in the Contractor's institution under this Contract until such time that the students complete their courses or curricula or the Government withdraws them from the Contractor's institution. The terms and conditions of this Contract in effect on the effective date of termination shall continue to apply to such students remaining in the Contractor's institution.

(b) Withdrawal of students pursuant to the clause of this contract entitled Withdrawal of Students shall not be considered a termination within the meaning of this provision.

(c) Termination by either party shall not be the basis for any special charge or claim by the Contractor other than as provided by the Contractor's standard procedures.

53. § 7–7.5301–14, Disputes, is revised as follows:

§ 7–7.5301–14 Disputes.

Insert the clause set forth in FPR Temporary Regulation 55.

54. § 7–7.5301–21, Utilization of small business concerns, is retitled and revised as follows:

§ 7–7.5301–21 Utilization of small business and small disadvantaged business concerns.

Insert the clause specified in paragraph A of OFPP Policy Letter 80–2, as contained in Attachment A of FPR Temporary Regulation 50, Supplement 2.

55. § 7–7.5301–22, Notice, is revised as follows:

§ 7–7.5301–22 Notice.

Insert the clause set forth in AIDPR 7–7.5001–39.

56. § 7–7.5301–23, Utilization of minority business enterprises, is retitled and revised as follows:

§ 7–7.5301–23 Small business and small disadvantaged business subcontracting plan/incentive subcontracting program.

Insert the appropriate clause from paragraphs C, D, or E of OFPP Policy Letter 80–2, as contained in Attachment A of FPR Temporary Regulation 50, Supplement 2, under the conditions specified therein.

57. § 7–7.5301–24, Listing of employment openings, is retitled and revised as follows:

§ 7–7.5301–24 Disabled veterans and veterans of the Vietnam era.

Insert the clause set forth in FPR Temporary Regulation 39.

58. § 7–7.5301–25, Payment of Interest on contractor's claims, is deleted and reserved.

59. § 7–7.5301–26, Employment of the handicapped, is revised as follows:

§ 7–7.5301–26 Employment of the handicapped.

Insert the clause set forth in FPR Temporary Regulation 38.

60. A new § 7–7.5301–27, Use of government facilities and personnel, is added as follows:

§ 7–7.5301–27 Use of government facilities and personnel.

Insert the clause set forth in AIDPR 7–7.5001–45.

61. A new § 7–7.5301–28, Health and accident coverage for AID participant trainees, is added as follows:

§ 7–7.5301–28 Health and accident coverage for AID participant trainees.

Insert the clause set forth in AIDPR 7–7.5003–9.

62. A new § 7–7.5301–29, Utilization of Women-Owned Business Concerns, is added as follows:

§ 7-7.5301-29 Utilization of women-owned business concerns.

Insert the clause entitled "Utilization of Women-Owned Business Concerns (Over $10,000)" as specified in OFPP Policy Letter 80-4, as contained in Attachment A of FPR Temporary Regulation 54.

63. A new § 7-7.5302-4, Women-Owned Business Concerns Subcontracting Program, is added as follows:

§ 7-7.5302-4 Women-owned business concerns subcontracting program.

Insert the clause entitled "Women-Owned Business Concerns Subcontracting Program (Over $500,000 or $1,000,000 for Construction of Any Public Facility)" specified in OFPP Policy Letter 80-4, as contained in Attachment A of FPR Temporary Regulation 54.

64. Subpart 7-7.54 is retitled as follows:

Subpart 7-7.54—Clauses for Fixed Price Contracts for Technical Services

65. § 7-7.5401-4, Inspection, is revised as follows:

§ 7-7.5401-4 Inspection.

Insert the clause set forth in FPR 1-7.302-4(b).

66. § 7-7.5401-12, Disputes, is revised as follows:

§ 7-7.5401-12 Disputes.

Insert the clause set forth in FPR Temporary Regulation 55.

§ 7-7.5401-16 [Amended]

67. § 7-7.5401-16, Officials not to benefit, is amended by deleting the reference to "* * * FPR 1-7.102-17" and in its place inserting "* * * AIDPR 7-7.102-17".

68. § 7-7.5401-19, Utilization of Small Business Concerns, is retitled and revised as follows:

§ 7-7.5401-19 Utilization of small business and small disadvantaged business concerns.

Insert the clause specified in paragraph A of OFPP Policy Letter 80-2, as contained in Attachment A of FPR Temporary Regulation 50, Supplement 2, and the paragraph (e) specified in AIDPR 7-7.5001-20.

69. § 7-7.5401-30, Utilization of Minority Business Enterprises, is retitled and revised as follows:

§ 7-7.5401-30 Small business and small disadvantaged business subcontracting plan/incentive subcontracting program.

Insert the appropriate clause from paragraphs C, D, or E of OFPP Policy Letter 80-2, as contained in Attachment A of FPR Temporary Regulation 50, Supplement 2, under the conditions specified therein.

70. § 7-7.5401-31, Listing of Employment Openings, is retitled and revised as follows:

§ 7-7.5401-31 Disabled veterans and veterans of the Vietnam era.

Insert the clause set forth in FPR Temporary Regulation 39.

71. § 7-7.5401-32, Payment of Interest on Contractors Claims, is deleted and reserved.

72. § 7-7.5401-34, Employment of the Handicapped, is revised as follows:

§ 7-7.5401-34 Employment of the handicapped.

Insert the Clause set forth in FPR Temporay Regulation 38.

73. A new § 7-7.5401-37, Use of Government Facilities and Personnel, is added as follows:

§ 7-7.5401-37 Use of government facilities and personnel.

Insert the clause set forth in AIDPR 7-7.5001-45.

74. A new § 7-7.5401-38, Utilization of Women-Owned Business Concerns, is added as follows:

§ 7-7.5401-38 Utilization of women-owned business concerns.

Insert the clause entitled "Utilization of Women-Owned Business Concerns (Over $10,000)" as specified in OFPP Policy Letter 80-4, as contained in Attachment A of FPR Temporary Regulation 54.

§7-7.5403-7 [Amended]

75. § 7-7.5403-7, Mandatory use of visa eligibility form DSP 66A by participants, is amended by deleting the reference to "* * * AIDPR 7-7.5201-5 * * *" and in its place inserting "* * * AIDPR 7-7.5003-6 * * *".

76. A new § 7-7.5403-8, Protection of the individual as a research subject, is added as follows:

§ 7-7.5403-8 Protection of the individual as a research subject.

Insert the clause set forth in AIDPR 7-7.5003-8.

§ 7-7.5403-10 [Amended]

77. A new § 7-7.5403-10, Health and accident coverage for AID participant trainees, is added as follows:

§ 7-7.5403-10 Health and accident coverage for AID participant trainees.

Insert the clause set forth in AIDPR 7-7.5003-9.

78. A new § 7-7.5403-11, Women-Owned Business Concerns Subcontracting Program, is added as follows:

§ 7-7.5403-11 Women-owned business concerns subcontracting program.

Insert the clause entitled "Women-Owned Business Concerns Subcontracting Program (Over $500,000 or $1,000,000 for Construction of any Public Facility)" specified in OFPP Policy Letter 80-4, as contained in Attachment A of FPR Temporary Regulation 54.

Subpart 7-7.55—Clauses for Cost Reimbursement Contracts with Educational Institutions

§ 7-7.5501-13 [Amended]

79. Paragraph (d) of § 7-7.5501-13, Reports, is amended by deleting the reference to the "* * * AID Reference Center * * *" and in its place inserting "* * * Office of Development Information and Utilization, Bureau for Development Support (DS/DIU) * * *".

80. § 7-7.5501-15, Training of foreign country nationals, is amended by revising paragraph (b) as follows:

§ 7-7.5501-15 Training of foreign country nationals.

* * * * *

(b)(1) Health and accident coverage for foreign country nationals is governed by the clause of this Contract entitled Health and Accident Coverage for AID Participant Trainees.

(2) The Contractor shall prepare and submit to the Office of International Training, Bureau for Development Support (DS/IT), three copies of AID Form 1380-9, "Monthly Report of Participants Under Contract", on the last day of each month.

* * * * *

81. § 7-7.5501-17, Subcontracts and purchase orders, is amended by deleting the reference to "* * * AIDPR 7-7.5001-18 * * *" and in its place inserting "* * * FPR 1-7.402 under the conditions set forth therein."

82. § 7-7.5501-20, Disputes, is revised as follows:

§ 7-7.5501-20 Disputes.

Insert the clause set forth in FPR Temporary Regulation 55.

83. § 7-7.5501-29, Utilization of small business concerns, is retitled and revised as follows:

§ 7-7.5501-29 Utilization of small business and small disadvantaged business concerns.

Insert the clause set forth in paragraph A of OFPP Policy Letter 80-2, as contained in Attachment A of FPR Temporary Regulation 50, Supplement 2, and the paragraph (e) set forth in AIDPR 7-7.5001-20.

§ 7-7.5501-32 [Amended]

84. § 7-7.5501-32, Officials not to benefit, is amended by deleting the reference to "* * * FPR 1-7.102-17" and in its place inserting "* * * AIDPR 7-7.102."

85. § 7-7.5501-35, Utilization of minority business enterprises, is retitled and revised as follows:

§7-7.5501-35 Small business and small disadvantaged business subcontracting plan/incentive subcontracting program.

Insert the appropriate clause from paragraphs C, D, or E of OFPP Policy Letter 80-2, as contained in Attachment A of FPR Temporary Regulation 50, Supplement 2, under the conditions specified therein.

86. § 7-7.5501-36, Listing of employment openings is retitled and revised as follows:

§ 7-7.5501-36 Disabled veterans and veterans of the Vietnam era.

Insert the clause set forth in FPR Temporary Regulation 39.

87. § 7-7.5501-37, Payment of interest on contractor's claims, is deleted and reserved.

88. § 7-7.5501-39, Employment of the handicapped, is revised as follows:

§ 7-7.5501-39 Employment of the handicapped.

Insert the clause set forth in FPR Temporary Regulation 38.

89. Add a new § 7-7.5501-41, Health and accident coverage for AID participant trainees, as follows:

§ 7-7.5501-41 Health and accident coverage for AID participant trainees.

Insert the clause set forth in AIDPR 7-7.5003-9.

90. Add a new § 7-7.5501-42, Use of Government Facilities and Personnel, as follows:

§ 7-7.5501-42 Use of government facilities and personnel.

Insert the clause set forth in AIDPR 7-7.5001-45.

91. A new § 7-7.5501-43, Utilization of Women-Owned Business Concerns, is added as follows:

§ 7-7.5501-43 Utilization of women-owned business concerns.

Insert the clause entitled "Utilization of Women-Owned Business Concerns (Over $10,000)" as specified in OFPP Policy Letter 80-4, as contained in Attachment A of FPR Temporary Regulation 54.

92. Add a new 7-7.5503-13, Protection of the individual as a research subject, as follows:

§ 7-7.5503-13 Protection of the individual as a research subject.

Insert the clause set forth in AIDPR 7-7.5003-8.

93. A new § 7-7.5503-14, Women-owned Business Concerns Subcontracting Program, is added as follows:

§ 7-7.5503-14 Women-Owned business concerns subcontracting program.

Insert the clause entitled "Women-Owned Business Concerns Subcontracting Program (Over $500,000 or $1,000,000 for Construction of any Public Facility)" specified in OFPP Policy Letter 80-4, as contained in Attachment A of FPR Temporary Regulation 54.

PART 7-10—BONDS AND INSURANCE

Subpart 7-10.4—Insurance Under Fixed Price Contracts

94. Paragraph (b) of § 7-10.402, Workmen's Compensation Insurance Overseas, is amended to add the following:

§ 7-10.402 Workmen's compensation insurance overseas

* * * * *

(b) * * * As of July 31, 1979, the Department of Labor has granted partial blanket waivers of Defense Base Act coverage for the countries listed below. The waivers are applicable to AID-financed contracts performed in the listed countries, and are subject to two conditions:

(1) Employees hired in the United States by the Contractor, and citizens or residents of the United States are to be provided Defense Base Act insurance coverage:

(2) Waived employees (i.e., foreign nationals hired outside the United States) will be provided worker's compensation benefits prescribed in the applicable foreign laws as the contract requires. Countries for which waivers are in effect are:

1. Afghanistan
2. Bahamas
3. Bangladesh
4. Barbados
5. Benin (formerly Dahomey)
6. Bolivia
7. Botswana
8. Brazil
9. Cameroon
10. Chad
11. Chile
12. Colombia
13. Costa Rica
14. Dominican Republic
15. Ecuador
16. Egypt
17. El Salvador
18. Ethiopia
19. Fiji
20. Gambia
21. Ghana
22. Guatemala
23. Guinea
24. Guines-Bissau
25. Guyana
26. Haiti
27. Honduras
28. Indonesia
29. Israel
30. Italy
31. Ivory Coast
32. Jamaica
33. Jordan
34. Kenya
35. Korea
36. Lebanon
37. Lesotho
38. Liberia
39. Mali
40. Mauritania
41. Mexico
42. Morocco
43. Nepal
44. Nicaragua
45. Niger
46. Nigeria
47. Panama
48. Paraguay
49. Peru
50. Philippines
51. Portugal
52. Senegal
53. Sierra Leone
54. Sinai Support Mission
55. Somalia
56. Sudan
57. Swaziland
58. Syria
59. Tanzania
60. Thailand
61. Togo
62. Tunisia
63. Upper Volta
64. Uruguay
65. Yemen Arab Republic
66. Zaire
67. Zambia

PART 7-15—CONTRACT COST PRINCIPLES AND PROCEDURES

Subpart 7-15.1—Applicability

§ 7-15.102 [Deleted]

95. § 7-15.102, Cost reimbursement supply and research contracts with concerns other than educational institutions is deleted.

96. § 7-15.103, Cost reimbursement research contracts with educational institutions, is retitled and revised as follows:

§ 7-15.103 Contracts with educational institutions.

FPR 1-15.103 is also applicable to contracts with educational institutions providing technical assistance to or for another country.

PART 7-16—PROCUREMENT FORMS

Subpart 7-16.5—Forms for Advertised and Negotiated Non-personal Services Contracts (Other than Construction).

§ 7-16.552 [Deleted]

§ 7-16.553 [Deleted]

97. § 7-16.552, Cover page for Basic Ordering Agreement (Participant Training), and § 7-16.553, Forms for Task Orders for Participant Training: Individual and Group, are deleted and reserved.

PART 7-30—CONTRACT FINANCING

Subpart 7-30.4—Advance Payment

98. Paragraph (b) of § 7-30.406, Responsibility—delegation of authority, is revised as follows:

§ 7-30.406 Responsibility—delegation of authority.

* * * * *

(b) Prior to committing the Government to making an advance payment, the Contracting Officer shall obtain the advice and concurrence of the Office of Financial Management, Programming Accounting Division (FM/PAD). For Mission executed advances, advice and concurrence of the Mission

Controller should be obtained. If FM/PAD (or the Mission Controller) does not concur, the Contracting Officer shall refer the issue to the Head of the procuring activity for final decision.

99. Subpart 7–30.45 is redesignated as Subpart 7–30.50 to read as follows:

Subpart 7–30.45—Federal Reserve Letter of Credit Method of Disbursing Advances to Non-profit Institutions

§ 7–30.4500 [Redesignated]

§ 7–30.4501 [Redesignated]

§ 7–30.4501–1 [Redesignated]

§ 7–30.4501–2 [Redesignated]

§ 7–30.4501–3 [Redesignated]

§ 7–30.4502 [Redesignated]

100. § 7–30.4500, § 7–30.4501, § 7–30.4501–1, § 7–30.4501–2, § 7–30.4501–3, and § 7–30.4502 are redesignated as § 7–30.5000, § 7–30.5001,§ 7–30.5001–1, § 7–30.5001–2, § 7–30.5001–3, and § 7–30.5002, respectively.

101. Paragraph (b) of § 7–30.5001, guidelines for use of the Federal Reserve Letter of Credit, is amended by deleting the reference to "* * * § 7–30.4502, below * * *" and in its place inserting "* * * § 7–30.5002, below * * *"

§ 7–30.5002 [Amended]

102. The last sentence of § 7–30.5002, Contract clause—Federal Reserve Letter of Credit, is amended by deleting the reference to "* * * AIDPR 7–30.4501" and in its place inserting "* * * AIDPR 7–30.5001–1."

PART 7–50—EXTRAORDINARY CONTRACTUAL ACTIONS TO PROTECT FOREIGN POLICY INTERESTS OF THE UNITED STATES

Subpart 7–50.2—Requests for Contractual Adjustment

103. § 7–50.202, Reserved, is revised as follows:

§ 7–50.202 Approving authorities.

Authority to approve actions processed under this Part 7–50 has been delegated as follows:

95. (a) The Director, Office of Contract Management, may approve actions up to $50,000 per contract under Section 3 of the Executive Order. The Deputy Assistant Administrator, Bureau for Program and Managment Services, may approve actions up to $250,000 per contract under Section 3 of the Executive Order.

95. (c) The Assistant Administrator, Bureau for Program and Management Service, may approve actions up to $250,000 per contract under both Section 3 and Section 4 of the Executive Order.

(d) The Administrator and Deputy Administrator must approve any action over $250,000.

Authority: This AIDPR Notice is issued pursuant to 41 CFR 7–1.104–4.

Effective Date: This AIDPR is effective June 23, 1980.

Dated: June 23, 1980.

John F. Owens,

Deputy Assistant Administrator for Program and Management Services.

[FR Doc. 80–19664 Filed 6–30–80; 8:45 am]

BILLING CODE 4710–02–M

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41 CFR Parts 7–6 and 7–7

[AIDPR Notice 80–2]

Nationality Eligibility Policy for the Suppliers of Goods and Services Under AID—Direct Contracts

AGENCY: Agency for International Development (AID).

ACTION: Final rule.

SUMMARY: This AIDPR Notice amends the AID Procurement Regulations (AIDPR) to reflect current AID policies on source, origin, and nationality requirements for suppliers of goods and services. The AID Procurement Regulations had required as a general policy that goods or services acquired under AID contracts be of U.S. source, origin, or nationality. This policy has been revised to allow acquisition of goods or services from certain less developed countries, in addition to the U.S. and to provide an alternative to the beneficial ownership test for determining whether a corporation or partnership qualifies as a U.S. corporation or partnership for providing services

EFFECTIVE DATE: This notice is effective upon signature.

FOR FURTHER INFORMATION CONTACT: Mr. Frank L. Calkins, CM/SD/POL, Agency for International Development, International Development Cooperation Agency, Washington, D.C. 20523, Telephone (703) 235–9107.

PART 7–6—FOREIGN PURCHASES

1. Part 7–6 is amended by revising Subpart 7–6.51—U.S. Source Restrictions—Services, and deleting Subpart 7–6.52—U.S. Source Restrictions—Commodities. In their place, the following new Subpart 7–6.51—Source, Origin, and Nationality, is inserted:

Subpart 7–6.51—Source, Origin, and Nationality

Authority: Sec. 621, 75 Stat. 445, as amended, 22 U.S.C. 2381.

§ 7–6.5100 General.

AID policies regarding source, origin, and nationality requirements for AID contractors and subcontractors are established in AID Handbook 1, Supplement B, primarily in Chapter 5. Additional related policies are set forth in Chapters 4, 7, and 18. These policies as they apply to subcontracts and purchases under AID-direct contracts have been incorporated into the contract clauses set forth in §§ 7–6.5103 and 7–6.5104 of this Subpart.

§ 7–6.5101 Designation of authorized geographic code.

(a) The authorized geographic code or codes for an AID contract shall be specified in the Schedule of each contract and shown on its cover page. If no geographic code is specified, the authorized code will be deemed to be Geographic Code 000, the U.S.

(b) Individual country and geographic codes are defined in Attachment A–11, Section III, of Appendix D to AID Handbook 18.

§ 6.5102 Contractor employees.

There are no nationality restrictions on employees or consultants of either contractors or subcontractors providing services under an AID-financed contract, except that they must be citizens of a Geographic Code 935 country, or non-U.S. citizens lawfully admitted for permanent residence in the U.S.

§ 7–6.5103 Contract clause—source and nationality requirements.

The following clause shall be included in all AID-direct contracts: Source and nationality requirements for procurement of goods and services (APR 1980).

(a) *General.* Except as may be specifically approved or directed in advance by the contracting officer, or as provided in paragraph (h) below, all goods (e.g., equipment, vehicles, materials, and supplies), and services which will be financed under this contract with United States dollars shall be procured in and shipped from the U.S. (Code 000) and from any other

countries within the authorized geographic code specified in the Schedule of this contract.

(b) *Procurement of goods.* In order to be eligible under this contract, goods purchased under this contract must be of eligible source and origin, and must satisfy AID's componentry requirements. In addition, the supplier of commodities must meet the nationality requirements specified in paragraph (d)(1) of this clause.

(1) *Source.* Source means the country from which a commodity is shipped to the Cooperating Country or the Cooperating Country itself if the commodity is located therein at the time of purchase. However, where a commodity is shipped from a free port or bonded warehouse in the form in which received therein, source means the country from which the commodity was shipped to the free port or bonded warehouse.

(2) *Origin.* The origin of a commodity is the country or area in which a commodity is mined, grown, or produced. A commodity is produced when through manufacturing, processing, or substantial and major assembling of components, a commercially recognized new commodity results that is substantially different in basic characteristics, or in purpose or utility, from its components.

(3) *Componentry.* Components are the goods that go directly into the production of a produced commodity. AID componentry rules are as follows:

(i) If a commodity produced in an eligible source country contains no imported component, it is eligible for AID financing.

(ii) Components from the U.S., the Cooperating Country, and other countries included in Geographic Code 941 may always be utilized in unlimited amounts regardless of the geographic code authorized.

(iii) Unless procurement is authorized from countries included in Code 899, components from free world countries not included in Code 941 are limited according to the following rules:

(A) They are limited only if they are acquired by the producer in the form in which they were imported.

(B) The total cost to the producer of such components (delivered at the point of production) may not exceed 50 percent of the lowest price (excluding the cost of ocean transportation and marine insurance) at which the supplier makes the commodity available for export sale (whether or not financed by AID).

(C) AID may prescribe percentages other than 50 percent for specific commodities.

(iv) Any component from a non-free world country makes the commodity ineligible for AID financing.

(4) *Supplier Nationality.* (See paragraph (d) of this clause.)

(c) *Eligibility of commodity-related services.*

(1) *Incidental services.* Nationality rules are applied to the contractor or subcontractor supplying equipment under this contract and not separately to any subcontractor that may supply commodity-related incidental services. Such services, defined as the installation or erection of AID-financed equipment, or the training of personnel in the maintenance, operation, and use of such equipment, are eligible if specified in the equipment contract or subcontract and performed by citizens of countries included in AID Geographic Code 935, or non-U.S. citizens lawfully admitted for permanent residence in the U.S.

(2) *Ocean and air transportation.*

(i) The eligibility of transportation services is determined by the flag registry of the vessel or aircraft. Costs of ocean freight are normally eligible for AID financing only if incurred on U.S. flag vessels, or if Code 941 is an authorized source for procurement of goods or services, on ocean vessels of U.S. or Cooperating Country flag registry.

(ii) The eligibility of transportation services is determined by the flag registry of the vessel or aircraft. Except as otherwise approved by the Contracting Officer, costs of ocean freight are eligible for AID financing only if incurred on U.S. Flag vessels, or if Code 941 is an authorized source for procurement of goods or services, on ocean vessels of U.S. or Cooperating Country flag registry.

(iii) At least 50 percent of the gross tonnage of all goods purchased under this contract and transported to the Cooperating Country on ocean vessels shall be transported on U.S. flag vessels. When U.S. flag vessels are not available, or their use would result in a significant delay, the contractor may request a release from this requirement from the Transportation Support Division, Office of Commodity Management, AID, Washington, D.C. 20523, giving the basis for the request.

(iv) Vouchers submitted for reimbursement which include ocean shipment costs shall contain a certification essentially as follows: "I hereby certify that a copy of each ocean bill of lading concerned has been submitted to the Maritime Administration, Cargo Preference Control Center, Commerce Building, Washington, D.C. 20235 and that such bills of lading state all of the carrier's charges including the basis for calculation such as weight or cubic measurement."

(v) For use of U.S. flag air carriers, see the General Provision entitled "Preference for U.S. Flag Air Carriers."

(3) *Marine insurance.* The eligibility or marine insurance is determined by the country in which it is "placed." Insurance is "placed" in a country if payment of the insurance premium is made to, and the insurance policy is issued by, an insurance company located in that country. Eligible countries for placement are governed by the authorized geographic code, except that if Code 941 is authorized, the Cooperating Country is also eligible. Section 604(d) of the Foreign Assistance Act requires that if a recipient country discriminates by statute, decree, rule, or practice with respect to AID-financed procurement against any marine insurance company authorized to do business in any State of the United States, then any AID-financed commodity shipped to that country shall be insured against marine risk and the insurance shall be placed in the U.S. with a company or companies authorized to do a marine insurance business in any State of the U.S.)

(d) *Nationality.* Except as specified in paragraph (c) of this clause, in order to be eligible for AID financing, contractors, suppliers, or subcontractors must fit one of the following categories:

(1) *Suppliers of commodities.* A supplier providing goods must fit one of the following categories to be eligible for AID financing:

(i) An individual who is a citizen or legal resident of a country or area included in the authorized geographic code; or

(ii) A corporation or partnership organized under the laws of a country or area included in the authorized geographic code; or

(iii) A controlled foreign corporation: i.e. any foreign corporation of which more than 50 percent of the total combined voting power of all classes of stock is owned by United States shareholders within the meaning of Section 957 et seq. of the Internal Revenue Code, 26 U.S.C. 957; or

(iv) A joint venture or unincorporated association consisting entirely of individuals, corporations, or partnerships which fit any of the foregoing categories.

(2) *Suppliers of services.* A contractor providing services, or a subcontractor providing services under an AID financed prime contract for services must fit one of the following categories to be eligible for AID financing (Note:

the terms contractor and subcontractor include personal services contractors):

(i) An individual who is a citizen of and whose principal place of business is in a country included in the authorized geographic code or a non-U.S. citizen lawfully admitted for permanent residence in the United States whose principal place of business is in the United States; or

(ii) A corporation or partnership that is incorporated or legally organized under the laws of a country or area included in the authorized geographic code, has its principal place of business in a country or area included in the authorized geographic code, and meets the criteria set forth in either subparagraph (A) or (B), below:

(A) The corporation or partnership is more than 50% beneficially owned by individuals who are citizens of a country or area included in the authorized geographic code. In the case of corporations, "more than 50% beneficially owned" means that more than 50% of each class of stock is owned by such individuals; in the case of partnerships, "more than 50% beneficially owned" means that more than 50% of each category of partnership interest (e.g., general, limited) is owned by such individuals. (With respect to stock or interests held by companies, funds or institutions, the ultimate beneficial ownership by individuals is controlling.)

(B) The corporation or partnership:

(*1*) has been incorporated or legally organized in the United States for more than three years prior to the issuance date of the invitation for bids or request for proposals, and

(*2*) has performed within the United States administrative and technical, professional or construction services under a contract or contracts for services and derived revenue therefrom in each of the three years prior to the date described in the preceding paragraph, and

(*3*) employs United States citizens in more than half its permanent full-time positions in the United States, and

(*4*) has the existing capability in the United States to perform the contract; or

(iii) A joint venture or unincorporated association consisting entirely of individuals, corporations, or partnerships which fit categories (d)(2)(i) and (d)(2)(ii) of this clause. However, joint ventures with firms wholly or partially owned by the host government are ineligible.

(iv) A duly authorized officer of the firm shall certify that the participating firm meets either the requirements of subparagraphs (d)(ii)(A) or (d)(ii)(B) of this clause. In the case of corporations, the certifying officer shall be the corporate secretary. With respect to the requirements of subparagraph (d)(ii)(A), of this clause, the certifying officer may presume citizenship on the basis of the stockholder's record address, provided the certifying officer certifies, regarding any stockholder (including any corporate funds or institutional stockholder) whose holdings are material to the corporation's eligibility, that the certifying officer knows of no fact which might rebut that presumption.

(3) *Ineligible suppliers of commodities and services.* Citizens or firms of any country not included in AID Geographic Code 935 are ineligible as suppliers, contractors, subcontractors, or agents in connection with AID-financed contracts for goods or services. However, non-U.S. citizens lawfully admitted for permanent residence in the United States are eligible.

(e) *Nationality of employees under contracts and subcontracts for services.* The nationality policy of subparagraph (d)(2) of this clause does not apply to the employees of contractors or subcontractors, but all contractor and subcontractor employees engaged in providing services under AID-financed contracts must be citizens of countries included in AID Geographic Code 935 or non-U.S. citizens lawfully admitted for permanent residence in the United States.

(f) *The Cooperating Country as a source.* With certain exceptions, the Cooperating Country is not normally an eligible source for procurement to be paid in U.S. dollars. The exceptions are for ocean freight and marine insurance (see paragraphs (c)(1) and (c)(2) of this clause.) The Cooperating Country may be an eligible source if local cost financing is approved either by specific action of the contracting officer, or in the Schedule of the contract. In such cases, the General Provision entitled "Local Cost Financing With U.S. Dollars", as required by AIDPR 7–6.5104, will apply.

(g) *Ineligible goods and services.* The following goods or services shall not be procured under this contract:

(1) miltary equipment,

(2) surveillance equipment,

(3) commodities and services for support of police or other law enforcement activities,

(4) abortion equipment and services,

(5) luxury goods and gambling equipment, or

(6) weather modification equipment.

If AID determines that the Contractor has procured any of these specific ineligible goods and services under this contract and has received payment therefor, the Contractor agrees to refund to AID the entire amount of the purchase.

(h) *Restricted goods.* The Contractor shall not procure any of the following goods or services without the prior written approval of the contracting officer:

(1) agricultural commodities,

(2) motor vehicles,

(3) pharmaceuticals,

(4) pesticides,

(5) plasticizers,

(6) used equipment, or

(7) U.S. Government-owned excess property.

If AID determines that the Contractor has procured any of these specified restricted goods under this contract without the prior written authorization of the contracting officer, and has received payment for such purposes, the Contractor agrees to refund to AID the entire amount of the purchase.

(i) *Printed or audio-visual teaching materials.* If the effective use of printed or audio-visual teaching materials depends upon their being in the local language and if such materials are intended for technical assistance projects or activities financed by AID in whole or in part and if other funds, including U.S.-owned or U.S.-controlled local currencies are not readily available to finance the procurement of such materials, local language versions may be procured from the following sources, in order of preference:

(1) Code 000, United States,

(2) Code —, Cooperating Country,

(3) Code 941, Selected Free World,

(4) Code 899, Free World.

(j) *Ineligible suppliers.* Funds provided under this contract shall not be used to procure any commodity or commodity-related services furnished by any supplier whose name appears on the List of Ineligible Suppliers under AID Regulation 8, "Suppliers of Commodities and Commodity-Related Services Ineligible for AID Financing" (22 CFR 208). The Contractor agrees to review said list prior to undertaking any procurement the cost of which is to be financed under this contract. The contracting officer will provide the Contractor with this list.

§ 7–6.5104 Contract clause-authorization of local cost financing with U.S. dollars.

(a) Local cost financing requires specific authorization under paragraphs 5B4d(1)(b) and 5C4c(1)(b) of Supplement B to AID Handbook 1. Such authorizations must specify the U.S. dollar amount which may be used for local cost financing.

(b) When local cost financing has been authorized, the contracting officer shall insert the following clause in the

contract and set out the local cost portion in the Schedule of the contract:

Local Cost Financing With U.S. Dollars (April 1980)

(a) Local cost financing is the use of U.S. dollars to obtain local currency for the procurement of goods and services in the Cooperating Country in furtherance of the purpose of the contract. Local cost financing must be specifically authorized in the Schedule of the contract. The amount of U.S. dollars which may be used must be specified in the authorization, together with any special restrictions on their use.

(b) Procurement of goods and services under local cost financing is subject to the following restrictions:

(1) *Ineligible goods and services.* The following goods or services shall not be procured under this contract:

(i) military equipment,

(ii) surveillance equipment,

(iii) commodities and services for support of police or other law enforcement activities,

(iv) abortion equipment and services,

(v) luxury goods and gambling equipment, or

(vi) weather modification equipment.

If AID determines that the Contractor has procured any of these specified ineligible goods and services under this contract, and has received payment therefore, the Contractor agrees to refund the entire amount of the purchase.

(2) *Restricted goods.* The Contractor shall not procure any of the following goods or services without the prior written approval of the contracting officer:

(i) Agricultural commodities,

(ii) motor vehicles,

(iii) pharmaceuticals,

(iv) pesticides,

(v) plasticizers,

(vi) used equipment, or

(vii) U.S. Government-owned excess property.

If AID determines that the Contractor has procured any of these specified restricted goods under this contract, without the prior written authorization of the contracting officer, and has received payment for such purposes, the Contractor agrees to refund to AID the entire amount of the purchase.

(3) Any component from a non-free world country makes the commodity ineligible for AID financing.

(4) Citizens or firms of any country not included in AID Geographic Code 935 are ineligible as suppliers, contractors, subcontractors, or agents in connection with AID-financed contracts for goods or services.

(c) *General principles.* Under local cost financing, the Contractor shall follow sound procurement policies, utilizing competition to the maximum practical extent, obtaining the lowest available price, and documenting such procurements to justify the method used and the price established.

(d) *Procurement of goods.* In order to be eligible under local cost financing, goods are subject to the following specific requirements:

(1) *Indigenous goods.* Goods which have been mined, grown, or produced in the Cooperating Country through manufacture, processing, or assembly are eligible for local cost financing under this contract. Goods produced with imported components must result in a commercially recognized new commodity that is substantially different in basic characteristics or in purpose or utility from its components in order to qualify as indigenous; such goods may not contain components from any non-free world country.

(2) *Imported shelf items.* Imported shelf items are goods that are normally imported and kept in stock, in the form in which imported, for sale to meet a general demand in the country for the item; they are not goods which have been specifically imported for use in an AID-financed project.

(i) Shelf items are eligible for local cost financing in unlimited quantities up to the total amount available for local cost financing if they have their source and origin in a country included in AID Geographic Code 941.

(ii) Shelf items having their source and origin in countries in Geographic Code 899 but not in Geographic Code 941 are eligible for financing if the price of one unit does not exceed $2,500 and if the total amount of imported shelf items purchased from Geographic Code 899 but not in Geographic Code 941 may not exceed the amount specified in the Schedule of this contract. (For goods sold by units of quantity, e.g., tons, barrels, etc., the unit to which the local currency equivalent of $2,500 is applied is that which is customarily used in quoting prices.)

(3) *Goods imported specifically for the project.* Goods imported specifically for the project being implemented by this contract that do not meet the shelf item definition in paragraph (d)(2) of this clause are subject to the requirements of the clause entitled "Source and Nationality Requirements for Procurement of Goods and Services" (AIDPR 7-6.5103).

§ 7-6.5105 Geographic source waivers.

(a) Authority to waive source, origin, nationality, and transportation services requirements is set forth in Delegation of Authority No. 40 (AID Handbook 5). Additional guidance is available in Chapters 5, 7, and 18 of Supplement B to AID Handbook 1.

(b) The contracting officer shall insert the authorized geographic code based on an approved geographic source waiver in the Schedule of the contract as provided for in § 7-7.5101 of this Subpart. In addition, the contracting officer shall place a copy of any approved geographic source waiver in the official contract file.

PART 7-7—CONTRACT CLAUSES

Subpart 7-7.50—Clauses for Cost Reimbursement Contracts

2. § 7-7.5001-17 is revised as follows:

§ 7-7.5001-17 Source and nationality requirements for procurement of goods and services.

Insert the clause set forth in § 7-6.5103.

3. § 7-7.5002-15 is amended as follows:

§ 7-7.5002-15 Transportation and storage expenses.

Transportation and Storage Expenses (Mar. 1980)

* * * * *

(D) *International ocean transportation.*

(1) All international ocean transportation of persons or materials which is to be reimbursed in U.S. dollars under this contract shall be on U.S. flag vessels, or if Code 941 is an authorized source for goods or services under this contract, on U.S. or Cooperating Country flag vessels.

* * * * *

4. A new § 7-7.5003-7, local cost financing with U.S. dollars, is inserted as follows:

§ 7-7.5003-7 Local cost financing with U.S. dollars.

Insert the clause in § 7-6.5104 under the conditions specified therein.

Subpart 7-7.54—Clauses for Fixed Price Contracts for Technical Services

5. § 7-7.5401-7 is revised as follows:

§ 7-7.5401-7 Source and nationality requirements for procurement of goods and services.

Insert the clause set forth in § 7-6.5103.

6. A new § 7-7.5403-9, local cost financing with U.S. dollars, is inserted as follows:

§ 7-7.5403-9 Local cost financing with U.S. dollars.

Insert the clause § 7-6.5104 under the conditions specified herein.

Subpart 7-7.55—Clauses for Cost Reimbursement Contracts with Educational Institutions

7. § 7-7.5501-16 is revised as follows:

§ 7-7.5501-16 Source and nationality requirements for procurement of goods and services.

Insert the clause set forth in § 7-6.5103.

8. A new § 7-7.5503-12, local cost financing with U.S. dollars, is inserted as follows:

§ 7-7.5503-12 Local cost financing with U.S. dollars.

Insert the clause in § 7-6.5104 under the conditions specified therein.

Authority: This AIDPR Notice is issued pursuant to 41 CFR 7-1.104-4.

Dated: June 27, 1980.

John F. Owens,

Deputy Assistant Administrator for Program and Management Services.

[FR Doc. 80-19852 Filed 6-30-80; 8:45 am]

BILLING CODE 4710-02-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 405

Medicare Program; Payment for Durable Medical Equipment

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final rule.

SUMMARY: This regulation establishes criteria and procedures for payment for new and used durable medical equipment for beneficiaries under Part B (Supplementary Medical Insurance) of the Medicare program. It implements Section 16 of the Medicare-Medicaid Anti-Fraud and Abuse Amendments of 1977 (P.L. 95-142). Section 16 provides of purchase of durable medical equipment when purchase is less costly or more practical than rental, and authorizes the Secretary to take necessary administrative steps to encourage the availability of this equipment to beneficiaries on a lease-purchase basis. The purpose is to reduce program costs caused by long and costly rentals of equipment and reduce beneficiary expenses for annual deductibles and coinsurance for unnecessarily long rentals.

EFFECTIVE DATE: December 29, 1980.

FOR FURTHER INFORMATION CONTACT: Paul Riesel, Health Care Financing Administration, Room 1A3 East Low Rise, 6401 Security Blvd., Baltimore, MD 21235, 301-597-1843.

SUPPLEMENTARY INFORMATION: Before the enactment of P.L. 95-142, Medicare beneficiaries had the option to decide whether to rent or purchase durable medical equipment. However, there were far more rentals than purchases. The rentals sometimes were for such long periods that payments exceeded the purchase price of the items. Moreover, since beneficiaries are liable for a 20-percent coinsurance amount in addition to the annual $60 deductible amount, they shared a large part of the financial burden imposed by long rental periods.

Section 16 of Pub. L. 95-142 (amending section 1833(f) of the Social Security Act) was enacted to protect the Medicare program and beneficiaries against excessive expenditures for rentals of durable medical equipment. This section requires the Secretary to (1) determine whether purchase is less costly or more practical than rental and, if so, to reimburse on a purchase basis unless this would cause the beneficiary undue financial hardship; (2) enter into agreements with suppliers of durable medical equipment to establish equitable, economical, and feasible reimbursement procedures; (3) encourage lease-purchase arrangements; and (4) offer an incentive to purchase used equipment.

Major Provisions

1. Carrier Determination of Payment Method

The regulation establishes three methods of payment—lease-purchase, lump sum payment for purchase, and rental charges. The Medicare carrier shall determine whether rental or purchase is more economical and feasible, taking into account the period during which durable medical equipment is expected to be needed by the beneficiary and information about reasonable purchase and rental charges. The carrier shall determine expected duration of need primarily on the basis of medical records or certification by the attending physician. Other available information, such as item cost, the average length of time normally used, and the frequency and cost of maintenance and servicing may also be considered by the carriers in deciding whether to allow reimbursement on a purchase or rental basis.

We plan to issue administrative guidelines to the carriers which may, for example, include lists of durable medical equipment that should be purchased routinely, or rented routinely, or which should either be purchased or rented depending on whether specified periods of medical necessity are involved. We also plan to protect beneficiaries by instructing carriers to permit, but not to require, lump sum payment for purchase of very expensive items that would involve large beneficiary coinsurance payments. This will help beneficiaries and suppliers to know, at the time the beneficiary first obtains equipment, how reimbursement is likely to be made. This should help the beneficiary in making arrangements for payment of deductibles and coinsurance.

2. Lease-Purchase Payments

If the carrier determines that purchase is less costly or more practical than rental, the carrier shall pay under a lease-purchase agreement if that is more economical than lump sum payment for purchase and if an acceptable lease-purchase agreement is reasonably available to the beneficiary.

We are not now prescribing specific types of lease-purchase agreements that can be automatically accepted by carriers, since this arrangement is presently not widely available in the durable medical equipment field. Instead, we, or carriers we designate, will review lease-purchase arrangements for acceptability. Factors we will consider in determining whether a lease-purchase is economical include:

1. The protection it offers against unnecessary expenditures in the event that the medical need for the equipment ends earlier than expected;
2. The amount and timing of periodic payments;
3. Conditions for transferring ownership of the equipment to the beneficiary when periodic payments reach an agreed-upon purchase price; and
4. The adequacy of warranties, maintenance, service, and repairs.

To encourage the availability of practical lease-purchase agreements where suppliers of durable medical equipment do not ordinarily offer these arrangements, we, or carriers we designate, will establish and maintain a system for informing beneficiaries of suppliers willing to enter into lease-purchase agreements. We will also work with suppliers and consumer groups to develop acceptable standard lease-purchase agreements.

3. Lump Sum Payment for Purchases

If the expected rental charge exceeds the purchase cost and an economical lease-purchase agreement is not

available, the carrier shall consider the use of a lump sum payment for purchase.

If lump sum payment for an item would impose a hardship on the beneficiary, the carrier shall delay making lump sum payment, and shall make reasonable interim rental payments for up to three months. During that time, the beneficiary is expected to make other arrangements for payment, such as a lease-purchase agreement or installment payments for the deductible and coinsurance.

Interim rental payments and undue financial hardship on the beneficiary are discussed more fully below.

4. Rental Payments

Unless the item is listed in HCFA guidelines for purchase only, the carrier shall pay for equipment on the basis of rental charges if the total rental charges for the expected period of medical need are less costly, or if rental is more practical, than purchase.

If purchase is later warranted, the carrier shall make a new reasonable charge determination. In this case, rental payments already made need not be deducted from the amount payable for purchase, unless the supplier ordinarily applies them toward the purchase price.

Rental payments shall also be made if the carrier determines that payment should be made by lease-purchase or lump sum payment, but the beneficiary continues to rent the equipment after being advised that the carrier will pay by purchase. In this instance, the total rental charges on which the carrier bases payment shall not exceed the carrier's determination of the reasonable purchase charge. If the beneficiary decides later to purchase the equipment, any rental charges paid by the carrier shall be deducted from the purchase charge.

If the beneficiary decides to purchase the equipment but the carrier concludes that Medicare payment should be made on the basis of rental charges, the carrier shall pay on the basis of rental charges. The payments shall be made until the beneficiary's medical need for the equipment ends or until the payments equal those allowable for purchase, whichever comes first. Thus, the beneficiary runs a risk in deciding to buy equipment that the carrier determines should be rented.

5. Interim Rental Payments

Since beneficiaries obtain equipment prior to submitting a bill to the carrier, and since the carrier may need some time to decide which method of payment is appropriate, we are authorizing the carrier to make interim rental payments pending its determination of the proper method of payment. We believe that we must include these interim rental payments in the reasonable charge for the equipment in order to be consistent with the purposes of the Medicare program. However, in order to encourage beneficiaries and supplier to submit claims promptly, and to avoid unnecessary rental charges, we are limiting these interim rental payments to a maximum period of six months. In other words, if the carrier determines that payment will be on a purchase basis, interim rental payments shall be made for up to six months from the first month the equipment was rented through the month following the month in the date on the carrier's determination notice. Thus, if the claim is not submitted promptly, the beneficiary or supplier risks that the carrier will determine that the equipment should be purchased and that the carrier will not reimburse the beneficiary or supplier for all rental charges prior to the purchase determination. The regulation permits an extension of the six-month period, however, if the carrier determines that the beneficiary or supplier was without fault in delaying the filing of the claim, or, for example, if there was a delay in the processing of the claim.

If the supplier does not agree to credit the beneficiary's interim rental payments toward the purchase price, these rental payments are made in addition to the purchase payment.

If the carrier determines that the equipment should be rented, it shall pay on the basis of reasonable rental charges beginning with the first month the beneficiary began renting the equipment.

6. Undue Financial Hardship

The regulation permits three months of rental payments, in addition to those discussed in item 5 above, if the carrier determines that purchase should be made by lump sum payment, but this would cause a financial hardship on the beneficiary.

The carrier's determination of hardship is based on the supplier's refusal to arrange installment payments of the amounts the beneficiary owes over and above the Medicare payment, and on the beneficiary's statement that he is not currently a recipient of local or State programs, such as Medicaid, which could make payments for him. To facilitate purchase arrangements and avoid financial hardship, the regulation permits Medicare payments for reasonable interest or carrying charges the beneficiary incurs in paying deductibles and coinsurance in installments.

If the beneficiary, who suffers a hardship, subsequently buys the equipment from the supplier who originally furnished it and who refused to work out installment payments, thereby contributing to the hardhip, the supplier should not be advantaged by receipt of the additional three months of rental charges. To avoid this where possible, if another supplier is available to the beneficiary, we are encouraging the beneficiary to purchase from the other supplier. We are doing this by paying on the basis of the full reasonable charge for the purchase if the purchase is made from the other supplier, and by deducting the three months of rental charges from the reasonable charge if the beneficiary purchases from the original supplier. If there is no other supplier readily available to the beneficiary, we will not deduct the three months of rental charges from the purchase price, since deducting them could hurt the beneficiary who might be liable to the supplier for these charges.

7. Waiver of Coinsurance for Purchase of Used Equipment

In accordance with section 16 of Pub. L. 95–142, the regulation provides for waiver of the Part B coinsurance amount, but not the Medicare deductible, for the purchase of used equipment, if the purchase price is at least 25 percent less than the reasonable charge that would be allowed for comparable new equipment. If the used equipment is purchased from a commercial supplier, the regulation requires certifications and warranties regarding the condition of the equipment to protect beneficiaries against the purchase of items that do not meet their needs, are worn out, or in poor condition. If the equipment is purchased from a private source, the beneficiary must state that he is satisfied that the equipment is in satisfactory condition. Carriers are not required to examine the used item, since this would be an impractical, cumbersome, and costly administrative burden.

These provisions for waiving coinsurance, if the actual charge is at least 25 percent less than the reasonable charge for new equipment, do not affect the rules under which reasonable charges for used equipment are determined. The carrier is required to calculate the reasonable charge for used equipment in accordance with Medicare regulations and guidelines.

Discussion of Comments on Notice of Proposed Rulemaking

Notice of proposed rulemaking was published on December 14, 1978 (43 FR 58392). Comments were received from representatives of 20 businesses or organizations and from 2 individuals. The organizations included business or trade organizations, a State agency, a client advocacy group, home health agencies, Medicare carriers, and a physicians' association. The major concerns expressed and our responses follow:

1. Comments on the General Provisions in the Regulation, Paragraph (c)

Comment: The proposed rules deprive beneficiaries of their basic rights to choose between rental and purchase and impose financial burdens on them.

Response: The regulation is required by legislation (section 16 of P. L. 95–142). It affects beneficiaries' rights to the extent that the law requires the Secretary to ensure that unnecessary and excessive payments are not made for the rental of durable medical equipment when purchase is more economical and feasible. We protect the beneficiary by requiring interim rental payments in cases where purchase would cause a hardship.

Comment: The proposed regulation is confusing and too technical.

Response: We agree that some parts of the regulation are technical, but have tried to implement the requirements of the statute in the least burdensome way feasible. The revised final regulation more clearly distinguishes regular payments for rental charges from interim rental charges, and the regulation language has been simplified where possible. We have also simplified the method for determining the interim rental payment period.

Comment: Implementation of the regulation will be administratively costly.

Response: We anticipate that the regulation will result in an increase of purchases under the "lump sum payment" rule, which will reduce carrier claims processing costs. Instead of monthly diaried payments for unnecessary rentals, the carrier will process only a single claim for items purchased by lump sum payment. Equipment that is properly rented will continue to be paid for as in the past, so there will be no increased costs connected with these claims.

Comment: In the absence of a physician certification of the anticipated period of medical need, carriers should be allowed to use information regarding the average length of time equipment is normally used for comparable treatments.

Response: We agree with the suggestion and have incorporated it into the regulation.

Comment: HCFA should list the items that should always be rented and those that should always be purchased.

Response: Technological changes and innovations in the design of medical equipment have been keeping pace with advances in medical knowledge. In addition, the equipment industry is sufficiently competitive to produce frequent changes in the pricing of various items available to patients. Therefore, it is not practical to list in the regulations items for rental only or purchase only. However, to the extent feasible, HCFA will incorporate such lists in its administrative guidelines to Medicare carriers.

Comment: Home dialysis equipment should be specifically excluded from the provisions of this regulation because regulations implementing P. L. 95–292 on reimbursement for home dialysis equipment conflict with these regulations.

Response: For the time being, we will view this regulation as not covering home dialysis equipment. However, we are currently reviewing this matter from legal and policy points of view.

2. Comments on Payment by Lease-Purchase, Paragraph (e)

Comment: HCFA should not compile referral lists of suppliers that offer practical lease-purchase arrangements to beneficiaries.

Response: This objection seems to have arisen from a misunderstanding of the intent of the regulation. We do not intend to "steer" beneficiaries to selected suppliers. However, the law requires us to encourage the availability of lease-purchase arrangements and we believe it is our responsibility to have information about such plans available for the general public.

Comment: There were many comments about conditions and terms that should be included in the lease-purchase contracts.

Response: Lease-purchase contracts are not common currently between suppliers of medical equipment and patients. Since there is no established body of knowledge in this area, the regulation does not set definitive rules for lease-purchase contracts. We will evaluate any available lease-purchase plans, as we indicated in the NPRM. In addition, we will work with suppliers and consumer groups to develop acceptable standard lease-purchase agreements.

3. Comment on Payment by Lump Sum, Paragraph (f)

Comment: The $600 limit on lump sum payments for purchased equipment should be removed from the regulation.

Response: We agree that the $600 limit is unnecessary in regulations and have removed it. To protect beneficiaries, we may establish a limit in guidelines to carriers, if future program experience with these regulations indicates that a limit would be helpful.

4. Comment on Payment for Rental Charges, Paragraph (g)

Comment: The rental-purchase comparisons completely ignore the costs of the services provided to the renter of equipment and the advantages the patient has in renting rather than purchasing the item.

Response: Under the regulation (§ 405.514(c)), the Administrator may issue appropriate instructions to Medicare carriers for taking into account available information regarding, for example, the costs of maintenance, repairs, and services, in making rental-purchase comparisons.

5. Comment on Interim Payments for Rental Charges; See Paragraph (j) of These Regulations

Comment: Interim rental payments should not be used to offset the cost of a subsequently purchased item, as proposed for cases of undue financial hardship.

Response: We adopted this suggestion in part. We proposed deducting the three months of hardship interim rental payments from the purchase payment, if the beneficiary purchases equipment from the same supplier from whom the beneficiary has been renting. In the final regulations, we specify that these additional interim rental payments will be deducted from the purchase payment only if the item is readily available from another supplier. The purpose of this provision is to avoid payment of three months' additional rental charges to a supplier who contributes to a beneficiary's hardship by refusing to accept installment payments for a purchase. However, to protect the beneficiary, in cases in which there is only a single supplier available, we will not deduct interim rental payments from the purchase charge.

6. Comments on Undue Financial Hardship, Paragraph (j)

Comment: The financial hardship provision does not deal adequately with situations involving severe hardship cases when financing of purchase

cannot be arranged. Continued rental payments should be allowed when financing of deductible and coinsurance payments is not available to the beneficiary.

Response: Beneficiaries with severe financial hardship are probably eligible for State or local aid to help them with payments. Through guidelines, we will guard against requiring lump sum payments for very expensive items. Lease-purchase payments should not have a short-term adverse impact on the beneficiary compared to rental payments, and over the long term should result in less cost to the beneficiary in many cases.

Comment: It is difficult for the beneficiary to have to obtain a statement that the supplier will not arrange installment payments (see paragraph (j)(2) of the NPRM). Suppliers should not have to provide statements about their general willingness to enter into installment arrangements with beneficiaries. They should instead be required only to state the credit worthiness of individual beneficiaries.

Response: We have changed the provision to specify that the carrier must determine the supplier's willingness to enter into installment arrangements. We believe the carriers can do this more efficiently than the beneficiaries can, and that the carriers should individually decide the most efficient way of making this determination. Medicare pays 80 percent of the reasonable charge for purchased durable medical equipment, including reasonable interest and carrying charges the beneficiaries incur in paying deductibles and coinsurance in installments. Therefore, beneficiaries will be as able to handle the financial obligations of purchase as those of rental.

7. Comments on Waiver of Coinsurance for Purchase of Used Equipment, Paragraph (k)

Comment: The warranty required for used equipment should not be the same as for new equipment.

Response: This provision in the regulation is intended to encourage the purchase of used equipment. Used equipment should be in good enough condition that it does not require early repairs or replacement and thereby entail additional costs for beneficiaries and the Medicare program.

Comment: The purchase of sophisticated used equipment from a "private source" could pose a hazard to the beneficiary. This equipment should be inspected by a qualified supplier before the purchase is approved.

Response: At present we rely on health professionals to work with beneficiaries in determining the need for and quality of equipment. As more used equipment becomes available on the market and is purchased under this regulation, we will review the need for inspection based on our program experience.

Comment: It is not clear whether Medicare pays all or part of the 75 percent charge for used equipment.

Response: The final regulation makes it clear that the program will pay the full reasonable charge for used equipment less any unmet deductible amounts (but with no reduction for coinsurance), when the actual charge made by the supplier for the used equipment does not exceed 75 percent of the reasonable charge for comparable new equipment.

42 CFR Part 405 is amended as set forth below:

1. The table of contents is amended to read as follows:

PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

* * * * *

Subpart E—Criteria for Determination of Reasonable Charges; Reimbursement for Services of Hospital Interns, Residents, and Supervising Physicians

* * * * *

§ 405.514 Payment for durable medical equipment.

* * * * *

2. 42 CFR Part 405 is amended by adding a new § 405.514 to read as follows:

§ 405.514 Payment for durable medical equipment.

(a) *Purpose.* This section specifies criteria and procedures for making payments for the purchase or rental of new and used durable medical equipment for beneficiaries under Part B of the Medicare program. It implements section 1833(f) of the Social Security Act, as amended by section 16 of the Medicare-Medicaid Anti-Fraud and Abuse Amendments of 1977 (Pub. L. 95–142).

(b) *Definition.* "Durable medical equipment" means equipment that (1) can withstand use; (2) is primarily and customarily used to serve a medical purpose; (3) generally is not useful to a person in the absence of an illness or injury; and (4) is appropriate for use in the home.

(c) *General provisions.* (1) The Medicare program will pay for durable medical equipment under Part B on the basis of a lease-purchase, lump sum payment for purchase, or rental charges, in accordance with this paragraph and paragraphs (e) through (j) of this section.

(2) The Medicare carrier shall determine whether lease-purchase or lump sum payment for purchase is more economical or practical than rental charges, based on:

(i) The period during which the beneficiary is expected to have a medical need for the equipment, as evidenced by appropriate medical records or certification by the patient's attending physician;

(ii) The criteria for reasonable charges specified in § 405.502 of this part;

(iii) Required maintenance of the equipment;

(iv) The administrative costs for renting inexpensive items;

(v) The carrier's experience of the average length of rental for the specific equipment; and

(vi) Administrative guidelines that HCFA may issue, which may contain, for example, lists of items of durable medical equipment to be purchased, rented, or either purchased or rented depending upon the purchase price of the item or the periods of medical necessity involved.

(3) The carrier shall notify the beneficiary or supplier as promptly as possible of the method of payment and the maximum amount payable under Medicare.

(d) *Payment procedures.* The Administrator may make agreements with suppliers to establish equitable and economical procedures for payment for durable medical equipment.

(e) *Payment by lease-purchase* (1) Except as specified in paragraph (f) of this section, the Medicare carrier shall pay for durable medical equipment on a lease-purchase basis if:

(i) Purchase of the equipment is more practical or less costly than the total reasonable rental charge for the equipment during the period it is expected to be medically needed by the beneficiary; and

(ii) A supplier reasonably available to the beneficiary will offer a lease-purchase agreement that protects against unnecessary expenditures if the medical need for the equipment ends earlier than expected and provides adequate warranties, maintenance, service and repairs.

(2) HCFA (or carriers designated by HCFA) will review proposed lease-purchase arrangements offered by suppliers and approve those that comply with paragraph (e)(1)(ii) of this section. HCFA will also encourage suppliers to develop and offer lease-purchase arrangements. (For example, HCFA will furnish information to beneficiaries

regarding suppliers willing to enter into practical lease-purchase agreements.)

(f) *Lump sum payment for purchase.* (1) The carrier shall pay for purchase of durable medical equipment by lump sum if:

(i) Purchase is more practical or less costly than the total expected reasonable rental charge; and

(ii) A more equitable and economical lease-purchase agreement under paragraph (e) of this section is not available.

(2) If lump sum payment for purchase would cause the beneficiary an undue financial hardship, the lump sum payment shall be deferred for up to 3 months. Interim rental payments shall be made during this period in accordance with paragraph (j) of this section.

(g) *Payment for rental charges.* (1) The carrier shall pay for durable medical equipment on the basis of reasonable rental charges, for the period the equipment is medically needed, if:

(i) Purchase of the equipment is less practical or more costly than the total reasonable rental charge for the period the beneficiary is expected to have a medical need for the equipment. However, payment may not be made on a rental basis for items listed in HCFA guidelines for purchase only (see (c)(2)(vi)), except as indicated in paragraph (h)(4) of this section; or

(ii) The beneficiary continues to rent the equipment after notification from the carrier that payment should be made on the basis of lease-purchase or lump sum payment for purchase. However, the total rental payments for months after the month the notification was dated may not exceed the amount that would have been paid based on the reasonable purchase price of the equipment. If the beneficiary later purchases the equipment, the carrier shall deduct from the purchase payment the total reasonable rental charges paid for months after the month the notification was dated.

(2) If rental payments are made in accordance with paragraph (g)(1)(i) of this section, and purchase of the equipment is later warranted (for example, due to changes in the beneficiary's medical condition), the carrier shall make a new reasonable charge determination. In these instances, the rental payments that have already been made need not be deducted from the reasonable charge payable for the purchase, unless under the terms of the purchase agreement, those payments apply toward the purchase price. (Also see paragraph (k) of this section on waiver of coinsurance upon purchase of used equipment.)

(3) If a beneficiary purchases an item, but the carrier determines that payment should be made on the basis of rental charges, the carrier shall pay on a rental basis until the medical necessity for the equipment ends, or until the reasonable lump-sum purchase price is paid, whichever occurs first.

(h) *Interim payments for rental charges.* (1) Section 1833(f)(1) of the Social Security Act requires the Secretary to determine if purchase of durable medical equipment is less costly or more practical than rental, and if so, to make payment on a purchase basis, unless purchase would be inconsistent with the purposes of the Medicare program or would cause an undue financial hardship on the beneficiary.

(2) If the carrier determines that payment should be based on purchase, it shall make interim rental payments for a maximum of six months from the first month the equipment was rented through the month following the month in the date on the carrier's payment determination notice. The carrier may extend the six-month period for good cause, if, for example, the carrier determines that the beneficiary of the supplier is without fault in delaying the filing of the claim, or there was a delay in the carrier's processing of the claim.

(3) These interim rental payments are in addition to the purchase payment unless, under the terms of the purchase agreement, the rental payments apply toward the purchase price.

(4) The carrier may pay interim rental charges on an item listed in HCFA guidelines for lump sum purchase only, if—

(i) The carrier determines that the beneficiary has an undue financial hardship (see paragraph (j) of this section); or

(ii) The carrier determines in extraordinary cases that neither the supplier nor the beneficiary was aware that the item was listed in HCFA guidelines for purchase only.

(i) *Payment for interest and carrying charges.* Lump sum payments for purchase under this section may include reasonable interest and carrying charges when Medicare deductible and coinsurance amounts are paid in installments if:

(1) The interest or carrying charge is separately identified on the supplier's bill or on the Medicare request for payment;

(2) It is the usual and accepted practice in the locality for suppliers to make an extra charge;

(3) The practice of making an extra charge for installment payments applies to non-Medicare purchasers as well as to Medicare beneficiaries; and

(4) The additional amount charged does not exceed an applicable State or local government interest limit.

(j) *Undue financial hardships.* (1) The carrier shall consider the purchase of durable medical equipment an undue financial hardship on the beneficiary only if:

(i) The beneficiary states in writing that he cannot afford to pay the deductible or coinsurance amount to the supplier in a lump sum, he is unable to arrange with the supplier to pay these amounts in installments, and he is not currently a recipient of a local or State program, such as Medicaid, that could make these payments for him; and

(ii) The carrier determines that it is the supplier's business practice not to enter into installment payment arrangements with customers.

(2) If the carrier determines that payment should be made by lump sum, but has concluded that this would cause the beneficiary undue financial hardship, the carrier shall make a maximum of 3 months interim rental payments, in addition to those made under paragraph (h) of this section, to give the beneficiary time to resolve the hardship.

(i) If the beneficiary subsequently purchases the equipment from the supplier who originally furnished it, the carrier shall deduct these additional interim rental payments from the purchase payment, unless the item is not readily available from another supplier.

(ii) If the beneficiary subsequently purchases the equipment from a different supplier, the carrier may not deduct these additional interim rental payments from the purchase payment.

(k) *Waiver of coinsurance for purchase of used equipment.* (1) The carrier shall waive the 20 percent coinsurance that Medicare Part B beneficiaries are required to pay under § 405.240, but not the deductible requirements of § 405.245, for the purchase of used durable medical equipment if:

(i) The carrier determines that payment should be made by lease-purchase or lump sum payment for purchase, rather than by rental charges;

(ii) The actual charge is at least 25 percent less than the reasonable charge the carrier has set for comparable new equipment; and

(iii) The requirements of paragraphs (k)(2) or (3) of this section are met.

(2) If used equipment is purchased from a commercial supplier, the supplier must give the beneficiary the same warranty given to buyers of comparable new equipment. The supplier must certify—

(i) That the used equipment has been fully reconditioned and is in good working order; and

(ii) That reasonable service and repair expenses will not exceed those for comparable new equipment.

(3) If used equipment is purchased from a private source rather than from a commercial supplier, the beneficiary must state that he is satisfied that the equipment is in good working order and that he believes it can be expected to give satisfactory service for its anticipated period of use.

(Secs. 1102 and 1833 (f), Social Security Act (42 U.S.C. 1302 and 1395l(f)))

(Catalog of Federal Domestic Assistance Program No. 13.774, Medicare—Supplementary Medical Insurance)

Dated: March 13, 1980.

Leonard D. Schaeffer,

Administrator, Health Care Financing Administration.

Approved: June 18, 1980.

Patricia Roberts Harris,

Secretary.

[FR Doc. 80-19382 Filed 6-30-80; 8:45 am]

BILLING CODE 4110-35-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 674

Alaska Salmon Fishery; Extension of Emergency Regulations

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Extension of emergency regulations.

SUMMARY: This notice extends the emergency regulations implementing the 1980 Fishery Management Plan (FMP) for the High Seas Salmon Fishery off the Coast of Alaska East of 175° 00′ East Longitude through August 13, 1980. The Assistant Administrator for Fisheries, NOAA, has determined that the emergency situation stated in the original announcement of emergency regulations (45 FR 33638) continues to exist and that an extension for an additional 45 days is necessary.

EFFECTIVE DATES. The emergency regulations are extended from June 30, 1980, through August 13, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Robert W. McVey, Acting Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99802, Telephone: (907) 586–7221.

SUPPLEMENTARY INFORMATION: On May 20, 1980, emergency regulations implementing the Fishery Management Plan (FMP) were published in the **Federal Register** (45 FR 33638). Those regulations were also published for public comment on May 20, 1978, as proposed implementing regulations for the Fishery Management Plan for the High Seas Salmon Fishery off Alaska (45 FR 34020). The emergency regulations will expire on June 29, 1980, and are hereby extended, effective June 30, 1980, in order to provide an opportunity for additional public comment and time to evaluate those comments on the proposed implementing regulations, and to prepare final regulations.

It has been determined that the emergency, as described in 45 FR 33638, continues to exist. These regulations are necessary to control the entry and salmon harvest levels of fishermen not possessing Alaska State limited entry permits who fish in the fishery conservation zone off Alaska and land their catches outside Alaska.

Under authority of sec. 305(e) of the Fishery Conservation and Management Act for the reasons set forth above and in the notice of May 20, 1980, it is determined that those regulations should continue in force for an additional 45-day period or until replaced by final regulations, whichever occurs first.

(16 U.S.C. 1801 *et seq.*)

Signed at Washington, D.C. this the 26th day of June, 1980.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

[FR Doc. 80-19774 Filed 6-30-80; 8:45 am]

BILLING CODE 3510-22-M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 29

Virginia Fire-Cured Tobacco, U.S. Type 21; Official Standard Grades

AGENCY: Agricultural Marketing Service, Tobacco Division, USDA.

ACTION: Final rule.

SUMMARY: The official standard grades for Virginia Fire-cured Tobacco, U.S. Type 21, proposed to be modified and implemented beginning with the 1980–81 season as published at 45 FR 30080, May 7, 1980, are adopted. This amendment will (1) modify definitions to clarify terminology related to grade determinations; (2) rephrase rules to govern and facilitate grade applications; (3) modify certain percentage factors to reduce tolerances to more accurately describe the product of today's cultural practices; (4) delete grade N1G; and (5) add grades N1GL and N1GD in an effort to more accurately describe tobacco as it is presently prepared for market.

EFFECTIVE DATE: July 1, 1980.

FOR FURTHER INFORMATION CONTACT: Thomas A. Von Garlem, Director, Tobacco Division, Agricultural Marketing Service, Room 502 Annex Building, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447–2567.

SUPPLEMENTARY INFORMATION: A notice was published on May 7, 1980 (45 FR 30080) considering modifications of the Official Standard Grades for Virginia fire-cured tobacco, U.S. type 21, pursuant to the authority contained in the Tobacco Inspection Act (49 Stat. 731; 7 U.S.C., 511 et seq.).

Changes in cultural practices in the Virginia fire-cured tobacco industry which have intensified during the last 3 years have made it necessary to modify certain standard grades; delete one grade; and add two new grades. The proposal was aimed at resolving or minimizing these problem areas, where appropriate, by reducing the amount of injury tolerance in certain grades of Virginia fire-cured tobacco. The proposal also recommended the deletion of a grade which does not adequately describe the full range of body and color and the substitution of two new grades to more accurately describe body and color in that particular group of grades. The proposed modifications were aimed at providing the most accurate definitions and grade determinations for the Virginia fire-cured tobacco brought to market.

It was stated that the proposal would: (1) modify definitions to clarify terminology related to grade determinations; (2) rephrase rules to govern and facilitate grade applications; (3) modify certain percentage factors to reduce tolerances to more accurately describe the product of today's cultural practices; (4) delete grade N1G; and (5) add grades N1GL and N1GD in an effort to more accurately describe tobacco as it is presently prepared for market.

Interested persons desiring to submit written data, views, or arguments for consideration in connection with this proposal were given until June 5, 1980 to do so. Thirteen comments were received, all of which favored the proposal. After consideration of all relevant facts, the proposed amendments are hereby adopted.

Therefore, the regulations are amended as follows:

In Subpart C of Part 29, delete §§29.2259, 29.2409, 29.2410, 29.2440, 29.2461, and 29.2481 and substitute therefor the following:

Subpart C—Standards

Official Standard Grades for Virginia Fire-Cured Tobacco (U.S. Type 21)

U.S. grades	Grade names and specifications
N1L	First quality light colored nondescript, thin to medium body and 50 percent injury tolerance.
N1D	First quality dark colored nondescript, medium to heavy body and 50 percent injury tolerance.
N1GL	First quality light colored crude green nondescript, thin to medium body and 50 percent crude leaves or injury tolerance.
N1GD	First quality dark colored crude green nondescript, medium to heavy body and 50 percent crude leaves or injury tolerance.
N2	Substandard Nondescript—Nondescript of any group or color; over 50 percent crude leaves or injury tolerance.

* * * * *

Summary of Standard Grades

§ 29.2461 Summary of standard grades.

4 Grades of wrappers				
A1F	A1D			
A2F	A2D			
20 Grades of thin leaf				
C1L	C1F			
C2L	C2F	C2D		
C3L	C3F	C3D	C3M	C3G
C4L	C4F	C4D	C4M	C4G
C5L	C5F	C5D	C5M	C5G
5 Grades of nondescript				
N1L	N1D	N1GL	N1GD	
N2				
16 Grades of heavy leaf				
B1F	B1D			
B2F	B2D			
B3F	B3D	B3M	B3G	
B4F	B4D	B4M	B4G	
B5F	B5D	B5M	B5G	
21 Grades of lugs				
X1L	X1F	X1D		
X2L	X2F	X2D		
X3L	X3F	X3D	X3M	X3G
X4L	X4F	X4D	X4M	X4G
X5L	X5F	X5D	X5M	X5G
1 Grade of Scrap				
S				

Special factors "U" and "W" may be applied to all grades. Tobacco not covered by the standard grades is designated "No-G."

U.S. Standard sizes applicable	
A1, A2	45, 46, 47
B1	45, 46, 47
B2	44, 45, 46, 47
B3, B4, B5	43, 44, 45, 46, 47
C1	45, 46, 47
C2, C3, C4, C5	44, 45, 46, 47
X3, X4, X5 M and G[1]	45

[1] No size is applied to these grades if tobacco is under size 45.

§ 29.2481 Key to standard grademarks.

Groups

A—Wrappers.
B—Heavy Leaf.
C—Thin Leaf.
X—Lugs.
N—Nondescript.
S—Scrap.

Qualities

1—Choice.
2—Fine.
3—Good.
4—Fair.
5—Low.

Colors

L—Light brown.
F—Medium brown.
D—Dark brown.
M—Mixed or variegated.
G—Green.
GL—Light green.
GD—Dark green.

Dated: June 25, 1980.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 80-19775 Filed 6-30-80; 8:45 am]

BILLING CODE 3410-02-M

Commodity Credit Corporation

7 CFR Part 1427

[CCC Cotton Loan Program Regs. Governing 1980 and Subsequent Crops]

Cotton Loan Program Regulations

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this rule is to change the regulations governing the 1980 and subsequent crops cotton loan program to facilitate the price support program for producers who desire the use of a marketing service to market their cotton. This rule is necessary to allow producers to most effectively use a marketing service in order to obtain the best price available in marketing their cotton and at the same time use the CCC loan program to facilitate orderly marketing. This rule provides that (1) CCC will authorize disbursement and repayment of Form A cotton loans through a central county ASCS office, (2) CCC will provide for holding of warehouse receipts as collateral at a central county ASCS office, and (3) CCC will authorize a person or firm, who has been designated by a producer to be agent and under written agreement with CCC, to obtain and repay Form A cotton loans through a central county ASCS office. This rule will permit producers of 1980 and subsequent crops cotton to take advantage of this option in addition to the present method for handling Form A cotton loans. Also, this rule provides that block warehouse receipts will be accepted under certain conditions when authorized by CCC.

EFFECTIVE DATE: July 1, 1980.

FOR FURTHER INFORMATION CONTACT: Harold L. Jamison, Price Support and Loan Division, ASCS, USDA, 3747-South Building, P.O. Box 2415, Washington, D.C. 20013, (202) 447-7973. The Final Impact Statement describing the options considered in developing this final rule and the impact of implementing each option is available on request from harold L. Jamison.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044 and has been classified "not significant". A notice of proposed rulemaking with respect to the changes in regulations was published in the **Federal Register** on April 7, 1980, 45 FR 23499 in accordance with 5 U.S.C. 533 and Executive Order 12044. The written comment period ended June 6, 1980. There were 25 responses—7 from State ASC Committees, 10 from county ASCS offices, 5 from individuals, 1 from a bank, 1 from a cotton producer group, and 1 from a cooperative. The following is a summary of comments received:

Summary of Comments to Notice of Proposed Rulemaking

Comments supporting the proposed changes, 9 respondents. Of these, six favored all proposed changes, 2 respondents favored the proposal but suggested that the transactions be handled by the agent and financial institution thereby eliminating the central county ASCS office, and 1 respondent proposed using the local county ASCS office in lieu of the central county office.

Comments opposing the proposed changes, 15 respondents. Of these, 13 support the existing rules for cotton loans and 2 are opposed to the centralized concept for loanmaking.

Comment unrelated to proposed changes. One respondent recommended a change be made at § 1427.12 to allow acceptance of block warehouse receipts when authorized by CCC. All comments received have been considered in connection with this final rule. After giving careful consideration to those comments, it has been determined that the contentions opposing the proposal presented insufficient reasons for not making the proposed changes as modified effective for 1980 and subsequent crops of cotton because the centralized concept for loanmaking is optional and will not replace the present system for making Form A loans. This rule provides (1) that CCC will authorize disbursement and repayment of Form A cotton loans through a central county ASCS office designated by CCC to provide centralized service to a person or firm as a producer's agent and under a written agreement with CCC, (2) that CCC will provide for centralized holding of warehouse receipts as collateral and

supporting loan documentation at a central county ASCS office designated by CCC, and (3) that CCC will authorize a person or firm, who has been designated by the producer to be agent and under written agreement with CCC, to obtain Form A cotton loans and repayment of the loans through a central county ASCS office designated by CCC to provide centralized service to the agent. A change at § 1427.12(a) provides that block warehouse receipts will be accepted when authorized by CCC under the following conditions: (1) The owner of the warehouse issuing the block warehouse receipt shall also own the cotton represented by the block warehouse receipt, and (2) the warehouse shall not be a federally-licensed warehouse. Other minor changes were made to the present regulations which provide continuity to this program with respect to the General Regulations at Part 1421 and changes, which remove detailed operating procedures from the existing Cotton Loan Program Regulations. In compliance with Secretary's Memorandum No. 1955 and "Improving USDA Regulations" (43 FR 50988), initiation of review of those regulations contained in 7 CFR 799.1–.9 for need, currency, clarity, and effectiveness is planned for the period May–July 1984.

TITLE: Commodity Loans and Purchases (D, E).

NUMBER: 10.051.

This action will not have a significant impact specifically on area and community development. Therefore, review as established by OMB Circular A–95 was not used to assure that units of local government are informed of this action.

Final Rule

Accordingly, the regulations at 7 CFR 1427.1 through 1427.25 are revised, effective for the 1980 and subsequent crops of cotton, as provided below. The material previously appearing in these regulations remains in full force and effect as to the crops to which it was applicable.

PART 1427—COTTON

Subpart—Cotton Loan Program Regulations

Sec.

Authority: Secs. 4, 5, 62 Stat. 1070, as amended (15 U.S.C. 714 b and c); secs. 101, 103, 401, 63 Stat. 1051, as amended (7 U.S.C. 1441, 1444, 1421); Sec. 602, 91 Stat. 934 (7 U.S.C. 1444)

Subpart—Cotton Loan Program Regulations

§ 1427.1 General statement.

The regulations in this subpart, including any amendments and the annual supplements hereto, set forth the requirements with respect to price support loans on cotton of the 1980 crop and each subsequent crop for which an annual supplement to this subpart is issued. Price support loans will be made available by CCC to eligible cotton producers on eligible upland and extra long staple cotton. As used in the regulations in this subpart, "CCC" means the Commodity Credit Corporation, and "ASCS" means the Agricultural Stabilization and Conservation Service of the U.S. Department of Agriculture.

§ 1427.2 Definitions.

As used in the regulations in this subpart, and in all instructions, forms, and documents in connection therewith, the words and phrases listed in this section shall have the meaning assigned to them therein unless the context or subject matter otherwise requires.

(a) "Person", "State Executive Director", "County Executive Director", and "farm", respectively, shall each have the same meaning as the definition of such term in Part 719 of this title and any amendment thereto.

(b) "Management Field Office" shall mean the Management Field Office, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, 8930 Ward Parkway, Kansas City, Missouri 64114 (mailing address P.O. Box 205, Kansas City, Missouri 64141).

(c) "Kansas City Commodity Office" shall mean the Kansas City Commodity Office, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, Brymer Office Center, 2400 West 75th Street, Prairie Village, Kansas 66208 (mailing address P.O. Box 8377, Shawnee Mission, Kansas 66208).

(d) "State committee" shall mean the Agricultural Stabilization and Conservation State Committee and shall include only the State committee and not its representative.

(e) "County committee" shall mean the Agricultural Stabilization and Conservation county committee and shall include only the county committee and not its representative.

(f) "Loan clerk" shall mean a person approved by CCC to assist producers in preparing loan documents.

(g) "Charges" shall mean all fees, costs, and expenses paid by CCC incident to insuring or reinsuring, reconcentrating, carrying, handling, storing, conditioning, and otherwise protecting the interest in the loan collateral of CCC and the producer.

(h) "Financial institution" shall mean (1) a bank in the United States which accepts demand deposits, (2) an association organized pursuant to State law and supervised by State banking authorities, or (3) a production credit association.

(i) "False-packed", "water-packed", "mixed-packed", "reginned", and "repacked" cotton shall each have the same meaning as the definition of such term in part 28 of this title and any amendment thereto.

(j) "Authorized agent" shall mean a person or firm under written agreement with CCC and designated by a producer to be agent as provided at § 1427.11(f) in executing loan documents, to obtain Form A cotton loans and repay such loans through a central county ASCS office.

§ 1427.3 Administration.

(a) *Responsibility.* The Price Support and Loan Division, ASCS, will administer the regulations in this subpart under the general supervision and direction of the Deputy Administrator, State and County Operations, ASCS, in accordance with program provisions and policy determined by the CCC Board of Directors and the Executive Vice President, CCC. In the field, the regulations in this subpart will be administered by the Agricultural Stabilization and Conservation State and county committees (hereinafter

called State and county committees) the Kansas City Commodity Office, and the ASCS Management Field Office.

(b) *Documents.* Any member of the county committee, the county executive director, or other employee of the county ASCS office (hereinafter called county office) designated in writing by the county executive director to act in the county executive director's behalf (such delegation to be filed in the county office) is authorized to approve documents under this program except where otherwise specified in the regulations in this subpart. County committees or county executive directors also may approve loan clerks at convenient locations to assist producers in preparing loan documents.

(c) *Limitation of authority.* County executive directors, State and county committees, the Kansas City Commodity Office, and the ASCS Management Field Office do not have authority to modify or waive any of the provisions of the regulations in this subpart.

(d) *State committee.* The State committee may take any action authorized or required by the regulations in this subpart to be taken by the county committee which has not been taken by such committee. The State committee may also (1) correct or require a county committee to correct any actions taken by such county committee which is not in accordance with the regulations in this subpart, or (2) require a county committee to withhold taking any action which is not in accordance with the applicable regulations in this subpart.

(e) *Executive Vice President, CCC.* No delegation herein to a State or county committee, the Kansas City Commodity Office, or the ASCS Management Field Office shall preclude the Executive Vice President, CCC, or a designee, from determining any question arising under the regulations in this subpart or from reversing or modifying any determination made by a State or county committee, the Kansas City Commodity Office, or the ASCS Management Field Office.

§ 1427.4 Eligible producer.

(a) *Producer.* An eligible producer is any individual, partnership, corporation, association, trust, estate, or other legal entity, a State or political subdivision thereof, or any agency of such State or political subdivision producing eligible upland or extra long staple cotton in the capacity of landowner, landlord, tenant, or sharecropper. If eligible cotton is produced on a farm by a landlord and a share tenant or sharecropper, a price support loan may be obtained only as follows:

(1) If the cotton is divided among the producer's entitled to share in such cotton, each landlord, tenant, or sharecropper may obtain a loan on the producer's separate share.

(2) If the cotton is not divided, all producers having a share in the cotton may obtain a joint loan on such cotton.

(b) *Estates and trusts.* A receiver or trustee of an insolvent or bankrupt debtor's estate, an executor or an administrator of a deceased person's estate, a guardian of an estate of a ward or an incompetent person, and trustees of a trust estate shall be considered to represent the insolvent or bankrupt debtor, the deceased person, the ward or incompetent, and the beneficiaries of a trust, respectively, and the production of the receiver, executor, administrator, guardian, or trustee shall be considered to be the production of the person or estate represented by the executor or administrator. Loan documents executed by any such person will be accepted by CCC only if they are legally valid and such person has the authority to sign the applicable documents.

(c) *Eligibility of minors.* A minor who is otherwise an eligible producer shall be eligible for price support only if the minor meets one of the following requirements. (1) The right of majority has been conferred on the minor by court proceedings or by statute; (2) a guardian has been appointed to manage the minor's property and the applicable price support documents are signed by the guardian; (3) any note signed by the minor is cosigned by a financially responsible person; or (4) a bond is furnished under which a surety guarantees to protect CCC from any loss incurred for which the minor would be liable had the minor been an adult.

§ 1427.5 Eligible cotton.

Upland cotton produced by eligible producers or extra long staple cotton produced by eligible producers in counties listed in part 722 of this title and any amendment thereto is eligible cotton if it meets the following requirements:

(a) Upland cotton must have been produced on a farm by a "cooperator" as defined in section 408(b) of the Agricultural Act of 1949, as amended, who has complied with the set-aside and the normal crop acreage requirements, if any, specified in Parts 718, 722, 728, 775, and 791 of this title and any amendment thereto. Extra long staple cotton must have been produced by a "cooperator" as defined in section 408(b) of the Agricultural Act of 1949, as amended, on a farm on which it has been determined that the acreage planted to such cotton does not exceed the farm allotment as prescribed in Parts 718, 722, and 791 of this title and any amendment thereto. The cotton in any bale may have been produced by two or more cooperators on one or more farms if the bale is not a repacked bale.

(b) Such cotton must be tendered for a loan within the availability period of § 1427.6(d) and must be cotton of a crop for which loans are available as provided in an annual supplement to the regulations in this subpart.

(c) Such cotton must be of a grade and staple length specified in (1) the schedule of premiums and discounts for upland cotton, or (2) the schedule of loan rates for extra long staple cotton, contained in the applicable annual supplement to the regulations in this subpart and must be represented by a warehouse receipt meeting the requirements of § 1427.12.

(d) Such cotton must not be false-packed, water-packed, mixed-packed, reginned, or repacked; upland cotton must not have been reduced more than two grades because of preparation; extra long staple cotton must have been ginned on a roller gin, must not have a micronaire reading of 2.6 or less, and must not have been reduced in grade for any reason.

(e) Such cotton must be in existence and in good condition.

(f) Such cotton must not be compressed to universal density where side pressure has been applied or to high density at a warehouse.

(g) The producer or cooperative marketing association tendering the cotton for a loan must have the legal right to pledge it as security for a loan.

(h) Such cotton must not have been produced on land owned by the Federal Government if such land is occupied without a lease, permit, or other right of possession.

(i) The producer or cooperative marketing association tendering such cotton must not have previously sold and repurchased such cotton or placed it under CCC loan and redeemed it.

(j) Each bale of cotton must weight not less than 325 pounds net weight.

(k) Cotton which has been compressed to standard or higher density, either at a warehouse or at a gin, must have not less than eight bands.

(l) Each bale must be packaged in materials which meet CCC specifications according to regulations at 7 CFR Part 1427, Sections 1427.1901–1427–1905, for bale coverings and bale ties or must be packaged in material and/or bale ties identified with the experimental programs of the Cotton Industry Bale Packaging committee sponsored by the National Cotton

Council. Heads of bales must be completely covered.

(m) Each bale must be ginned by a ginner (1) who has entered the tare weight of the bale (bagging and ties used to wrap the bale) on the gin bale tag, and (2) who has entered into CCC–809, Cooperating Ginners' Bagging and Bale Ties Certification and Agreement, or certified that the bale is wrapped with bagging and bale ties meeting the requirements of paragraph (l) of this section.

(n) The beneficial interest in the cotton must be in the producer tendering the cotton for a loan (or in the producer-member delivering the cotton to the cooperative marketing association which tenders the cotton for a loan) and must have always been in the producer or in the producer and a former producer whom the producer succeeded before it was harvested. To meet the requirements of succession to a former producer, the right, responsibilities, and interest of the former producer with respect to the farming unit on which the cotton was produced shall have been substantially assumed by the person claiming succession. Mere purchase of the crop prior to harvest without acquisition of any additional interest in the farming unit shall not constitute succession. The county committee shall determine whether the requirements with respect to succession have been met. The producer's beneficial interest in cotton shall not be considered to have been divested if the producer enters into a contract to sell, or gives an option to buy, the cotton if, under the contract or option, the producer retains control and risk of loss of and title to the cotton and retains control of its production.

(o) If the person tendering cotton for a loan is a landowner, landlord, tenant, or sharecropper, the cotton must be such person's separate share of the crop and must not have been acquired by such person directly or indirectly from a landowner, landlord, tenant, or sharecropper or have been received in payment of fixed or standing rent.

(p) Each bale of upland cotton sampled by the warehouseman upon initial receipt which has not been sampled by the ginner must not show more than one sample hole on each side of the bale. If more than one sample is desired when the bale is received by the warehouseman, the sample shall be cut across the width of the bale, broken in half or split lengthwise, and otherwise drawn in accordance with AMS dimension and weight requirements. This requirement will not prohibit sampling of the cotton at a later date if authorized by the producer.

§ 1427.6 Program availability and disbursement of loans.

(a) *Where to request price support.* A producer should request price support at the local county ASCS office, except that an authorized agent under agreement with CCC and designated by producers to obtain loans in their behalf, may obtain loans through a central county ASCS office designated by CCC. An approved cooperative marketing association must request price support at a servicing bank approved by CCC or at the county ASCS office for the county in which the principal office of the cooperative is located unless the State ASC committee designates some other county ASCS office.

(b) *Disbursement of loans.* Disbursement of loans will be made by local county ASCS offices, or by central county ASCS offices when designated by CCC to provide centralized service to a person or firm, as a producer's agent, under a written agreement with CCC, by drafts drawn on CCC. Loans may be disbursed by approved servicing banks to approved cooperative marketing associations. Service charges and cotton research and promotion fees, when required under the regulations in §§ 1205.500–1205.540 of this title, and any amendment thereto, will be deducted from the loan proceeds. If the producer so elects, clerk fees may be deducted from the loan proceeds instead of being paid in cash. The loan documents shall not be presented for disbursement unless the commodity covered by the mortgage or pledge is in existence and in good condition. If the commodity was not in existence and in good condition at the time of disbursement, the total amount disbursed under the loan shall be refunded promptly.

(c) *Program availability.* Loans on cotton represented by warehouse receipts will be available to eligible producers on:.

(1) Eligible upland cotton stored at CCC approved warehouses.

(2) Eligible extra long staple cotton produced in counties listed in part 722 of this title and any amendment thereto and stored at CCC approved warehouses.

(d) *Period of availability of loans.* Producers may request loans on a crop of cotton from the beginning of harvest of the crop through May 31, following the calendar year in which such crop is grown. Notes for loans must be signed by the producer and mailed or delivered to the county office within 15 days after the producer signs the notes and within this period of loan availability. Whenever the final date of availability falls on a nonworkday for county ASCS offices, the applicable final availability date shall be extended to include the next workday.

§ 1427.7 Maturity of loans.

(a) *Time of maturity and extension of loans.* Loans on Form A cotton as referred to in § 1427.11(a) (and loan advances to cotton cooperative marketing associations on Form G cotton) mature on the last day of the 10th calendar month from the first day of the month in which the loan (or loan advance) is made, or upon such earlier date as CCC may make demand for payment, except that whenever such data falls on a nonworkday for county ASCS offices, the date of maturity shall be the next workday. Upland cotton loans may at the producer's request be extended for an additional eight (8) months during the 10th month of the initial loan provided the average spot market price for Strict Low Middling 1 1/16 inch cotton during the ninth month of the loan did not exceed 130 percent of the average spot market price for Strict Low Middling cotton for the preceding 36 months. CCC may, by public announcement, extend the time for repayment of the loan indebtedness or carry the loan in a past due status.

(b) *When CCC takes title to commodity.* On or after maturity and nonpayment of the note, title to the cotton shall, at CCC's election, without a sale thereof, vest in CCC, and CCC shall have no obligation to pay for any market value which such cotton may have in excess of the amount of the loan, plus interest and charges. In the event the producer has made a fraudulent representation in the loan documents or in obtaining the loan, the producer shall be personally liable for any amount by which the amount due on the loan exceeds the market value of the cotton securing the loan as of the date title vests in CCC, as determined by CCC.

(c) *Sale by CCC.* Upon maturity and nonpayment of a note, CCC is authorized without notice to the producer to sell, transfer, and deliver the cotton, or documents evidencing title thereto, at such time, in such manner, and upon such terms and conditions as CCC may determine, at any cotton exchange or elsewhere, or through any agency, at public or private sale, for immediate or future delivery, and without demand, advertisement, or notice of the time and place of sale or adjournment thereof or otherwise; and, upon such sale, CCC may become the purchaser of the whole or any part of such cotton at its market value, as determined by CCC. Any overplus remaining from the proceeds received therefrom, after deducting from such

proceeds the amount of the loan, interest, and charges, shall be paid to the producer or to the producer's personal representative without right of assignment to or substitution of any other person. In the event the producer has made a fraudulent representation in the loan documents or in obtaining the loan, the proceeds received from the sale of the cotton shall be credited by CCC against the amount due on the loan, and the producer shall be personally liable for any balance due on the loan.

(d) *Small amounts.* To avoid administrative costs of making small payments and handling small accounts, amounts of $3 or less will be paid to the producer only upon the producer's request. Deficiencies of $3 or less, including interest, may be disregarded unless demand for payment is made by CCC.

§ 1427.8 Weight, loan rate, and amount of loans.

(a) *Weight.* Loans will be made on the net weight of the cotton as shown on the warehouse receipt, except that in the case of a bale which has a net weight of more than 600 pounds, the weight to be used in determining the amount of the loan on the bale shall be 600 pounds. Notes for loans on cotton pledged on reweights will not be accepted if CCC determines that such reweights reflect an increase in weight due to the absorption of moisture.

(b) *Loan rate for upland cotton.* (1) The base loan rate for strict low middling 1 1/16 inch upland cotton of each crop at each approved warehouse location will be stated in the schedule of base loan rates for upland cotton by warehouse locations contained in the supplement to this subpart for such crop. The schedule will be available at county ASCS offices.

(2) The premium or discount applicable to each other eligible grade and staple length of upland cotton of each crop and the discount, if any, for each micronaire reading will also be contained in the supplement to this subpart for such crop.

(c) *Loan rate for ELS cotton.* Loan rates and micronaire discounts, if any, for extra long staple cotton of each crop will be contained in the supplement to this subpart for such crop.

(d) *Amount of loans.* The amount of the loan for each bale will be determined by multiplying the net weight of the bale, as determined under paragraph (a) of this section by the applicable loan rate, as determined under paragraph (b) of this section, and subtracting any unpaid warehouse receiving charges, any warehouse storage charges in excess of 60 days as of the date of tender to CCC, as provided in § 1427.12(c), and any unpaid charge for furnishing new bale ties as prescribed in § 1427.12(c). CCC will not increase the amount loaned on any bale of cotton as a result of a redetermination of the quality of the bale after it is tendered to CCC and will not increase the amount loaned as a result of any redetermination of weight after the cotton is tendered to CCC, except that if it is established to the satisfaction of CCC that a bona fide error was made in the weight of the bale or the loan rate for the bale on the Form A–1, such error may be corrected. In establishing the correct weight of the bale, CCC will deduct from the current weight of the bale any estimated weight gained while in storage.

§ 1427.9 Classification and micronaire readings of cotton.

(a) References made to "classification" in this subpart shall include micronaire readings. All cotton tendered for loan must be classed by a USDA, AMS, Marketing Services Office (referred to in this subpart as "the Marketing Services Office") and tendered on the basis of such classification. A Cotton Classification Memorandum Form 1 showing the classification of a bale must be based upon a representative sample drawn from the bale in accordance with instructions to samplers drawing samples for organized improvement groups under the Smith-Doxey program. If the producer's cotton has not been sampled for a Form 1 classification, the warehouse shall sample such cotton and forward the samples to the Marketing Services Office serving the district in which the cotton is located. Such warehouse must be licensed by the Agriculture Marketing Service, U.S. Department of Agriculture, to draw samples for submission to the board. If a sample has been submitted for a Form 1 or Form A classification, another sample shall not be drawn and forwarded to a board except for a review classification. Where review classification is not involved, if through error or otherwise two or more samples from the same bale are submitted for classification, the loan rate shall be based on the classification having the lower loan value. The classification Form 1 or Form A must be dated not more than 15 days prior to the date the warehouse receipt was issued (State committees may in arid regions extend this period to not to exceed 30 days prior to the date the warehouse receipt was issued upon determining that such extension will not result in reduction in the grade of the cotton during the extension period), otherwise a new sample must be drawn and a review classification based on the new sample will be required. If a Form 1 or Form A review classification is obtained, the loan value of the cotton represented thereby will be based on such review classification.

(b) The applicable classification charge shall be collected from the producer by the warehouse for all cotton for which samples are submitted to a board for a Form A review classification. The board will bill the warehouse at the end of each month for such charges. Payment of these bills shall be made by check or money order payable to "Commodity Credit Corporation" and mailed to the Kansas City Commodity Office.

§ 1427.10 Approved storage.

Except as provided otherwise in § 1427.19, cotton will be accepted as security for loans only if stored at warehouses approved by CCC. When the operator of a warehouse receives notice from CCC that a loan has been made by CCC on a bale of cotton, the operator shall, if such cotton is not stored within the warehouse, promptly place such cotton within the warehouse. Persons desiring approval of their facilities should communicate with the Kansas City Commodity Office. The names of approved warehouses may be obtained from the Kansas City Commodity Office or from State or county offices. Storage charges paid by a producer to CCC as security for a loan will not be refunded by CCC. If cotton is redeemed from the loan, the person removing the cotton from storage shall pay all unpaid warehouse charges at the established tariff rate.

§ 1427.11 Applicable forms.

The forms for use in connection with this program shall be as follows:

(a) Cotton producer's Note and Security Agreement, Form CCC Cotton A (referred to in this subpart as "Form A").

(b) Schedule of Pledged Cotton, Form CCC Cotton A–1 (referred to in this subpart as "Form A–1").

(c) Warehouse receipts complying with the provisions of § 1427.12.

(d) Cotton Classification Memorandum, Form 1 or Form A3, for each bale showing the classification (including micronaire reading) assigned by a board of examiners of the U.S. Department of Agriculture.

(e) Lien Waiver, Form CCC–679 (referred to in this subpart as "Form 679") or other form approved by CCC, or Lienholder's Subordination Agreement, Form CCC–864, if used in lieu of

execution of Lienholder's Waiver on Form A in accordance with provisions of § 1427.13.

(f) *Powers of attorney.* A producer who desires to appoint an attorney-in-fact to act in the producer's place and stead in obtaining loans may use power of attorney, Form ASCS–211 (referred to in this subpart as "Form 211"), or a power of attorney on another form if it is determined by OGC to be legally sufficient. The original or facsimile of the power of attorney or a copy certified by a notary public as a true and correct copy must be filed with the local county ASCS office or with a central County ASCS office when designated by CCC.

§ 1427.12 Warehouse receipt and insurance.

(a) *General.* Producers may obtain loans on cotton represented by warehouse receipts only if the warehouse receipts are negotiable machine cardtype warehouse receipts, are issued by CCC approved warehouses, provide for delivery of the cotton to bearer or are properly assigned by endorsement in blank, so as to vest title in the holder of the receipt, and otherwise are acceptable to CCC. The warehouse receipt must contain the tag number (warehouse receipt number), must show that the cotton is covered by fire insurance, and must be dated on or prior to the date the producer signs the note. If a bale is stored at the origin warehouse (the warehouse to which the bale was first delivered for storage after ginning), the warehouse receipt must contain the gin bale number. If a bale has been moved from the origin warehouse, the warehouse receipt shall, in lieu of the gin bale number, contain the tag number and identification of the origin warehouse. Open yard endorsement, if any, on the warehouse receipt must have been rescinded with the legend "open yard disclaimer deleted" with appropriate signature of the warehouseman or the authorized representative. Block warehouse receipts will be accepted when authorized by CCC under the following conditions:

(1) The owner of the warehouse issuing the block warehouse receipt shall also own the cotton represented by the block warehouse receipt, and

(2) The warehouse shall not be federally-licensed.

(b) *Weight.* Each receipt must set out in its written or printed terms the tare and the net weight of the bale represented thereby. The net weight shown on the warehouse receipt shall be the difference between the gross weight as determined by the warehouse at the warehouse site and the tare weight, except that the warehouse receipt may show the net weight established at a gin (1) in case the gin is in the immediate vicinity of the warehouse and is operated under common ownership with such warehouse or in any other case in which the showing of gin weights on the warehouse receipts is approved by CCC, and (2) if the showing of gin weights on the warehouse receipts is permitted by the licensing authority for the warehouse. The tare shown on the receipt shall be the tare furnished to the warehouse by the ginner or entered by the ginner on the gin bale tag. A warehouse receipt reflecting an alteration in tare or net weight will not be accepted by CCC unless it bears, on the face of the receipt, the following legend or similar wording approved by CCC, duly executed by the warehouse or an authorized representative of the warehouse:

Corrected (tare or net) weight _____
(Name of warehouse) _____
By _____
Date _____

Alterations in other inserted data on the receipt must be initaled by an authorized representative of the warehouse.

(c) *Storage and receiving charges.* If warehouse storage charges have been paid, the receipt must be stamped or otherwise noted to show that date through which the storage charges have been paid. For receipts showing accrued storage charges in excess of 60 days as of the date of tender to CCC, the loan amount will be reduced for each month of unpaid storage or fraction thereof in excess of 60 days by the monthly storage charge specified in the storage agreement between the warehouse and CCC. If warehouse receiving charges have been paid or waived, the receipt must be stamped or otherwise noted to show such fact. If the receipt does not show that receiving charges have been paid or waived, the loan amount will be reduced by the amount of the receiving charges specified in the storage agreement: *Provided, however,* That except for bales stored in the States of Alabama, Florida, Georgia, North Carolina, South Carolina, and Virginia, if receiving charges due on the bale include a charge, if any, for a new set of ties for compressing flat bales tied with ties which cannot be reused, the warehouse receipt must show such receiving charges and state: "receiving charges due include charge for new set of ties," or similar notation, and the loan amount will be reduced by the amount of the receiving charges shown on the warehouse receipt (this will be the amount payable by CCC if it pays for receiving, notwithstanding the provisions of the storage agreement). In any case where the loan amount is reduced by unpaid storage or receiving charges the charges will be paid to the warehouseman by CCC after loan maturity if the cotton is not redeemed from the loan, or as soon as practicable after the cotton is ordered shipped by CCC or destroyed by fire while in loan status. Except for bales stored in the States of Alabama, Florida, Georgia, North Carolina, South Carolina, or Virgina, if the bale is stored at a warehouse which does not have compress facilities or arrangements, and if the bale ties are not suitable for reuse when the bale is compressed, the warehouse receipt must show this fact, and the loan amount will be reduced by the charge which will be assessed by the nearest compress in line of transit for furnishing new bale ties.

(d) *Rail shipments.* If the bale was received by rail, the receipt must be stamped or otherwise noted to show such fact.

(e) *Compression.* The warehouse receipt must show the compression status of the bale, i.e., flat, modified flat, standard, gin standard, gin universal, or warehouse universal density. If the compression charge has been paid, or if the warehouse claims no lien for such compression, the receipt must be stamped or otherwise noted to show such fact.

§ 1427.13 Liens.

Except as otherwise provided in this section, cotton tendered for loan must be free and clear of all liens, except the warehouse lien (including a warehouse lien held by a cooperative warehouse for its producer-patrons) for those charges which are authorized in the storage agreement with CCC. The signatures of the holders of all such existing liens on cotton tendered as security for a loan, such as landlords, laborers, or mortgagees, must be obtained on the lienholder's waiver on each Form A, except that in lieu of signing the lienholder's waiver on each Form A, the lienholder may waive his/her lien on all cotton of that crop produced by a producer on a farm (or on all farms) or pledged on one Form A by use of Form 679 or by use of another form approved by CCC. In lieu of waiving a prior lien on cotton tendered as security for a loan, a lienholder may execute a Lienholder's Subordination Agreement (Form CCC–864) with CCC in which the lienholder subordinates the lienholder's security interests to the right of CCC in the cotton. If cotton is subject to warehouse lien for advances

or charges not authorized in the storage agreement, the cotton will be acceptable hereunder if such liens are subordinated to the rights of CCC. A fraudulent representation as to prior liens or otherwise will render the producer personally liable and subject the producer, and any other person who causes the fraudulent representation to be made, to criminal prosecution under the provisions of the Commodity Credit Corporation Charter Act.

§ 1427.14 Service charges.

A producer shall pay a service charge to CCC for each loan disbursed at the rate of $1.50 per loan plus 25 cents for each bale thereon. The service charge to be paid to CCC by the producer shall be in addition to any clerk fee paid to a loan clerk as authorized in § 1427.15. The service charge is not refundable.

§ 1427.15 Clerk fees.

Loan clerks may collect fees from producers for preparing loan documents not to exceed the fees shown in the following schedule:

Number of Bales on Note and Maximum Fee Allowed

1—25 cents.
2 to 6—25 cents plus 15 cents for each bale over 1.
7 and over—$1 plus 10 cents for each bale over 6.

§ 1427.16 Interest rate.

Loans shall bear interest at the rate announced in a separate notice published in the **Federal Register.**

§ 1427.17 Setoffs.

(a) If any installment(s) on any loan made available by CCC on farm-storage facilities or drying equipment is due and payable under the provisions of the note evidencing such loan out of any amount due the producer under the program provided for in this subpart, the producer must designate CCC as payee of such amount to the extent of such installment(s), but not to exceed that portion of the amount remaining after deduction of clerk fees, service charges, research and promotion fees, and amounts due prior lienholders.

(b) If the producer is indebted to CCC, or if the producer is indebted to any other agency of the United States and such indebtedness is listed on the county claim control record, amounts due the producer under the program provided for in this subpart, after deduction of amounts payable under paragraph (a) of this section shall be applied to such indebtedness as provided in the Secretary's Setoffs and Withholding regulations, Part 13 of this title and any amendments thereto.

(c) Compliance with the provisions of this section shall not deprive the producer of any right the producer otherwise has to contest the justness of the indebtedness involved in the setoff action, either by administrative appeal or by legal action.

§ 1427.18 Special procedure where note amount advanced.

(a) *Purpose.* This special procedure is provided to assist persons or firms which in the course of their regular business of handling cotton for producers have made advances to eligible producers on eligible cotton to be placed under loan and desire to obtain credit at a financial institution for the amounts advanced. A financial institution which has made advances to eligible producers on eligible cotton may also obtain reimbursement for the amounts advanced under this procedure.

(b) *Eligible documents.* This special procedure shall apply only to loan documents covering cotton on which a person or firm has advanced to the producers (including payments to prior lienholders and other creditors) the note amounts shown on the Form A, except for authorized loan clerk fees, the research and promotion fee collected for transmission to the Cotton Board, and CCC loan service charges, and shall apply only if such person or firm is entitled to reimbursement from the proceeds of the loans for the amounts advanced and has been authorized by the producer to deliver the loan documents to a county ASCS office for disbursement of the loans.

(c) *Delivery of notes to county offices.* Each Form A and related documents as required by § 1427.11 shall be mailed or delivered to a county ASCS office and shall show the entire proceeds of the loans, except for CCC loan service charges, for disbursement to (1) the financial institution which is to allow credit to the person or firm which made the loan advances or to such financial institution and such person or firm as joint payees, or (2) the financial institution which made the loan advances to the producers. When received in a county ASCS office (or postmarked, if mailed) warehouse receipts and loan documents must reflect not more than 60 days accrued storage, or the loan amount must be reduced by the excess storage as specified in § 1427.12. The documents shall be accompanied by Form CCC–825, transmittal schedule of Form A Cotton Loans, in original and two copies, numbered serially for each county office by the financial institution. The Form CCC–825 shall show the amounts invested by the financial institution in the loans, which shall be the amounts of the notes minus the amounts of CCC loan service charges shown on the notes. Upon receipt of the loan documents and Form CCC–825, the county office will stamp one copy of the Form CCC–825 to indicate receipt of the documents and return this copy to the financial institution.

(d) *Disbursement of loans.* County ASCS offices will review the loan documents prior to disbursement and will return to the financial institution any documents determined not to be acceptable because of errors or illegibility. County ASCS offices will disburse the loans for which loan documents are acceptable by issuance of one draft to the payee indicated on the Form A and will mail the draft to the address shown for such payee on the Form A with a copy of Form CCC–825. The Form CCC–825 will show the date of disbursement by a county ASCS office and amount of interest earned by the financial institution.

(e) *Investment of funds by the financial institution.* The financial institution shall be deemed to have invested funds in the loans as of the date loan documents acceptable to CCC were delivered to a county ASCS office or, if received by mail, the date of mailing as indicated by postmark or the date of receipt in a county ASCS office if no postmark date is shown. Patron postage meter date stamp will not be recognized as a postmark date.

(f) *Basis of computing interest earned.* Interest will be computed on the total amount invested by the financial institution in the loan represented by accepted loan documents from and including the date of investment of funds by the financial institution to, but not including, the date of disbursement by a county ASCS office.

(g) *Interest rate.* Interest will be paid at the same rate(s) as that charged by CCC on commodity loans specified at part § 1427.16.

(h) *Payment of interest.* Interest earned by the financial institution in the investment in loans disbursed during a month will be paid by county ASCS offices after the end of the month.

§ 1427.19 Reconcentration of cotton.

(a) *As cotton enters loan.* Loans on cotton to be reconcentrated shall be available only on cotton received at CCC approved warehouses in areas where there is a shortage of storage space and the local warehouse certifies such fact to CCC. A producer who desires to obtain a loan on cotton to be reconcentrated under the provisions of this paragraph shall request such reconcentration and present the same

documents as required for a regular loan. The Forms A–1 and warehouse receipts covering cotton to be reconcentrated must show the reconcentration order number furnished by the county office under which the cotton will be shipped. The county office shall arrange for reconcentration of the cotton under the direction of the Kansas City Commodity Office. Any fees, cost, or expenses incident to such actions shall be charges against the cotton. That office shall obtain new warehouse receipts, allocate to individual bales shipping and other charges incurred against the cotton, and return new warehouse receipts and reconcentration charges applicable to each bale to the county office. Such reconcentration charges shall be added to bale loan amounts and must be repaid for bales redeemed from loan.

(b) *Cotton under loan.* CCC may under certain conditions, before loan maturity, compress, store, insure, or reinsure the cotton against any risk, or otherwise handle or deal with the cotton as it may deem necessary or appropriate for the purpose of protecting the interest therein of the producer or CCC. CCC may also move the cotton from one storage point to another with the written consent of the producer or borrower and upon the request of the local warehouse and certification that there is congestion and lack of storage facilities in the area: *Provided, however,* That if CCC determines such loan cotton is improperly warehoused and subject to damage, or if any of the terms of the loan agreement are violated, or if carrying charges are substantially in excess of the average of carrying charges available elsewhere and the local warehouse, after notice, declines to reduce such charges, such written consent need not be obtained. Any fees, costs, or expenses incident to such actions shall be charges against the cotton. After the cotton is reconcentrated, the Kansas City Commodity Office shall allocate shipping and other charges incurred against the cotton and return new warehouse receipts and reconcentration charges applicable to each bale to the county office. Such reconcentration charges shall be added to bale loan amounts and must be repaid for bales redeemed from loans.

§ 1427.20 Custodial offices.

Collateral warehouse receipts and supporting loan documentation will be maintained in custody of local county ASCS offices or central county ASCS offices when designated by CCC.

§ 1427.21 Loss of or damage to pledged cotton.

In any case where loss of or damage to cotton occurs while such cotton is pledged to CCC, CCC shall have the right to determine and file claims against any liable parties for the resulting loss. Upon determination of the identity of the bales of loan cotton lost or damaged, CCC will give credit on the producer's note for the loan value (including interest and charges) of such cotton. If the proceeds of the claim exceed the loan value of such cotton, the excess proceeds shall be remitted to the producer or to the party repaying the loan if the loan has been repaid.

§ 1427.22 Repayment of loans.

(a) If a producer desires to redeem one or more bales of cotton pledged to CCC as security for a loan, the producer may receive the warehouse receipts (and the classification memorandums applicable to such cotton, if requested) upon payment of the loan, interest, and charges applicable to the bales of cotton being redeemed at the local county ASCS office except that an authorized agent under agreement with CCC and designated by producers to repay loans on their behalf may repay loans through a central county ASCS office designated by CCC. The producer may also request that the warehouse receipts (and classification memorandums) be forwarded to a bank for payment, in which case the amount of the loan, interest, and charges must be paid to the bank within 5 business days after the documents are received by the bank. Repayments will not be accepted after CCC acquires the cotton. All charges assessed by the bank to which the receipts are sent must be paid by the producer.

(b) A producer who desires to appoint an attorney-in-fact to act in the producer's place and stead in redeeming the producer's loan cotton, selling the producer's equities in loan cotton, or executing Forms CCC–813, Release of Warehouse Receipts (referred to in this subpart as "Form 813"), shall use Form 211, except that a power of attorney on another form will be accepted if it is determined by CCC to be sufficient. The original or facsimile of the power of attorney or a copy certified by a notary public as a true and correct copy must be filed with the local county ASCS office or central county ASCS office designated by CCC. The attorney-in-fact must execute and file with the local county ASCS office or central county ASCS office designated by CCC, an agreement of attorney-in-fact, Form CCC–815 (referred to in this subpart as "Form 815"), and the attorney-in-fact will not be allowed to redeem cotton, or to execute Form 813, pursuant to the power of attorney if the attorney-in-fact does not file the required Form 815. The attorney-in-fact shall not make any purchase of cotton redeemed from a CCC loan or producers' equities in such cotton for the attorney-in-fact's own account or as agent for others, or sell any such cotton or equities therein to any person by whom the attorney-in-fact is employed or who has the right to control or direct the attorney-in-fact's sale of the redeemed cotton or equities in any case where the attorney-in-fact redeems the cotton under authority of the power of attorney or signs the Form 813 under authority of the power of attorney. The attorney-in-fact shall not adopt any scheme or device to circumvent the intent of the regulations in this subpart or Form 815. If the attorney-in-fact holds powers of attorney from more than one producer, the attorney-in-fact may not pool their cotton or the proceeds therefrom nor make settlement with such producers on a pool basis upon sale of the cotton or the equities therein and will make an accounting to each producer for the proceeds of each bale of the producer's cotton which the attorney-in-fact redeems and sells and each equity which the attorney-in-fact transfers, unless the attorney-in-fact has a valid annual marketing agreement with such producers authorizing the attorney-in-fact to pool the cotton or the proceeds therefrom.

(c) A producer or the producer's authorized agent may enter into an agreement with a person or persons to redeem the producer's cotton and may authorize the release of the applicable warehouse receipts to such person(s) or transferee (hereinafter called the buyer) on Form 813. If the buyer executes and files the Form 813 with the local county ASCS office or central county ASCS office designated by CCC, the buyer shall be obligated to redeem the cotton specified on such form on or before the maturity date of the loan on such cotton. CCC will use its best efforts to make certain that the cotton is not redeemed by anyone other than the buyer and to provide for the delivery to the buyer of the warehouse receipts (and the classification memorandums, if requested) covering the cotton on payment to the local county ASCS office or central county ASCS office designated by CCC, of the loan, interest and charges within 5 business days after the documents are received by the bank. All charges assessed by the bank to which the documents are sent must be paid by the buyer. Redemptions will not

be permitted after the maturity date of the loan. On failure of the buyer to redeem all such cotton:

(1) At CCC's election, title to the cotton shall, without a sale thereof, immediately vest in CCC, and CCC shall have no obligation to pay for any market value which such cotton may have in excess of the amount of the loan thereon, plus interest and charges. The buyer shall be personally liable for any amount by which the amount due on the loan on such cotton exceeds the market value of the cotton as of the date title vests in CCC, as determined by CCC.

(2) At CCC's election, CCC is authorized, without notice to the buyer, to sell, transfer and deliver the cotton or documents evidencing title thereto, at such time, and in such manner, and upon such terms and conditions as CCC may determine, at any cotton exchange or elsewhere, or through any agency, at public or private sale, for immediate or future delivery, and without demand advertisement, or notice of the time and place of sale or adjournment thereof or otherwise; and upon such sale, CCC may become the purchaser of the whole or any part of such cotton at its market value, as determined by CCC. Any overplus remaining from the proceeds received therefrom, after deducting from such proceeds the amount of the loan on such cotton, plus interest and charges, shall be paid to the buyer or the buyer's personal representative without right of assignment to or substitution of any other person. If the proceeds from the sale do not cover the amount of the loan on such cotton, plus interest and charges, the buyer shall be liable to CCC for any difference.

(d) Warehouse receipts will not be released except as provided in paragraphs (a), (b), and (c) of this section.

§ 1427.23 Cotton cooperative marketing association loans.

A cotton cooperative marketing association which meets the eligibility requirements established by CCC as contained in the regulations in Part 1425 of this chapter and any amendment thereto may enter into a cotton cooperative loan agreement, Form CCC Cotton G, which provides for loans through the association to its producer-members. Copies of the form of agreement will be furnished to all associations which have been approved under such regulations. The loan rates under this agreement will be the same as for loans made to individual producers on Forms A and eligibility requirements for cotton and producers tendering cotton to the association and other loan provisions will be similar to those for Form A loans made to individual producers.

§ 1427.24 Death, incompetency, or disappearance.

In the case of death, incompetency, or disapperance of any producer who is entitled to the payment of any proceeds in settlement of a loan, payment shall, upon proper application to the county office which disbursed the loan, be made to the person or persons who would be entitled to such producer's payment as provided in the regulations entitled Payment Due Persons Who Have Died, Disappeared, or Have Been Declared Incompetent, part 707 of this title, and any amendment thereto.

§ 1427.25 Kansas City Commodity Office and Management Field Office.

(a) Kansas City Commodity Office, P.O. Box 8377, Shawnee, Mission, Kansas 66208, will serve all States.

(b) Accounting, recording, and reporting for all States will be handled through Management Field Office, P.O. Box 205, Kansas City, Missouri 64141.

Signed at Washington, D.C. on June 24, 1980.

Ray Fitzgerald,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 80-19738 Filed 6-30-80; 8:45 am]

BILLING CODE 3410-05-M

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

29 CFR Part 2700

Amendment of Procedural Rule

AGENCY: Federal Mine Safety and Health Review Commission.

ACTION: Amendment of Commission Rule 70, 29 CFR § 2700.70.

SUMMARY: The Commission amends Commission Rule 70(a), 29 CFR § 2700.70(a), by adding a sentence restating a provision in another rule. Paragraph (d) of Commission Rule 5, 29 CFR § 2700.5(d), the general rule governing the manner and date for filing documents, states that "filing of a petition for discretionary review is effective only upon receipt." For the sake of clarity, a statement to that same effect is now added to the rule on the filing of petitions for discretionary review.

EFFECTIVE DATE: July 1, 1980.

FOR FURTHER INFORMATION CONTACT: Dennis D. Clark, General Counsel, or Arthur G. Sapper, Special Counsel, at (202) 653-5610.

SUPPLEMENTARY INFORMATION: Section 113(d)(2)(A)(i) of the Federal Mine Safety and Health Act of 1977, 30 U.S.C. § 823(d)(2)(A)(i), permits persons adversely affected or aggrieved by a decision of an administrative law judge to file a petition for discretionary review with the Commission within 30 days after the issuance of the judge's decision. Although Commission Rule 5(d) clearly states that "filing of a petition for discretionary review is effective only upon receipt", the Commission has in recent months received several petitions for discretionary review after the 30-day period for filing had passed. These petitions were dismissed as untimely. Inasmuch as persons filing petitions may overlook the filing rule in Commission Rule 5(d), Commission Rule 70(a), which states the procedure for filing a petition for discretionary review, is now amended to include a new sentence restating the provision in Rule 5(d).

Inasmuch as Commission Rule 70(a), as amended, is a procedural rather than substantive rule, and inasmuch as this action does not alter the requirements of the Commission's rules, public comment has not been invited and no notice of proposed rulemaking was published.

§ 2700.70 [Amended].

Accordingly, 29 CFR § 2700.70(a) is amended by adding the following sentence after the first sentence:

"Filing of a petition for discretionary review is effective only upon receipt."

(30 U.S.C. §§ 815 and 823.)

Date: June 27, 1980.

Richard V. Backley,

Acting Chairman.

[FR Doc. 80-19897 Filed 6-30-80; 8:45 am]

BILLING CODE 6820-12-M

29 CFR Part 2700

Amendment of Procedural Rule

AGENCY: Federal Mine Safety and Health Review Commission.

ACTION: Amendment of Commission Rule 30, 29 CFR § 2700.30.

SUMMARY: The Commission amends paragraph (c) of Commission Rule 30, 29 CFR § 2700.30, its rule on settlements of penalty cases. The amended rule requires the Commission's administrative law judges to set forth their reasons for approval of the proposed penalty settlement. The previous version of the rule required judges to include in decisions approving a penalty settlement consideration and discussion of the six statutory criteria for the assessment of a penalty set forth

in 30 U.S.C. § 820(i), section 110(i) of the Federal Mine Safety and Health Act of 1977, 30 U.S.C. § 801 *et seq.*; that provision has not been retained. The amendment is intended to enhance the flexibility of the judges to approve settlements.

EFFECTIVE DATE: July 1, 1980.

FOR FURTHER INFORMATION CONTACT: Dennis D. Clark, General Counsel, or Arthur G. Sapper, Special Counsel, at (202) 653–5610.

SUPPLEMENTARY INFORMATION: The Commission proposed on March 19, 1980, that paragraph (c) of Commission Rule 30 be revoked. 45 FR 17596 (1980). Public comment was invited. Comments were received and considered. The Commission has determined that paragraph (c) should not be entirely revoked, but that the flexibility of the judges to approve settlements should be enhanced. The amended rule is intended to do that.

Accordingly, paragraph (c) of 29 CFR § 2700.30 is amended to read as follows:

§ 2700.30 Penalty settlements.

(c) *Order approving settlement.* Any order by the Judge approving a proposed settlement shall set forth the reasons for approval and shall be fully supported by the record. Such order shall become the final decision of the Commission 40 days after approval unless the Commission has directed that such approval be reviewed.

(30 U.S.C. §§ 815 and 823.)

Dated: June 27, 1980.

Richard V. Backley,

Acting Chairman.

[FR Doc. 80-19698 Filed 6-30-80; 8:45 am]

BILLING CODE 6820-12-M

NATIONAL LABOR RELATIONS BOARD

29 CFR Part 102

Rules and Regulations, Series 8; Service and Process of Papers; Correction

AGENCY: National Labor Relations Board.

ACTION: Final rule; correction.

SUMMARY: Editorial review of FR Doc. 80–16848 appearing at 45 FR No. 108, pages 37425–37426, June 3, 1980, which revised 29 CFR Part 102, Rules and Regulations, Series 8; Service and Process of Papers, § 102.30(c) and § 102.111(a) discloses that said document did not contain a citation of authority under which the revised sections were issued. This document corrects the omission.

EFFECTIVE DATE: June 2, 1980.

FOR FURTHER INFORMATION CONTACT: George A. Leet, Associate Executive Secretary, National Labor Relations Board, 1717 Pennsylvania Avenue, N.W., Washington, D.C. 20570, Telephone: 254–9430.

CORRECTION OF PUBLICATION: FR Doc. 80–16848 at 45 FR No. 108, pages 37425–37426 of June 3, 1980, a citation of authority is added to read as follows: By virtue of the authority vested in it by the National Labor Relations Act approved July 5, 1935, 49 Stat. 449; 29 U.S.C. 151–166, as amended by act of June 23, 1947 (61 Stat. 136; 29 U.S.C. Sup. 151–167), act of October 22, 1951 (65 Stat. 601; 29 U.S.C. 158, 159, 168), act of September 14, 1959 (73 Stat. 519; 29 U.S.C. 141–168), and act of July 26, 1974 (88 Stat. 395–397; 29 U.S.C. 152, 158, 169, 183), the National Labor Relations Board hereby promulgates the following revised rule which it finds necessary to carry out the provisions of said Acts.

Dated, Washington, D.C., June 16, 1980.

By direction of the Board.

George A. Leet,

Associate Executive Secretary, National Labor Relations Board.

[FR Doc. 80-19942 Filed 6-30-80; 9:37 am]

BILLING CODE 7545-01-M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 911

[Florida Lime Regulation 41, Amdt. 2]

Limes Grown in Florida; Amendment of Size Requirement

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This amendment increases the minimum diameter (size) requirement for shipments of fresh Florida limes for the period July 7, 1980, through August 31, 1980. Such action is necessary to promote the orderly marketing of suitable sizes of fresh Florida limes in the interest of producers and consumers.

EFFECTIVE DATES: July 7, 1980, through August 31, 1980.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975. The Final Impact Analysis relative to this final rule is available on request from the above named individual.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified "not significant." This regulation is issued under the marketing agreement, as amended, and Order No. 911, as amended (7 CFR Part 911), regulating the handling of limes grown in Florida. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). This action is based upon the recommendation and information submitted by the Florida Lime Administrative Committee, and upon other available information. It is hereby found that this regulation will tend to effectuate the declared policy of the act.

Market supplies from Florida and Mexico are heavy and prices are lower than a year ago. The committee reports that the smaller limes have a lower percentage of juice than larger limes. This juice is more difficult to extract, and this tends to inhibit movement. Availability of juicier limes is necessary to stimulate movement. Ample supplies of limes meeting requirements of the amendment will be available during the period to satisfy market demand.

This action was recommended at a public meeting at which all present could state their views. There is insufficient time between the date when information became available upon which this regulation is based and when the action must be taken to warrant a 60-day comment period as recommended in E.O. 12044, and it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553). It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time. A notice will be published in the **Federal Register** as soon as possible providing further opportunity for public comment on the regulation and a proposal to extend its effective date for the balance of the season.

Accordingly, the provisions of paragraph (a) of § 911.343 Lime Regulation 41 (45 FR 27910, 39854) are amended to read as follows:

§ 911.343 Lime Regulation 41.

(a) Except as otherwise provided in subparagraph (3) hereof, during the period June 17, 1980, through April 30, 1981, no handler shall handle any

variety of limes grown in the production area unless:

(1) * * *

(2) * * *

(3) During the period July 7, through August 31, 1980, such limes of the group known as seedless large-fruited, or Persian limes (including Tahiti, Bearss, and similar varieties) are at least 1⅞ inches in diameter: *Provided*, That not more than 10 percent, by count, of the limes in any lot of containers may fail to meet this minimum size requirement: *Provided further*, That not more than 15 percent of the limes, by count, in any individual container containing more than four pounds of limes may fail to meet this minimum size requirement.

* * * * *

Dated: June 27, 1980, to become effective July 7, 1980.

Charles R. Brader,

Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 80-19946 Filed 6-30-80; 10:03 am]

BILLING CODE 3410-02-M

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7 CFR Part 911

[Florida Lime Regulation 42]

Limes Grown in Florida; Shipping Prohibition

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation prohibits the shipment of any limes grown in Florida during the period July 4–6, 1980. This action is necessary to prevent an accumulation of excessive supplies of limes in the retail markets immediately following the July 4th holiday period, when sales are normally slow.

DATES: Effective July 4 through July 6, 1980.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975. The Final Impact Analysis relative to this final rule is available on request from the above named individual.

SUPPLEMENTARY INFORMATION: *Findings.* This final action has been reviewed under USDA procedures established in Secretary's memorandum 1955 to implement Executive Order 12044, and has been classified "not significant". This regulation is issued under the marketing agreement, as amended, and Order No. 911 (7 CFR Part 911), regulating the handling of limes grown in Florida. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The regulation is based upon recommendations and information submitted by the Florida Lime Administrative Committee, and upon other available information. It is hereby found that this regulation will tend to effectuate the declared policy of the act.

Production of Florida limes for the 1980–81 season is estimated at 2,200,000 bushels compared to 1,800,000 bushels for the 1979–80 season. Fresh market utilization of Florida limes in the 1979–80 season was 974,279 bushels, and it is anticipated that fresh markets will require about 1,200,000 bushels during the 1980–81 season. Limes not needed to full fresh market demand will be utilized in processing.

Shipments so far this season, which began April 1, total 222,351 bushels. Burdensome supplies of limes are beginning to accumulate in the markets. Continued heavy shipments could demoralize fresh markets. Hence, based on the available supply and current and prospective market demand conditions, action to curtail shipments as provided in this regulation is needed to prevent a burdensome lime supply in the fresh markets during the period following the July fourth holiday when demand is expected to be weak and movement slow. Such action will tend to promote orderly marketing in the interest of producers and consumers by allowing markets to clear. This would reduce deterioration and spoliage of the limes in the market place, as the supply would be maintained in line with market needs. Consequently, prohibiting lime shipments during the period hereinafter specified should assure a better balance between supply and demand, help provide good quality fruit to consumers, and improve returns to Florida lime growers.

This action was recommended at a public meeting at which all present could state their views. There is insufficient time between the date when information became available upon which this regulation is based and when the action must be taken to warrant a 60-day comment period as recommended in E.O. 12044, and it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C 553). It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

Accordingly, it is found that the requirements for the handling of Florida limes should be and are established as follows: § 911.344 expires July 6, 1980, and will not be published in the annual Code of Federal Regulations)

§ 911.344 Florida Lime Regulation 42.

(a) Notwishstanding the provisions of § 911.343 (Lime Regulation 41, 45 FR 39854), during the period July 4, 1980, through July 6, 1980, no handler shall handle any limes grown in the production area in Florida.

(b) Terms used in this section shall have the same meaning as in the marketing order.

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

Dated June 27, 1980, to become effective July 4, 1980.

Charles R. Brader,

Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 80-19947 Filed 6-30-80; 10:03 am]

BILLING CODE 3410-02-M

Proposed Rules

Federal Register
Vol. 45, No. 128
Tuesday, July 1, 1980

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 351

Reduction in Force

AGENCY: Office of Personnel Management.

ACTION: Proposed regulations.

SUMMARY: These proposed regulations would: (1) Preclude the placement of employees in separate reduction-in-force competitive levels solely on the basis of their coverage under either (a) the Merit Pay System provisions of the Civil Service Reform Act, or (b) the provisions of the Reform Act reqiring a probationary period for new supervisors and manangers; (2) provide that the positions of other-than-full-time employees are not placed in separate competitive levels solely on the basis of differences in the work schedules of employees who would otherwise be placed in the same competitive level; (3) clarify how agencies both establish and release employees from competitive levels; and (4) clarify how agencies establish the service date used in the determination of employee reduction-in-force retention standing.

These changes are being proposed in response to requests by agencies that OPM clarify its reduction-in-force policies on these matters.

COMMENT DATE: Written comments will be considered if received no later than September 2, 1980.

ADDRESS: Send or deliver written comments to Associate Director, Staffing Services, Office of Personnel Management, 1900 E Street, NW., Room 6526, Washington, D.C. 20415.

FOR FURTHER INFORMATION CONTACT: Ted Dow or Tom Glennon, (202) 632–4422.

SUPPLEMENTARY INFORMATION:

Explanation of Changes

OPM proposes to make the following specific changes in Part 351: (1) Section 351.403(b) (1) and (2) are added. Section 351.403(b) (1) and (2) both contain material formerly contained in § 351.403(b), which is now reorganized for clarity.

(2) Section 351.403(b)(3) is added. Section 351.403(b)(3) provides that agencies may not establish reduction-in-force competitive levels under § 351.403 solely on the basis of employee coverage under the Merit Pay System provisions prescribed by Title V of the Civil Service Reform Act, as implemented under Part 540 of this title. For further clarification, § 351.403(b)(3) also provides that employees covered by the Merit Pay System provisions of Part 540 are General Schedule employees for all reduction-in-force purposes.

(3) Section 351.403(b)(4) is added. Section 351.403(b)(4) provides that agencies may not establish reduction-in-force competitive levels under § 351.403 solely on the basis of provisions prescribed in section 303 of the Reform Act that require each employee to satisfactorily complete a probationary period before the employee's appointment to a supervisory or managerial position becomes final.

(4) Section 351.403(b)(5) is added. Section 351.403(b)(5) provides that other-than-full-time positions are not assigned to separate reduction-in-force competitive levels solely on the basis of differences in work schedules among employees who would otherwise be assigned to the same competitive level.

(5) Section 351.404 (a) and (b), concerning reduction-in-force retention registers, are revised and reorganized. Section 351.404(a)(3) contains new material explaining that the retention register is prepared, in part, from the current retention records of employees who are detailed from the competitive level under authority of 5 U.S.C. 3341.

Section 351.404(b) (1) and (2) clarify material formerly contained in § 351.404(b). Section 351.404(b)(3) consists of new material which specifically explains that the retention register includes employees on detail from the competitive level under authority of 5 U.S.C. 3341.

(6) Section 351.503 is reorganized for clarity, and is revised to explain how agencies credit employees with service based upon performance for the purpose of determining retention standing. This proposed change reflects present policy, as set forth in revised § 351.504 published on May 2, 1980, at 45 FR 29263.

(7) Section 351.601 is revised and reorganized. Section 351.601(a)(1) through (3), and § 351.601(b), clarify material formerly contained in § 351.601. Section 351.601(a)(3) also contains new material explaining that a competing employee may not be released from a reduction-in-force competitive level which still contains an employee who has received a written decision under Subpart B of Part 432 of this title because of "Unacceptable Performance." This proposed change reflects current policy, as set forth in revised §§ 351.404 and 351.405 published on May 2, 1980, at 45 FR 29263.

OPM has determined that these are significant regulations for the purposes of E.O. 12044.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, OPM proposes to amend Part 351 as follows:

(1) Section 351.403(b) is revised to read as follows:

§ 351.403 Competitive level.

* * * * *

(b)(1) Each agency shall establish separate competitive levels for competitive positions, as distinguished from excepted positions. Among competitive positions and among excepted positions, each agency shall establish separate competitive levels for positions that are:

(i) Under different pay schedules;

(ii) Filled on a seasonal basis;

(iii) Filled on a part-time basis; or

(iv) Filled on an intermittent basis.

(2) Among excepted positions, each agency shall establish separate competitive levels for positions filled under different appointment authorities.

(3) Employee coverage under the Merit Pay System provisions of Part 540 of this title does not, by itself, constitute a basis for establishing a separate competitive level. Employees covered by the Merit Pay System provisions are General Schedule employees for all reduction-in-force purposes.

(4) A probationary period required by Subpart I of Part 315 of this title upon initial appointment to a supervisory or managerial position does not constitute a basis for establishing a separate competitive level.

(5) Differences in work schedules among other-than-full-time employees who would otherwise be assigned to the same competitive level do not constitute a basis for establishing separate competitive levels.

(2) Section 351.404(a) and (b) are revised to read as follows:

§ 351.404 Retention register.

(a) When a competing employee is to be released from a competitive level under this part, the agency shall establish a separate retention register for that competitive level. The retention register is prepared from the current retention records of employees:

(1) In the competitive level;

(2) Temporarily promoted from the competitive level; or

(3) Detailed from the competitive level under 5 U.S.C. 3341.

(b) Except for an employee on military duty with a restoration right, the agency shall enter on the retention register, in the order of his or her retention standing, the name of each competing employee who is:

(1) In the competitive level;

(2) Temporarily promoted from the competitive level; or

(3) Detailed from the competitive level under 5 U.S.C. 3341.

* * * * *

(3) Section 351.503 is revised to read as follows:

§ 351.503 Length of service.

(a) Each agency shall establish a service date for each competing employee.

(b) An employee's service date is whichever of the following dates reflects his or her total creditable service, and the service credit rating provided under this part:

(1) The date the employee entered on duty, when he or she has no previous creditable service;

(2) The date obtained by subtracting the employee's total creditable previous service from the date he or she last entered on duty; or

(3) The date obtained by subtracting from the date in paragraph (b)(1) or (b)(2) of this section, the service equivalent allowed for a performance rating under § 351.504.

(c) Each agency shall adjust the service date for each employee to withhold credit for noncreditable time.

(4) Section 351.601 is revised to read as follows:

§ 351.601 General.

(a) An agency may not release a competing employee from a competitive level while retaining in that level an employee with:

(1) A specifically limited temporary appointment;

(2) A specifically limited temporary promotion;

(3) A performance rating of less than "Satisfactory" in an agency that has not implemented a performance appraisal system meeting all the requirements of 5 U.S.C. 4302 and Subpart B of Part 430 of this title; or

(4) A written decision under § 432.204(a) of removal or demotion from the competitive level because of "Unacceptable Performance," as defined in § 432.202 of this title.

(b) An agency may not release a competing employee from a competitive level while retaining in that level an employee with lower retention standing, except:

(1) As required under § 351.606 when an employee is retained under a mandatory exception or under § 351.806 when an employee is entitled to a new written notice of reduction in force; or

(2) As permitted under § 351.607 when an employee is retained under a permissive continuing exception or under § 351.608 when an employee is retained under a permissive temporary exception.

(5 U.S.C. 1302, 3502)

[FR Doc. 80-19659 Filed 6-30-80; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 410

Proposed Florida Citrus Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule prescribes procedures for insuring Florida citrus effective with the 1981 crop year. This rule is a revision of the previous regulations for insuring Florida citrus in a clearer, shorter, and simpler document. This proposed rule is promulgated under the authority contained in the Federal Crop Insurance Act, as amended.

DATE: Written comments, data, and opinions must be submitted not later than September 2, 1980.

ADDRESS: Written comments on this proposed rule should be sent to James D. Deal, Manager, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C., 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C., 20250, telephone 202–447–3325.

The Draft Impact Analysis describing the options considered in developing this proposed rule and the impact of implementing each option is available on request from the above-named individual.

SUPPLEMENTARY INFORMATION: This proposed action has been reviewed under USDA procedures established in Secretary's Memorandum No. 1955 to implement Executive Order No. 12044, and has been classified as "not significant".

Under the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.)*, the Federal Crop Insurance Corporation (FCIC) proposes to revise and reissue the Florida Citrus Crop Insurance Regulations (7 CFR Part 410) as published in the **Federal Register** at 42 FR 24712 (Monday, May 16, 1977), 43 FR 20781 (Monday, May 15, 1978), and 44 FR 74794 (Tuesday, December 18, 1979), effective with the 1981 crop year.

In addition to shortening and simplifying the regulations, the proposed 7 CFR Part 410 provides (1) for a new premium adjustment table that affords up to a 50 percent premium discount for good insuring experience and premium increases for unfavorable insuring experience, which replaces the present premium discount system, (2) that any premium not paid by the termination date will be increased by a 9 percent charge, with a 9 percent simple interest applying to any unpaid balance at the end of each subsequent 12-month period thereafter, (3) that the 60-day period for filing a claim be eliminated, (4) that the contract shall terminate if no premium is earned for 5 consecutive years, (5) that the end of the insurance period for lemons, tangelos, and early and midseason oranges will be April 30, (6) that for the first crop year, if an application is accepted after May 1, insurance shall attach on the later of (a) May 1, or (b) the tenth day after the application is received in the office for the country, (7) for using the specific gravity "flotation method" to determine the amount of damage for fresh fruit types of citrus, (8) for the inclusion of "Meyer Lemons" as an uninsurable type of citrus, and (9) for unit division by written agreement between the policyholder and the Corporation or by applicable guidelines.

In addition, § 410.5, "Good Faith Reliance on Misrepresentation", of the proposed Florida Citrus Crop Insurance Regulations increases the limitation from $5,000 to $20,000 in those cases

involving good faith reliance on misrepresentation by employees or agents of the Corporation wherein the Manager of the Corporation is authorized to take action to grant relief.

All previous regulations applicable to insuring citrus in Florida as found in 7 CFR Part 410 will not be applicable to the 1981 and succeeding crop years but will remain in effect for Federal Crop Insurance Corporation Florida citrus policies issued for the crop years prior to 1981.

All written submissions made pursuant to this notice will be available for public inspection in the Office of the Manger during regular business hours, 8:15 a.m. to 4:45 p.m., Monday through Friday.

Proposed Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.),* the Federal Crop Insurance Corporation proposes to revise and reissue the Florida Citrus Crop Insurance Regulations effective for the 1981 and succeeding crop years, which shall remain in effect until amended or superseded, to read as follows:

PART 410—FLORIDA CITRUS CROP INSURANCE

Subpart—Regulations for the 1981 and Succeeding Crop Years

Sec.

Authority: Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended (7 U.S.C. 1506, 1516)

Subpart—Regulations for the 1981 and Succeeding Crop Years

§ 410.1 Availability of Florida Citrus Insurance.

Insurance shall be offered under the provisions of this subpart on citrus in counties within limits prescribed by and in accordance with the provisions of the Federal Crop Insurance Act, as amended. The counties shall be designated by the Manager of the Corporation from those approved by the Board of Directors of the Corporation. Before insurance is offered in any county, there shall be published by appendix to this part the names of the counties in which Florida citrus insurance will be offered.

§ 410.2 Premium rates and amounts of insurance.

(a) The Manager shall establish premium rates and amounts of insurance for citrus which shall be shown on the county actuarial table on file in the office for the country and may be changed from year to year.

(b) At the time the application for insurance is made, the applicant shall elect an amount of insurance per acre from among those amounts shown on the actuarial table for the crop year.

§ 410.3 Public notice of indemnities paid.

The Corporation shall provide for posting annually in each county at each county courthouse a listing of the indemnities paid in the county.

§ 410.4 Creditors.

An interest of a person in an insured crop existing by virtue of a lien, mortgage, garnishment, levy, execution, bankruptcy, or an involuntary transfer shall not entitle the holder of the interest to any benfit under the contract except as provided in the policy.

§ 410.5 Good faith reliance on misrepresentation.

Notwithstanding any other provision of the Florida citrus insurance contract, whenever (a) an insured person under a contract of crop insurance entered into under these regulations, as a result of misrepresentation or other erroneous action or advice by an agent or employee of the Corporation, (1) is indebted to the Corporation for additional premiums, or (2) has suffered a loss to a crop which is not insured or for which the insured person is not entitled to an indemnity because of failure to comply with the terms of the insurance contract, but which the insured person believed to be insured, or believed the terms of the insurance contract to have been complied with or waived, and (b) the Board of Directors of the Corporation, or the Manager in cases involving not more than $20,000, finds (1) that an agent or employee of the Corporation did in fact make such misrepresentation or take other erroneous action or give erroneous advice, (2) that said insured person relied thereon in good faith, and (3) that to require the payment of the additional premiums or to deny such insured's entitlement to the indenmity would not be fair and equitable, such insured person shall be granted relief the same as if otherwise entitled thereto.

§ 410.6 The contract.

The insurance contact shall become effective upon the acceptance by the Corporation of a duly executed application for insurance on a form prescribed by the Corporation. Such acceptance shall be effective upon the date the notice of acceptance is mailed to the applicant. The contract shall cover the citrus crop as provided in the policy. The contract shall consist of the application, the policy, the attached appendix, and the provisions of the county actuarial table. Any changes made in the contract shall not affect its continuity from year to year. Copies of forms referred to in the contract are available at the office for the county.

§ 410.7 The application and policy.

(a) Application for insurance on a form prescribed by the Corporation may be made by any person to cover such person's insurable share in the citrus crop as landlord, owner-operator, or tenant. The application shall be submitted to the Corporation at the office for the county on or before the applicable closing date on file in the office for the county.

(b) The Corporation reserves the right to discontinue the acceptance of application in any county upon its determination that the insurance risk involved is excessive, and also, for the same reason, to reject any individual application. The Manager of the Corporation is authorized in any crop year to extend the closing date for submitting applications or contract changes in any county, by placing the extended date on file in the office for the county and publishing a notice in the **Federal Register** upon the Manager's determination that no adverse selectivity will result during the period of such extension: *Provided, however,* That if adverse conditions should develop during such period, the Corporation will immediately discontinue the acceptance of applications.

(c) In accordance with the provisions governing changes in the contract contained in policies issued udner FCIC regulations for the 1977 and succeeding crop years, a contract in the form provided for under this subpart will come into effect as a contiunation of a Florida citrus contract issued under such prior regulation, without the filing of a new application.

(d) The provisions of the application and Florida Citrus Insurance Policy for the 1981 and succeeding crop years, and the Appendix to the Florida Citrus Insurance Policy are as follows:

U.S. Department of Agriculture

Federal Crop Insurance Corporation Application for 19— and Succeeding Crop Years

Florida Citrus; Crop Insurance Contract

Contract Number———
Identification Number ———
Name and Address———
Zip Code ———
County ———
State ———
Type of Entity ———
Applicant is over 18 Yes——No——

A. The applicant, subject to the provisions of the regulations of the Federal Crop Insurance Corporation (herein called "Corporation"), hereby applies to the Corporation for insurance on the applicant's share in the citrus grown on insurable acreage as shown on the county acturial table for the above-stated county. The appplicant elects fromt he actuarial table the amount of insurance per acre. The premium rates and amounts of insurance shall be those shown on the applicable county actuarial table filed in the office for the county for each crop year.
Amount of insurance per acre election ———

Example: For the 19—— Crop Year only (100% share)

Location/ farm No.	Type	Amount of Insurance per acre*	Premium per $100**	Practice	(A)

* Your amount of insurance will be on a unit basis (acres × amount of insurance per acre × share).

** Your premium is subject to adjustment in accordance with section 5(c) of the policy.

B. When notice of acceptance of this application is mailed to the applicant by the Corporation, the contract shall be in effect for the crop year specified above, unless the time for submitting applications has passed at the time this application is filed, and shall continue for each succeeding crop year until canceled or terminated as provided in the contract. This accepted application, the following Florida citrus insurance policy, the attached appendix, and the provisions of the county acturial table showing the amounts of insurance, premium rates, and insurable and uninsurable acreage shall constitute the contract. Additional information regarding contract provisions can be found in the county regulations folder on file in the office for the county. No term or condition of the contract shall be waived or changed except in writing by the Corporation.
Code No./Witness to Signature ———

(Signature of Applicant)———
(Date)———, 19——
Address of Office for county: ———

Phone———
Location of farm headquarters: ———

Phone———

FLORIDA CITRUS CROP INSURANCE POLICY

Terms and Conditions

Subject to the provisions in the attached appendix:

1. *Causes of Loss.* (a) Causes of loss insured against. The insurance provided is against unavoidable citrus fruit loss resulting from freeze, hail, hurricane or tornado occurring within the insurance period, subject to any exceptions, exclusions or limitations with respect to causes of loss shown on the actuarial table.

(b) Causes of loss not insured against. The contract shall not cover any loss or damage, as determined by the Corporation, (1) to the blossoms or trees, (2) due to the neglect or malfeasance of the insured, any member of the insured's household, the insured's tenants or employees, (3) due to failure to follow recognized good grove management practices, or (4) due to any cause not specified as an insured cause in this policy as limited by the actuarial table.

2. *Crop and Acreage Insured.* (a) The crop insured shall be any of the insurable citrus types as defined in section 1(n) of the Appendix elected by the insured, located on insured acreage, and for which the actuarial table shows an amount of insurance and premium rate: *Provided,* That if grapefruit is to be insured only one type (III or VII) can be elected.

(b) The acreage insured for each crop year shall be that acreage of citrus located on insurable acreage as shown on the actuarial table, and the insured's share therein as reported by the insured or as determined by the Corporation, whichever the Corporation shall elect: *Provided,* That (1) the citrus fruit can be expected to mature each crop year in the normal maturity period for the type, and (2) the trees have reached at least the tenth growing season after being set out, unless otherwise provided on the actuarial table.

(c) For any crop year, the insured may elect to exclude from insurance any acreage of Robinson tangerines by the April 30 immediately preceding the crop year for which such exclusion is to become effective.

(d) Upon approval of the Corporation, the insured may elect to insure or exclude from insurance for any crop year any reported, described, and designated insurable acreage which has a potential of less than 100 standard field boxes per acre. (1) If the insured elects to insure such acreage, the Corporation will, in determining the amount of loss, increase the potential on such acreage to 100 boxes per acre. (2) If the insured elects to exclude such acreage, the Corporation will disregard such acreage for all purposes of this contract. (3) If the insured does not report, exclude, describe, and designate any such acreage, the Corporation will disregard such acreage if the production is less than 100 boxes per acre; *however,* if the production from such acreage is 100 or more boxes per acre, the Corporation shall determine the percent of damage on all of the insurable acreage for the unit, but will not permit the percent of damage for the unit to be increased by including such acreage.

3. *Responsibility of the Insured to Report Acreage and Share.* The insured at the time of filing the application shall also file on a form prescribed by the Corporation a report of all the acreage of insured citrus in the country in which the insured has a share and show the share therein. Such report shall also include a designation of any acreage which is uninsurable or excluded under the provisions of section 2 above. This report shall be revised by the insured for any crop year before insurance attaches if the acreage to be insured or share therein has changed, and the latest report filed shall be considered as the basis for continuation of insurance from year to year.

4. *Amounts of Insurance.* For each crop year of the contract, the amounts of insurance per acre shall be those shown on the acturial table.

5. *Annual Premium.* (a) The annual premium is earned and payable on the date insurance attaches and the amount thereof shall be determined by multiplying the insured acreage times the amount of insurance per acre, times the applicable premium rate, times the insured's share at the time insurance attaches, times the applicable premium adjustment percentage in subsection (c) of this section.

(b) For premium adjustment purposes, only the years during which premiums were earned shall be considered.

(c) The premium shall be adjusted as shown in the following table:

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% ADJUSTMENTS FOR FAVORABLE CONTINUOUS INSURANCE EXPERIENCE																
	Numbers of Years Continuous Experience Through Previous Year															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15 or more
Loss Ratio 1/ Through Previous Crop Year	Percentage Adjustment Factor For Current Crop Year															
.00 – .20	100	95	95	90	90	85	80	75	70	70	65	65	60	60	55	50
.21 – .40	100	100	95	95	90	90	90	85	80	80	75	75	70	70	65	60
.41 – .60	100	100	95	95	95	95	95	90	90	90	85	85	80	80	75	70
.61 – .80	100	100	95	95	95	95	95	95	90	90	90	90	85	85	85	80
.81 – 1.09	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100

% ADJUSTMENTS FOR UNFAVORABLE INSURANCE EXPERIENCE																
	Number of Loss Years Through Previous Year 2/															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
Loss Ratio 1/ Through Previous Crop Year	Percentage Adjustment Factor For Current Crop Year															
1.10 – 1.19	100	100	100	102	104	106	108	110	112	114	116	118	120	122	124	126
1.20 – 1.39	100	100	100	104	108	112	116	120	124	128	132	136	140	144	148	152
1.40 – 1.69	100	100	100	108	116	124	132	140	148	156	164	172	180	188	196	204
1.70 – 1.99	100	100	100	112	122	132	142	152	162	172	182	192	202	212	222	232
2.00 – 2.49	100	100	100	116	128	140	152	164	176	188	200	212	224	236	248	260
2.50 – 3.24	100	100	100	120	134	148	162	176	190	204	218	232	246	260	274	288
3.25 – 3.99	100	100	105	124	140	156	172	188	204	220	236	252	268	284	300	300
4.00 – 4.99	100	100	110	128	146	164	182	200	218	236	254	272	290	300	300	300
5.00 – 5.99	100	100	115	132	152	172	192	212	232	252	272	292	300	300	300	300
6.00 – Up	100	100	120	136	158	180	202	224	246	268	290	300	300	300	300	300

1/ Loss Ratio means the ratio of indemnity(ies) paid to premium(s) earned.

2/ Only the most recent 15 crop years will be used to determine the number of "Loss Years" (A crop year is determined to be a "Loss Year" when the amount of indemnity for the year exceeds the premium for the year).

BILLING CODE 3410-08-C

(d) Any amount of premium for an insured crop which is unpaid on the day following the termination date for indebtedness for such crop shall be increased by a 9 percent service fee, which increased amount shall be the premium balance, and thereafter, at the end of each 12-month period, 9 percent simple interest shall attach to any amount of the premium balance which is unpaid: *Provided,* When notice of loss has been timely filed by the insured as provided in section 7 of this policy, the service fee will not be charged and the contract will remain in force if the premium is paid in full within 30 days after the date of approval or denial of the claim for indemnity; *however,* if any premium remains unpaid after such date, the contract will terminate and the amount of premium outstanding shall be increased by a 9 percent service fee, which increased amount shall be the premium balance. If such premium balance is not paid within 12 months immediately following the termination date, 9 percent simple interest shall apply from the termination date and each year thereafter to any unpaid premium balance.

(e) Any unpaid amount due the Corporation may be deducted from any indemnity payable to the insured by the Corporation or from any loan or payment to the insured under any Act of Congress or program administered by the U.S. Department of Agriculture, when not prohibited by law.

6. *Insurance Period.* Insurance on insured acreage shall attach each crop year on May 1, except that for the first crop year if the application is accepted by the Corporation after that date, insurance shall attach on the later of (a) May 1, or (b) the tenth day after the application is received in the office for the county, and as to any portion of the citrus crop, shall cease upon the earliest of (1) harvest, (2) the following dates: (i) January 31 for tangerines and Navel oranges, (ii) April 30 for lemons, tangelos, and early and mid-season oranges, and (iii) the second June 30 for late oranges, grapefruit, and Temple and Murcott honey oranges, or (3) total destruction of the insured citrus crop.

7. *Notice of Damage or Loss.* (a) Any notice of damage or loss shall be given promptly in writing by the insured to the Corporation at the office for the county after insured damage to the citrus becomes apparent, giving the date(s) and cause(s) of such damage.

(b) If an indemnity is to be claimed on any unit, notwithstanding any prior notice of damage, the insured shall notify the office for the county of the intended date of harvest at least seven days prior to the start of harvest. If (1) damage occurs within the seven-day period prior to the start of or during harvest, notice of damage must be given immediately to the office for the county or (2) if harvest will begin after the calendar date for the end of the insurance period, the insured shall give written notice thereof to the Corporation at the office for the county not later than the calendar date for the end of the insurance period. The Corporation reserves the right to provide additional time if it determines there are extenuating circumstances.

(c) Any insured acreage which is not to be harvested and upon which an indemnity is to be claimed shall be left intact until inspected by the Corporation.

(d) The Corporation may reject any claim for indemnity if any of the requirements of this section are not met.

8. *Claim for Indemnity.* (a) It shall be a condition precedent to the payment of any indemnity that the insured (1) furnish production records of all citrus on the unit, (2) establish that any damage to the citrus crop was directly caused by one or more of the insured causes during the insurance period for the crop year for which the indemnity is claimed, and (3) furnish any other information regarding the manner and extent of damage as may be required by the Corporation.

(b) Indemnities shall be determined separately for each unit. The amount of indemnity for any unit shall be determined by (1) computing the average percent of damage to the citrus crop which (without regard to any percent damage arrived at through prior inspections) shall be the ratio of the number of boxes of citrus lost from an insured cause to the potential: *Provided, however,* That any citrus which (i) is or could be marketed as fresh fruit, (ii) is harvested prior to an inspection by the Corporation, or (iii) is harvested within 7 days after a freeze, shall be considered undamaged potential, (2) multiplying the average percent of damage thus obtained in excess of 10 percent (e.g., average damage 45% − 10% = 35% payable) times the amount of insurance for the unit which shall be the result of the insured acreage on the unit times the applicable amount of insurance per acre, and (3) multiplying this product by the insured share.

(c) Pink and red grapefruit of citrus Type III and citrus of Types IV, V, and VII which are seriously damaged by freeze as determined by a fresh fruit cut of a representative sample of fruit in the unit in accordance with the applicable provisions of the Florida Citrus Code and is not or could not be marketed as fresh fruit shall be considered damaged to the following extent: (1) if 15 percent or less of the fruit in a sample shows serious freeze damage, the fruit shall be considered undamaged, or (2) if 16 percent or more of the fruit in a sample shows serious freeze damage, the fruit shall be considered 50 percent damaged, except that: (i) for tangerines of citrus Type IV, damage in excess of 50 percent shall be the actual percent of damaged fruit, and (ii) for other applicable varieties, if the Corporation determines that the juice loss in the fruit exceeds 50 percent, the amount so determined shall be considered the percent of damage.

(d) Notwithstanding the provisions of 8(c), as to any pink and red grapefruit of Type III and citrus of Types IV, V, and VII in any unit which is mechanically separated (using the specific gravity "flotation" method) into undamaged and freeze-damaged fruit, the amount of damage shall be the actual percent of freeze-damaged fruit not to exceed 50 percent and shall not be affected by subsequent fresh-fruit marketing: *Provided,* That the 50 percent limitation on freeze-damaged fruit shall not apply to tangerines of citrus Type IV.

(e) Any citrus of Types I, II, VI, and white grapefruit of Type III which is damaged by freeze, but may be processed by the canning or processing plants, shall be considered as marketable for juice. The percent of damage shall be determined by the Corporation by relating the juice content of the damaged fruit as determined by test house analysis to (1) the average juice content established by the Corporation based on acceptable records furnished by the insured showing the juice content of fruit produced on the unit for the three previous crop years, or (2) the juice content for that type fruit established on the actuarial table if acceptable records are not furnished.

(f) Any citrus on the ground which is not picked up and marketed shall be considered 90 percent lost if the damage was due to freeze and totally lost if the damage was due to any other insured cause.

(g) Any citrus which is unmarketable either as fresh fruit or for juice because it is immature, unwholesome, decomposed, adulterated, or otherwise unfit for human consumption due to an insured cause shall be considered totally lost.

(h) Pink and red grapefruit of citrus Type III and citrus of Types IV, V, and VII which are unmarketable as fresh fruit due to serious damage from hail as defined in U.S. Standards for grades of Florida fruit shall be considered totally lost.

(i) Citrus lost due to hurricane or tornado shall be the amount of citrus blown from the trees on which falls from the trees as a result of such damage and which is not picked up from the ground and marketed.

9. *Misrepresentation and Fraud.* The Corporation may void the contract without affecting the insured's liability for premiums or waiving any right, including the right to collect any unpaid premiums if, at any time, the insured has concealed or misrepresented any material fact or committed any fraud relating to the contract, and such voidance shall be effective as of the beginning of the crop year with respect to which such act or omission occurred.

10. *Transfer of Insured Share.* If the insured transfers any part of the insured share during the crop year, protection will continue to be provided according to the provisions of the contract to the transferee for such crop year on the transferred share, and the transferee shall have the same rights and responsibilities under the contract as the original insured for the current crop year. Any transfer shall be made on an approved form.

11. *Records and Access to Grove.* The insured shall keep or cause to be kept for two years after the time of loss, records of the harvesting, storage, shipments, sale or other disposition of all citrus produced on each unit including separate records showing the same information for production from any uninsured acreage.

Any persons designated by the Corporation shall have access to such records and the grove for purposes related to the contract.

12. *Life of Contract: Cancellation and Termination.* (a) The contract shall be in effect for the crop year specified on the application and may not be canceled for such crop year. Thereafter, either party may cancel the insurance on any type of citrus for any crop year by giving a signed notice to the other on or before the cancellation date preceding such crop year.

(b) Except as provided in section 5(d) of this policy, the contract will terminate as to any crop year if any amount due the Corporation under this contract is not paid on or before the termination date for indebtedness preceding such crop year: *Provided*, That the date of payment for premium (1) if deducted from an indemnity claim shall be the date the insured signs such claim or (2) if deducted from payment under another program administered by the U.S. Department of Agriculture shall be the date such payment was approved.

(c) Following are the cancellation and termination dates:

State, Florida; Cancellation date, Apr. 30; Termination date for indebtedness, Apr. 30.

(d) In the absence of a notice from the insured to cancel, and subject to the provisions of subsections (a), (b) and (c) of this section, and section 6 of the Appendix, the contract shall continue in force for each succeeding crop year.

Appendix (Additional Terms and Conditions)

1. *Meaning of Terms.*

For the purposes of Florida citrus crop insurance:

(a) "Actuarial table" means the forms and related material for the crop year approved by the Corporation which are on file for public inspection in the office for the county, and which show the premium rates, amounts of insurance, insurable and uninsurable acreage, and related information regarding citrus insurance in the county.

(b) "Box" means a standard field box as prescribed in the Florida Citrus Code.

(c) "Contiguous land" means land which is touching at any point, except that land which is separated by only a public or private right-of-way shall be considered contiguous.

(d) "County" means the county shown on the application and any additional land located in a local producing area bordering on the county, as shown on the actuarial table.

(e) "Crop year" means the period beginning May 1 and extending through June 30 of the following year and shall be designated by the calendar year in which the insurance period begins.

(f) "Harvest" means any severance of citrus fruit from the tree either by pulling, picking, or severing by mechanical or chemical means, or picking up the marketable fruit from the ground.

(g) "Insurable acreage" means the land classified as insurable by the Corporation and shown as such on the county actuarial table.

(h) "Insured" means the person who submitted the application accepted by the Corporation.

(i) "Office for the county" means the Corporation's office serving the county shown on the application for insurance or such office as may be designed by the Corporation.

(j) "Person" means an individual, partnership, association, corporation, estate, trust, or other business enterprise or legal entity, and wherever applicable, a State, a political subdivision of a State, or any agency thereof.

(k) "Potential" means the production which would have been produced before damage from an insured cause of loss occurred and shall include citrus which (1) was picked before the insured damage occurred, (2) remained on the trees after the damage occurred, (3) was lost from an insured cause, and (4) was lost from an uninsured cause. The potential for the unit shall not be less than the product of 100 boxes multiplied by the number of acres in the unit: *Provided, however*, That (i) if 20% or more of any citrus acreage within the unit has a potential of less than 100 boxes, the Corporation may elect to increase the potential on such acreage to 100 boxes and (ii) the potential shall not include citrus lost before insurance attaches for any crop year, citrus lost by normal dropping, or any tangerines the Corporation determines normally would not, by the end of the insuance period for tangerines, meet the 210 pack size (2 and 4/16 inches minimum diameter) under U.S. standards.

(l) "Share" means the interest of the insured as landlord, owner-operator, or tenant in the insured citrus crop at the time insurance attaches as reported by the insured or as determined by the Corporation, whichever the Corporation shall elect, and no other shall be deemed to be insured: *Provided*, That for the purpose of determining the amount of indemnity, the insured share shall not exceed the insured's share at the earliest of (1) the date of beginning of harvest on the unit, (2) the calendar date for the end of the insurance period, or (3) the date the entire crop on the unit is destroyed, as determined by the Corporation.

(m) "Tenant" means a person who rents land from another person for a share of the citrus crop or proceeds therefrom.

(n) "Type of citrus" means any of the following types of fruit: Type 1-Early and mid-season oranges; Type II-Late oranges; Type III-Grapefruit, under which freeze damage will be adjusted on a juice basis for white grapefruit and on a fresh fruit basis for pink and red grapefruit; Type IV-Navel oranges, tangelos and tangerines; Type V-Murcott honey oranges (also known as Honey tangerines) and Temple oranges; Type VI-Lemons; and Type VII-Grapefruit, under which freeze damage will be adjusted on a fresh fruit basis for all grapefruit. "Meyer lemons" and oranges commonly known as "Sour oranges", and "Clementines" shall not be included in any of the insurable types of citrus.

(o) "Unit" means all insurable acreage in the county of any one of the citrus types referred to in subsection (n) of this section, located on contiguous land, on the date insurance attaches for the crop year (1) in which the insured has a 100 percent share, or (2) which is owned by one entity and operated by another entity on a share basis. Land rented for cash, a fixed commodity payment, or any consideration other than a share in the citrus crop on such land shall be considered as owned by the lessee. Land which would otherwise be one unit may be divided according to applicable guidelines on file in the office for the county, or by written agreement between the Corporation and the insured. The Corporation shall determine units as herein defined when adjusting a loss, notwithstanding what is shown on the acreage report, and has the right to consider any acreage and share reported by or for the insured's spouse or child or any member of the insured's household to be the bona fide share of the insured or any other person having a bona fide share.

2. *Acreage Insured.* (a) The Corporation reserves the right for any crop year (1) to exclude acreage from insurance or limit the amount of insurance on any acreage which was not insured the previous crop year, and (2) to limit the insured acreage of citrus to any acreage limitations established under any Act of Congress, provided the insured as so notified in writing prior to the time insurance attaches.

(b) If the insured does not submit a revised acreage report for any crop year in accordance with the provisions of section 3 of the policy, the Corporation may elect to determine by units the insured acreage and share or declare the insured acreage on any unit(s) to be "zero". If the insured does not have a share in any insured acreage in the county for any year, the insured shall submit a report so indicating. Any acreage report submitted by the insured may be revised only upon approval of the Corporation.

3. *Annual Premium.* (a) If there is no break in the continuity of participation, any premium adjustment applicable under section 5 of the policy shall be transferred to (1) the contract of the insured's estate or surviving spouse in case of death of the insured, (2) the contract of the person who succeeds the insured if such person had previously participated in the grove operation, or (3) the contract of the same insured who stops operating a grove in one county and starts operating a grove in another county.

(b) If there is a break in the continuity of participation, any reduction in premium earned under section 5 of the policy shall not thereafter apply; *however*, any previous unfavorable insurance experience shall be considered in premium computation following a break in continuity.

4. *Claim for and Payment of Indemnity.* (a) Any claim for indemnity on a unit shall be submitted to the Corporation on a form prescribed by the Corporation.

(b) In determining the total production to be counted for each unit, production from units on which the production has been commingled will be allocated to such units in proportion to the liability on each unit.

(c) There shall be no abandonment to the Corporation of any insured citrus acreage.

(d) In the event that any claim for indemnity under the provisions of the contract is denied by the Corporation, an action on such claim may be brought against the Corporation under the provisions of 7 U.S.C. 1508(c): *Provided*, That the same is brought within one year after the date notice of denial of the claim is mailed to and received by the insured.

(e) Any indemnity will be payable within 30 days after a claim for indemnity is approved by the Corporation. *However*, in no event shall the Corporation be liable for interest or damages in connection with any claim for indemnity whether such claim be approved or disapproved by the Corportion.

(f) If the insured is an individual who dies, disappears, or is judicially declared

incompetent, or the insured is an entity other than an individual and such entity is dissolved after insurance attaches for any crop year, any indemnity will be paid to the person(s) the Corporation determines to be beneficially entitled thereto.

(g) The Corporation reserves the right to reject any claim for indemnity if any of the requirements of this section or section 8 of the policy are not met and the Corporation determines that the amount of loss cannot be satisfactorily determined.

5. *Subrogation.* The insured (including any assignee or transferee) assigns to the Corporation all rights of recovery against any person for loss or damage to the extent that payment hereunder is made by the Corporation. The Corporation thereafter shall execute all papers required and take appropriate action as may be necessary to secure such rights.

6. *Termination of the Contract.* (a) The contract shall terminate if no premium is earned for five consecutive years.

(b) If the insured is an individual who dies or is judicially declared incompetent, or the insured entity is other than an individual and such entity is dissolved, the contract shall terminate as of the date of death, judicial declaration, or dissolution; *however,* if such event occurs after insurance attaches for any crop year, the contract shall continue in force through such crop year and terminate at the end thereof. Death of a partner in a partnership shall dissolve the partnership unless the partnership agreement provides otherwise. If two or more persons having a joint interest are insured jointly, death of one of the persons shall dissolve the joint entity.

7. *Amounts of insurance.* (a) If the insured has not elected on the application an amount of insurance per acre from among those shown on the actuarial table, the amount of insurance per acre which shall be applicable under the contract, and which the insured shall be deemed to have elected, shall be as provided on the actuarial table for such purposes.

(b) The insured may, with the consent of the Corporation, change the amount of insurance per acre for any crop year on or before the closing date for submitting applications for that crop year.

8. *Assignment of Indemnity.* Upon approval of a form prescribed by the Corporation, the insured may assign to another party the right to an indemnity for the crop year and such assignee shall have the right to submit the loss notices and forms as required by the contract.

9. *Contract Changes.* The Corporation reserves the right to change any terms and provisions of the contract from year to year. Any changes shall be mailed to the insured or placed on file and made available for public inspeciton in the office for the county at least 15 days prior to the cancellation date preceding the crop year for which the changes are to become effective, and such mailing or filing shall constitute notice to the insured. Acceptance of any changes will be conclusively presumed in the absence of any notice from the insured to cancel the contract as provided in section 12 of the policy.

Appendix B—Counties Designated for Florida Citrus Crop Insurance—7 CFR Part 410

In accordance with the provisions of 7 CFR 410.1, the following counties are designated for citrus crop insurance:

Florida: Brevard, De Soto, Glades, Hardee, Hendry, Hernando, Highland, Hillsborough, Indian River, Lake, Manatee, Marion, Martin, Orange, Osceola, Palm Beach, Pasco, Polk, St. Lucie, Seminole.

Note.—The reporting requirements contained herein have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942 and OMB Circular A–40.

Approved by the Board of Directors on May 30, 1980.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

Dated: June 23, 1980.

Approved by:

W. Otto Johnson,

Acting Manager.

[FR Doc. 80–19669 Filed 6–30–80; 8:45 am]

BILLING CODE 3410–08–M

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7 CFR Part 413

Proposed Texas Citrus Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation.

ACTION: Proposed rule.

SUMMARY: This proposed rule prescribes procedures for insuring citrus in Texas effective with the 1981 crop year. This rule is a revision of the previous regulations for insuring Texas citrus in a clearer, shorter, and simpler document. This proposed rule is promulgated under the authority of the Federal Crop Insurance Act, as amended.

DATE: Written comments, data, and opinions must be submitted not later than September 2, 1980, to be sure of consideration.

ADDRESS: Written comments on this proposed rule should be sent to James D. Deal, Manager, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C., 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C., 20250, telephone 202–447–3325.

The Draft Impact Analysis describing the options considered in developing this proposed rule and the impact of implementing each option is available on request from the above-named individual.

SUPPLEMENTARY INFORMATION: This proposed action has been reviewed under USDA procedures established in Secretary's Memorandum No. 1955 implement Executive Order No. 12044, and has been classified as "not significant".

Under the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation (FCIC) proposes to revise and reissue the Texas Citrus Crop Insurance Regulations (7 CFR Part 413) as published in the **Federal Register** at 42 FR 28141 (Thursday, June 2, 1977) and 44FR 74796 (Tuesday, December 18, 1979), effective with the 1981 crop year.

In addition to shortening and simplifying the regulations, 7CFR Part 413 provides (1) for a new premium adjustment table that provides up to 50 percent premium discount for good insuring experience and premium increases for unfavorable insuring experience, which replaces the present premium discount system, (2) that any premium not paid by the termination date will be increased by a 9 percent charge, with a 9 percent simple interest applying to any unpaid balance at the end of each subsequent 12-month period thereafter, (3) that the 60–day period for filing a claim be eliminated, (4) that the contract shall terminate if no premium is earned for 5 consecutive years, (5) that for the first crop year, if an application is accepted after June 1, insurance shall attach on the later of (a) June 1, or (b) the tenth day after the application is received in the office for the county, and (6) a provision for unit division by written agreement between the policyholder and the Corporation or by applicable guidelines.

In addition, § 413.5, "Good Faith Reliance on Misrepresentation", of the proposed Texas Citrus Corp Insurance Regulations increases the limitation from $5,000 to $20,000 in those cases involving good faith reliance on misrepresentation by employees or agents of the Corporation wherein the Manager of the Corporation (FCIC) is authorized to take action to grant relief.

All previous regulations applicable to insuring citrus in Texas as found in 7 CFR Part 413 will not be applicable to the 1981 and succeeding citrus crops but will remain in effect for Federal Crop Insurance Corporation Texas citrus insurance policies issued for the crop years prior to 1981.

All written submissions made pursuant to this notice will be available for public inspection in the office of the Manager during regular business hours, 8:15 a.m. to 4:45 p.m., Monday through Friday.

Proposed Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation proposes to revise and reissue the Texas Citrus Crop Insurance Regulations effective for the 1981 and succeeding crop years, which shall remain in effect until amended or superseded, to read as follows:

PART 413—TEXAS CITRUS CROP INSURANCE

Subpart—Regulations for the 1981 and Succeeding Crop Years

Sec.
413.1 Availability of Texas Citrus Insurance.
413.2 Premium rates and amounts of insurance.
413.3 Public notice of indemnities paid.
413.4 Creditors.
413.5 Good faith reliance on misrepresentation.
413.6 The contract.
413.7 The application and policy.

Authority: Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended (7 U.S.C. 1506, 1516)

Subpart—Regulations for the 1981 and Succeeding Crop Years

§ 413.1 Availability of Texas citrus insurance.

Insurance shall be offered under the provisions of this subpart on citrus in counties within limits prescribed by and in accordance with the provisions of the Federal Crop Insurance Act, as amended. The counties shall be designated by the Manager of the Corporation from those approved by the Board of Directors of the Corporation. Before insurance is offered in any county, there shall be published by appendix to this part the names of the counties in which Texas citrus insurance will be offered.

§ 413.2 Premium rates and amounts of insurance.

(a) The Manager shall establish premium rates and amounts of insurance for citrus which shall be shown on the county actuarial table on file in the office for the county and may be changed from year to year.

(b) At the time the application for insurance is made, the applicant shall elect an amount of insurance per acre from among those amounts shown on the actuarial table for the crop year.

§ 413.3 Public notice of indemnities paid.

The Corporation shall provide for posting annually in each county at each county courthouse a listing of the indemnities paid in the county.

§ 413.4 Creditors.

An interest of a person in an insured crop existing by virtue of a lien, mortgage, garnishment, levy, execution, bankruptcy, or an involuntary transfer shall not entitle the holder of the interest to any benefit under the contract except as provided in the policy.

§ 413.5 Good faith reliance on misrepresentation.

Notwithstanding any other provision of the Texas citrus insurance contract, whenever (a) an insured person under a contract of crop insurance entered into under these regulations, as a result of a misrepresentation or other erroneous action or advice by an agent or employee of the Corporation, (1) is indebted to the Corporation for additional premiums, or (2) has suffered a loss to a crop which is not insured or for which the insured person is not entitled to an indemnity because of failure to comply with the terms of the insurance contract, but which the insured person believed to be insured, or believed the terms of the insurance contract to have been complied with or waived, and (b) the Board of Directors of the Corporation, or the Manager in cases involving not more than $20,000, finds (1) that an agent or employee of the Corporation did in fact make such misrepresentation or take other erroneous action or give erroneous advice, (2) that said insured person relied thereon in good faith, and (3) that to require the payment of the additional premiums or to deny such insured's entitlement to the indemnity would not be fair and equitable, such insured person shall be granted relief the same as if otherwise entitled thereto.

§ 413.6 The contract.

The insurance contract shall become effective upon the acceptance by the Corporation of a duly executed application for insurance on a form prescribed by the Corporation. Such acceptance shall be effective upon the date the notice of acceptance is mailed to the applicant. The contract shall cover the citrus crop as provided in the policy. The contract shall consist of the application, the policy, the attached appendix, and the provisions of the county actuarial table. Any changes made in the contract shall not affect its continuity from year to year. Copies of forms referred to in the contract are available at the office for the county.

§ 413.7 The application and policy.

(a) Application for insurance on a form prescribed by the Corporation may be made by any person to cover such person's insurable share in the citrus crop as landlord, owner-operator, or tenant. The application shall be submitted to the Corporation at the office for the county on or before the applicable closing date on file in the office for the county.

(b) The Corporation reserves the right to discontinue the acceptance of applications in any county upon its determination that the insurance risk involved is excessive, and also, for the same reason, to reject any individual application. The Manager of the Corporation is authorized in any crop year to extend the closing date for submitting applications or contract changes in any county, by placing the extended date on file in the office for the county and publishing a notice in the **Federal Register** upon the Manager's determination that no adverse selectivity will result during the period of such extension: *Provided, however,* That if adverse conditions should develop during such period, the Corporation will immediately discontinue the acceptance of applications.

(c) In accordance with the provisions governing changes in the contract contained in policies issued under FCIC regulations for the 1977 and succeeding crop years, a contract in the form provided for under this subpart will come into effect as a continuation of a Texas citrus contract issued under such prior regulations, without the filing of a new application.

(d) The provisions of the application and Texas Citrus Insurance Policy for the 1981 and succeeding crop years, and the Appendix to the Texas Citrus Insurance Policy are as follows:

United States Department of Agriculture

Federal Crop Insurance Corporation

Application for 19—— and Succeeding Crop Years; Texas Citrus

Crop Insurance Contract

Contract Number——————————
Identification Number ——————————
Name and Address——————————
ZIP Code ——————————
County ——————————
State ——————————
Type of Entity ——————————
Applicant is over 18 Yes —— No ——

A. The applicant, subject to the provisions of the regulations of the Federal Crop Insurance Corporation (herein called "Corporation"), hereby applies to the Corporation for insurance on the applicant's share in the citrus grown on insurable acreage as shown on the county actuarial table for the above-stated county. The applicant elects from the actuarial table the amount of insurance per acre. The premium rates and amounts of insurance shall be those shown on the applicable county actuarial table filed in the office for the county for each crop year.

Amount of insurance per acre election ——

Example: For the 19—— crop year only (100 percent share)

Location/ farm No.	Type	Amount of Insurance per acre*	Premium per $100**	Practice	(A)
.....	.....	.....	.....	.....	.....
.....	.....	.....	.....	.....	.....
.....	.....	.....	.....	.....	.....

*Your amount of insurance will be on a unit basis (acres x amount of insurance per acre x share).

**Your premium is subject to adjustment in accordance with section 5(c) of the policy.

B. When notice of acceptance of this application is mailed to the applicant by the corporation, the contract shall be ineffect for the crop year specified above, unless the time for submitting applications has passed at the time this application is filed, and shall continue for each succeeding crop year until canceled or terminated as provided in the contract. This accepted application, the following Texas citrus insurance policy, the attached appendix, and the provisions of the county actuarial table showing the amounts of insurance, premium rates, and insurable and uninsurable acreage shall constitute the contract. Additional information regarding contract provisions can be found in the county regulations folder on file in the office for the county. No term or condition of the contract shall be waived or changed except in writing by the Corporation.

Code No./Witness to Signature ——

Signature of Applicant ——

Date ——, 19——

Address of Office for County: ——

Phone ——

Location of Farm Headquarters: ——

Phone ——

Texas Citrus Crop Insurance Policy

Terms and Conditions

Subject to the provisions in the attached appendix:

1. *Causes of Loss.* (a) Causes of loss insured against. The insurance provided is against unavoidable citrus fruit loss resulting from freeze, hurricane or tornado occurring within the insurance period, subject to any exceptions, exclusions or limitations with respect to causes of loss shown on the actuarial table.

(b) Causes of loss not insured against. The contract shall not cover any loss or damage, as determined by the Corporation, (1) to the blossoms or trees, (2) due to the neglect or malfeasance of the insured, any member of the insured's household, the insured's tenants or employees, (3) due to failure to follow recognized good grove management practices, or (4) due to any cause not specified as an insured cause in this policy as limited by the acturial table.

2. *Crop and Acreage Insured.* (a) The crop insured shall be any of the insurable citrus types as defined in section 1(n) of the Appendix elected by the insured, located on insured acreage, for which the actuarial table shows an amount of insurance and premium rate, and in which the insured has a share on the date insurance attaches.

(b) The acreage insured for each crop year shall be that acreage of citrus located on insurable acreage as shown on the actuarial table, and the insured's share therein as reported by the insured or as determined by the Corporation, whichever the Corporation shall elect: *Provided,* That (1) the citrus fruit can be expected to mature each crop year in the normal maturity period for the type, and (2) the trees have reached at least the fifth growing season after being set out, unless otherwise provided on the actuarial table.

(c) Upon approval of the Corporation, the insured may elect to insure or exclude from insurance for any crop year any reported, described, and designated insurable acreage which has a potential of less than 4 tons of oranges or 5 tons of grapefruit per acre. (1) If the insured elects to insure such acreage, the Corporation will, in determining the amount of loss, increase the potential on such acreage to 4 tons for oranges or 5 tons for grapefruit per acre. (2) If the insured elects to exclude such acreage, the Corporation will disregard such acreage for all purposes of this contract. (3) If the insured does not report, exclude, describe, and designate any such acreage, the Corporation will disregard such acreage if the production is less than 4 tons of oranges or 5 tons of grapefruit per acre; *however,* if the production from such acreage equals or exceeds 4 tons of oranges or 5 tons of grapefruit per acre, the Corporation shall determine the percent of damage on all of the insurable acreage for the unit, but will not permit the percent of damage for the unit to be increased by including such acreage.

3. *Responsibility of the Insured to Report Acreage and Share.* The insured at the time of filing the application shall also file on a form prescribed by the Corporation a report of all the acreage of insured citrus in the county in which the insured has a share and show the share therein. Such report shall also include a designation of any acreage which is uninsurable or excluded under the provisions of section 2 above. This report shall be revised by the insured for any crop year before insurance attaches if the acreage to be insured or share therein has changed, and the latest report filed shall be considered as the basis for continuation of insurance from year to year.

4. *Amounts of Insurance.* For each crop year of the contract, the amounts of insurance per acre shall be those shown on the actuarial table.

5. *Annual Premium.* (a) The annual premium is earned and payable on the date insurance attaches and the amount thereof shall be determined by multiplying the insured acreage times the amount of insurance per acre, times the applicable premium rate, times the insured's share at the time insurance attaches, times the applicable premium adjustment percentage in subsection (c) of this section.

(b) For premium adjustment purposes, only the years during which premiums were earned shall be considered.

(c) The premium shall be adjusted as shown in the following table:

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% ADJUSTMENTS FOR FAVORABLE CONTINUOUS INSURANCE EXPERIENCE																
	Numbers of Years Continuous Experience Through Previous Year															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15 or more
Loss Ratio 1/ Through Previous Crop Year	Percentage Adjustment Factor For Current Crop Year															
.00 – .20	100	95	95	90	90	85	80	75	70	70	65	65	60	60	55	50
.21 – .40	100	100	95	95	90	90	90	85	80	80	75	75	70	70	65	60
.41 – .60	100	100	95	95	95	95	95	90	90	90	85	85	80	80	75	70
.61 – .80	100	100	95	95	95	95	95	95	90	90	90	90	85	85	85	80
.81 – 1.09	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
% ADJUSTMENTS FOR UNFAVORABLE INSURANCE EXPERIENCE																
	Number of Loss Years Through Previous Year 2/															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
Loss Ratio 1/ Through Previous Crop Year	Percentage Adjustment Factor For Current Crop Year															
1.10 – 1.19	100	100	100	102	104	106	108	110	112	114	116	118	120	122	124	126
1.20 – 1.39	100	100	100	104	108	112	116	120	124	128	132	136	140	144	148	152
1.40 – 1.69	100	100	100	108	116	124	132	140	148	156	164	172	180	188	196	204
1.70 – 1.99	100	100	100	112	122	132	142	152	162	172	182	192	202	212	222	232
2.00 – 2.49	100	100	100	116	128	140	152	164	176	188	200	212	224	236	248	260
2.50 – 3.24	100	100	100	120	134	148	162	176	190	204	218	232	246	260	274	288
3.25 – 3.99	100	100	105	124	140	156	172	188	204	220	236	252	268	284	300	300
4.00 – 4.99	100	100	110	128	146	164	182	200	218	236	254	272	290	300	300	300
5.00 – 5.99	100	100	115	132	152	172	192	212	232	252	272	292	300	300	300	300
6.00 – Up	100	100	120	136	158	180	202	224	246	268	290	300	300	300	300	300

1/ Loss Ratio means the ratio of indemnity(ies) paid to premium(s) earned.

2/ Only the most recent 15 crop years will be used to determine the number of "Loss Years" (A crop year is determined to be a "Loss Year" when the amount of indemnity for the year exceeds the premium for the year).

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(d) Any amount of premium for an insured crop which is unpaid on the day following the termination date for indebtedness for such crop shall be increased by a 9 percent service fee, which increased amount shall be the premium balance, and thereafter, at the end of each 12-month period, 9 percent simple interest shall attach to any amount of the premium balance which is unpaid: *Provided,* When notice of loss has been timely filed by the insured as provided in section 7 of this policy, the service fee will not be charged and the contract will remain in force if the premium is paid in full within 30 days after the date of approval or denial of the claim for indemnity; *however,* if any premium remains unpaid after such date, the contract will terminate and the amount of premium outstanding shall be increased by a 9-percent service fee, which increased amount shall be the premium balance. If such premium balance is not paid within 12 months immediately following the termination date, 9 percent simple interest shall apply from the termination date and each year thereafter to any unpaid premium balance.

(e) Any unpaid amount due the Corporation may be deducted from any indemnity payable to the insured by the Corporation or from any loan or payment to the insured under any Act of Congress or program administered by the U.S. Department of Agriculture, when not prohibited by law.

6. *Insurance Period.* Insurance on insured acreage shall attach each crop year on June 1, except that for the first crop year if the application is accepted by the Corporation after that date, insurance shall attach on the later of (a) June 1, or (b) the tenth day after the application is received in the office for the county, and as to any portion of the citrus crop, shall cease upon the earliest of (1) harvest, (2) May 31, or (3) total destruction of the insured citrus crop.

7. *Notice of Damage or Loss.* (a) Any notice of damage or loss shall be given promptly in writing by the insured to the Corporation at the office for the county after insured damage to the citrus becomes apparent, giving the date(s) and cause(s) of such damage.

(b) If an indemnity is to be claimed on any unit, notwithstanding any prior notice of damage, the insured shall notify the office for the county of the intended date of harvest at least seven days prior to the start of harvest. If (1) damage occurs within the seven-day period prior to the start of or during harvest, notice of damage must be given immediately to the office for the county or (2) if harvest will begin after the calendar date for the end of the insurance period, the insured shall give written notice thereof to the Corporation at the office for the county not later than the calendar date for the end of the insurance period. The Corporation reserves the right to provide additional time if it determines there are extenuating circumstances.

(c) Any insured acreage which is not to be harvested and upon which an indemnity is to be claimed shall be left intact until inspected by the Corporation.

(d) The Corporation may reject any claim for indemnity if any of the requirements of this section are not met.

8. *Claim for Indemnity.* (a) It shall be a condition precedent to the payment of any indemnity that the insured (1) furnish production records of all citrus on the unit, (2) establish that any damage to the citrus crop was directly caused by one or more of the insured causes during the insurance period for the crop year for which the indemnity is claimed, and (3) furnish any other information regarding the manner and extent of damage as may be required by the Corporation.

(b) Indemnities shall be determined separately for each unit. The amount of indemnity for any unit shall be determined by (1) computing the average percent of damage to the citrus crop which (without regard to any percent damage arrived at through prior inspections) shall be the ratio of the citrus lost from an insured cause to the potential: *Provided, however,* That any citrus which (i) is harvested prior to an inspection by the Corporation, (ii) is harvested within 7 days after a freeze, (iii) has lost less than 16 percent of its juice, (iv) is on the ground due to insured damage and is picked up and marketed, or (v) is damaged solely by hurricane or tornado but remains on the tree; shall be considered undamaged potential, (2) multiplying the average percent of damage thus obtained in excess of 10 percent (e.g., average damage 45%–10% = 35% payable), times the amount of insurance for the unit which shall be the result of the insured acreage on the unit times the applicable amount of insurance per acre, and (3) multiplying this product by the insured share.

(c) Citrus partially damaged by freeze will be determined by the Corporation by sampling representative fruits by a cut method or any other method which establishes the amount of damage from such cause. The "cut method" of determining the percent of damage shall be as follows: A fruit shall be deemed to have lost at least 16 percent of its juice, and shall be considered as damaged, if all segments are dry as shown on a transverse cut across the axis of the stem-blossom ends when the cut is made one-fourth the distance from the stem toward the blossom end. If this cut shows dryness in all segments, another transverse cut shall be made one-half the distance between the stem-blossom ends of the same fruit. If the second cut shows dryness in one-half or less of the segments, the fruit shall be considered 50 percent damaged. If the second cut shows dryness in more than one-half of the segments, the fruit shall be considered totally lost.

(d) Any citrus on the ground which is not picked up and marketed shall be considered totally lost if the damage was due to any insured cause.

(e) Citrus lost due to hurricane or tornado shall be the amount of citrus blown from the trees or which falls from the trees as a result of such damage and which is not picked up from the ground and marketed.

9. *Misrepresentation and Fraud.* The Corporation may void the contract without affecting the insured's liability for premiums or waiving any right, including the right to collect any unpaid premiums if, at any time, the insured has concealed or misrepresented any material fact or committed any fraud relating to the contract, and such voidance shall be effective as of the beginning of the crop year with respect to which such act or omission occurred.

10. *Transfer of Insured Share.* If the insured transfers any part of the insured share during the crop year, protection will continue to be provided according to the provisions of the contract to the transferee for such crop year on the transferred share, and the transferee shall have the same rights and responsibilities under the contract as the original insured for the current crop year. Any transfer shall be made on an approved form.

11. *Records and Access to Grove.* The insured shall keep or cause to be kept for two years after the time of loss, records of the harvesting, storage, shipments, sale or other disposition of all citrus produced on each unit including separate records showing the same information for production from any uninsured acreage. Any persons designated by the Corporation shall have access to such records and the grove for purposes related to the contract.

12. *Life of Contract: Cancellation and Termination.* (a) The contract shall be in effect for the crop year specified on the application and may not be canceled for such crop year. Thereafter, either party may cancel the insurance on any type of citrus for any crop year by giving a signed notice to the other on or before the May 31 immediately preceding such crop year.

(b) Except as provided in section 5(d) of this policy, the contract will terminate as to any crop year if any amount due the Corporation under this contract is not paid on or before the May 31 immediately preceding such crop year: *Provided,* That the date of payment for premium (1) if deducted from an indemnity claim shall be the date the insured signs such claim or (2) if deducted from payment under another program administered by the U.S. Department of Agriculture shall be the date such payment was approved.

(c) In the absence of a notice from the insured to cancel, and subject to the provisions of subsections (a) and (b) of this section, and section 6 of the Appendix, the contract shall continue in force for each succeeding crop year.

Appendix (Additional Terms and Conditions)

1. *Meaning of Terms.* For the purposes of Texas citrus crop insurance:

(a) "Actuarial table" means the forms and related material for the crop year approved by the Corporation which are one file for public inspection in the office for the county, and which show the premium rates, amounts of insurance, insurable and uninsurable acreage, and related information regarding citrus insurance in the county.

(b) "Contiguous land" means land which is touching at any point, except that land which is separated by only a public or private right-of-way shall be considered contiguous.

(c) "County" means the county shown on the application and any additional land located in a local producing area bordering on the county, as shown on the actuarial table.

(d) "Crop year" means the period beginning June 1 and extending through May 31 of the following year and shall be designated by the

calendar year in which the insurance period begins.

(e) "Harvest" means any severance of citrus fruit from the tree either by pulling, picking, or severing by mechanical or chemical means, or picking up the marketable fruit from the ground.

(f) "Insurable acreage" means the land classified as insurable by the corporation and shown as such on the county actuarial table.

(g) "Insured" means the person who submitted the application accepted by the Corporation.

(h) "Office for the county" means the Corporation's office serving the county shown on the application for insurance or such office as may be designated by the Corporation.

(i) "Person" means an individual, partnership, association, corporation, estate, trust, or other business enterprise or legal entity, and wherever applicable, a State, a political subdivision of a State, or any agency thereof.

(j) "Potenitial" means the production which would have been produced before damage from an insured cause of loss occurred and shall include citrus which (1) was picked before the insured damage occurred (2) remained on the trees after the damage occurred, (3) was lost from an insured cause, and (4) was lost from an uninsured cause. The potential for the unit shall mot be less than 4 tons of oranges and 5 tons of grapefruit per acre and shall not include citrus lost before insurance attaches for any crop year or citrus lost by normal dropping.

(k) "Share" means the interest of the insured as landlord, owner-operator, or tenant in the insured citrus crop at the time insurance attaches as reported by the insured or as determined by the Corporation, whichever the Corporation shall elect, and no other share shall be deemed to be insured: *Provided,* That for the purpose of determining the amount of indemnity, the insured share shall not exceed the insured's share at the earliest of (1) the date of beginning of harvest on the unit, (2) the calendar date for the end of the insured period, or (3) the date the entire crop on the unit is destroyed, as determined by the Corporation.

(l) "Tenant" means a person who rents land from another person for a share of the citrus crop or proceeds therefrom.

(m) "Ton" means 2,000 pounds.

(n) "Type of citrus" means any of the following types of fruit: Type I-Early and midseason oranges; Type II–Late oranges (including Temples); and Type III–Grapefruit.

(o) "Unit" means all insurable acreage in the county of any one of the citrus types referred to in subsection (n) of this section, located on contiguous land, on the date insurance attaches for the crop year (1) in which the insured has a 100 percent share, or (2) which is owned by one entity and operated by another entity on a share basis. Land rented for cash, a fixed commodity payment, or any consideration other than a share in the citrus crop on such land shall be considered as owned by the lessee. Land which would otherwise be one unit may be divided according to applicable guidelines on file in the office for the county, or by written agreement between the Corporation and the insured. The Corporation shall determine units as herein defined when adjusting a loss, notwithstanding what is shown on the acreage report, and has the right to consider any acreage and share reported by or for the insured's spouse or child or any member of the insured's household to be bona fide share of the insured or any other person having the bona fide share.

2. *Acreage Insured.* (a) The Corporation reserves the right for any crop year (1) to exclude acreage from insurance or limit the amount of insurance on any acreage which was not insured the previous crop year, and (2) to limit the insured acreage of citrus to any acreage limitations established under any Act of Congress, provided the insured is so notified in writing prior to the time insurance attaches.

(b) If the insured does not submit a revised acreage report for any crop year in accordance with the provisions of section 3 of the policy, the Corporation may elect to determine by units the insured acreage and share or declare the insured acreage on any unit(s) to be "zero". If the insured does not have a share in any insured acreage in the county for any year, the insured shall submit a report so indicating. Any acreage report submitted by the insured may be revised only upon approval of the Corporation.

3. *Annual Premium.* (a) If there is no break in the continuity of participation, any premium adjustment applicable under section 5 of the policy shall be transferred to (1) the contract of the insured's estate or surviving spouse in case of death of the insured, (2) the contract of the person who succeeds the insured if such person had previously participated in the grove operation, or (3) the contract of the same insured who stops operating a grove in one country and starts operating a grove in another county.

(b) If there is a break in the continuity of participation, any reduction in premium earned under section 5 of the policy shall not thereafter apply; *however,* any previous unfavorable insurance experience shall be considered in premium computation following a break in continuity.

4. *Claim for and Payment of Indemnity.* (a) Any claim for indemnity on a unit shall be submitted to the Corporation on a form prescribed by the Corporation.

(b) In determining the total production to be counted for each unit, production from units on which the production has been commingled will be allocated to such units in proportion to the liability on each unit.

(c) There shall be no abandonment to the Corporation of any insured citrus acreage.

(d) In the event that any claim for indemnity under the provisions of the contract is denied by the Corporation, an action on such claim may be brought against the Corporation under the provisions of 7 U.S.C. 1508(c): *Provided,* That the same is brought within one year after the date notice of denial of the claim is mailed to and received by the insured.

(e) Any indemnity will be payable within 30 days after a claim for indemnity is approved by the Corporation. *However,* in no event shall the Corporation be liable for interest or damages in connection with any claim for indemnity whether such claim be approved or disapproved by the Corporation.

(f) If the insured is an individual who dies, disappears, or is judicially declared incompetent, or the insured is an entity other than an individual and such entity is dissolved after the insurance attaches for any crop year, any indemnity will be paid to the person(s) the Corporation determines to be beneficially entitled thereto.

(g) The Corporation reserves the right to reject any claim for indemnity if any of the requirements of this section or section 8 of the policy are not met and the Corporation determines that the amount of loss cannot be satisfactorily determined.

5. *Subrogation.* The insured (including any assignee or transferee) assigns to the Corporation all rights of recovery against any person for loss or damage to the extent that payment hereunder is made by the Corporation. The Corporation thereafter shall execute all papers required and take appropriate actions as may be necessary to secure such rights.

6. *Termination of the Contract.* (a) The contract shall terminate if no premium is earned for five consecutive years.

(b) If the insured is an individual who dies or is judicially declared incompetent, or the insured entity is other than an individual and such entity is dissolved, the contract shall terminate as of the date of death, judicial declaration, or dissolution; *however,* if such event occurs after insurance attaches for any crop year, the contract shall continue in force through such crop year and terminate at the end thereof. Death of a partner in a partnership shall dissolve the partnership unless the partnership agreement provides otherwise. If two or more persons having a joint interest are insured jointly, death of one of the persons shall dissolve the joint entity.

7. *Amounts of Insurance.* (a) If the insured has not elected on the application an amount of insurance per acre from among those shown on the actuarial table, the amount of insurance per acre which shall be applicable under the contract, and which the insured shall be deemed to have elected, shall be as provided on the actuarial table for such purposes.

(b) The insured may, with the consent of the Corporation, change the amount of insurance per acre for any crop year on or before the closing date for submitting applications for that crop year.

8. *Assignment of Idemnity.* Upon approval of a form prescribed by the Corporation, the insured may assign to another party the right to an indemnity for the crop year and such assignee shall have the right to submit the loss notices and forms as required by the contract.

9. *Contract Changes.* The Corporation reserves the right to change any terms and provisions of the contract from year to year. Any changes shall be mailed to the insured or placed on file and made available for public inspection in the office for the county by the May 15 immediately preceding the crop year for which the changes are to become effective, and such mailing or filing shall constitute notice to the insured. Acceptance of any changes will be conclusively presumed in the absence of any notice from the insured to cancel the contract as provided in section 12 of the policy.

Appendix B—Counties Designated for Texas Citrus Crop Insurance—7 CFR Part 413

In accordance with the provisions of 7 CFR Part 413.1, the following counties are designated for citrus crop insurance:

Texas

Cameron
Hidalgo
Willacy

Note.—The reporting requirements contained herein have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942 and OMB Circular A-40.

Approved by the Board of Directors on May 30, 1980.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

Dated: June 23, 1980.

Approved by:

W. Otto Johnson,

Acting Manager.

[FR Doc. 80-19670 Filed 6-30-80; 8:45 am]

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Food Safety and Quality Service

7 CFR Part 2859

9 CFR Parts 308 and 381

Prohibition of PCB-Containing Equipment or Machinery and Liquid Polychlorinated Biphenyls (PCB's) in Federally Inspected Meat Establishments, Poultry Product Establishments and Egg Product Plants; Notice, Extension of Comment Period

AGENCY: Food Safety and Quality Service, USDA.

ACTION: Notice, extension of comment period.

SUMMARY: On May 9, 1980, the Department published in the **Federal Register** (45 FR 30980-30983) a proposal to prohibit PCB-containing equipment or machinery and liquid polychlorinated biphenyls (PCB's) in Federally inspected meat establishments, poultry product establishments, and egg product plants. The Department has received a number of requests to extend the period of time within which data, views, or arguments may be submitted or oral views presented. Since the Department is interested in receiving factual and meaningful data, the Department has determined that these circumstances are sufficient justification for extending the comment period. This notice advises that the Department is extending the comment period on this proposal for 120 days.

DATES: Comments must be received on or before November 4, 1980.

ADDRESSES: Written comments to Regulations Coordination Division, ATTN: Annie Johnson, Room 2641, South Argiculture Building, Food Safety and Quality Service, Compliance Program, U.S. Department of Agriculture, Washington, DC 20250. Oral comments on poultry products inspection regulations to Mr. Bartie T. Woods, (202) 447-5627

FOR FURTHER INFORMATION CONTACT: Mr. Bartie T. Woods, Acting Director, Facilities, Equipment and Sanitation Division, Meat and Poultry Inspection Program, U.S. Department of Agriculture, Food Safety and Quality Service, Washington, DC 20250, (202) 447-5627

SUPPLEMENTARY INFORMATION: On May 9, 1980, the Department requested comments on its proposal that would amend the Federal meat inspection regulations, the Federal poultry products inspection regulations, and the Federal regulations governing the inspection of eggs and egg products to establish a requirement that no equipment or machinery, other than capacitors containing less than 3 pounds of PCB liquid, and no separately maintained liquids in USDA inspected plants and establishments shall contain liquid PCB's in excess of 50 ppm. Interested persons were given until July 7, 1980, to comment.

The Department has received a number of requests to extend the period of time within which data, views, or arguments may be submitted or oral views presented. For example, some requests submitted by trade associations stated that additional time was needed in order to complete studies and surveys and to further investigate the matter. Since the Department is interested in receiving factual and meaningful data, the Department has determined that these circumstances are sufficient justification for extending the comment period on this proposed rule for a period of 120 days from July 7, 1980.

The Environmental Protection Agency and the Food and Drug Administration published in the same **Federal Register** issue similar proposed rulemakings on the use of PCB-containing electrical equipment in sealed electrical transformers and capacitors used or stored in or around food, feed, and food- and feed-packaging material plants or storage facilities. These agencies have also received requests for an extension of the comment period on their proposals. The three agencies agree that additional time is needed for the industries that would be affected by the rulemakings to submit the type of information the agencies are seeking.

In all other respects, the comment procedures in the proposal published on May 9, 1980, shall continue to apply in this rulemaking proceeding.

Done at Washington, DC.

Donald L. Houston,

Administrator, Food Safety and Quality Service.

June 27, 1980

[FR Doc. 80-19831 Filed 6-30-80; 8:45 am]

BILLING CODE 3410-DM-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[File No. 761 0087]

American Art Clay Co., Inc.; Consent Agreement With Analysis to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Consent Agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order, accepted subject to final Commission approval, would require, among other things, an Indianapolis, Indiana manufacturer of art materials to cease fixing the prices of its products. The firm would be required to establish an interest-bearing escrow account for the purpose of making restitution to consumers for purchases of certain school art materials. Further, the firm would be required to distribute consumer redress funds to any state institutions which purchased said products; the FTC, with the cooperation of the State Attorneys General, would distribute the respective funds in lump-sum amounts to each of the states which satisfy the application requirements for receiving the money.

DATE: Comments must be received on or before September 2, 1980.

ADDRESS: Comments should be directed to: Office of the Secretary, Federal Trade Commission, 6th St. and Pennsylvania Ave., N.W., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: Paul E. Eyre, Director, 4R, Cleveland Regional Office, Federal Trade Commission, Suite 500, Mall Bldg., 118 St. Clair Ave., Cleveland, Ohio. 44114. (216) 522-4207.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's rules

of practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist and an explanation thereof, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(14) of the Commission's rules of practice (16 CFR 4.9(b)(14)).

Document No. 78000041

In the Matter of American Art Clay Co., Inc., a corporation; File No. 761 0087, agreement containing consent order to cease and desist.

The Federal Trade Commission initiated an investigation of American Art Clay Co., Inc., an Indiana corporation, hereinafter sometimes referred to as proposed respondent. The proposed respondent is willing to enter into an agreement containing an order to cease and desist from the use of the alleged acts and practices being investigated, and to pay an agreed-upon sum as restitution to consumers, which sum is to be paid in full settlement of all potential Commission action arising out of this matter. Following are the terms of the agreement which is being entered into in accordance with the Commission's Rules governing consent order procedure.

It is agreed between American Art Clay Co., Inc., by its duly authorized officer, its attorneys, and counsel for the Federal Trade Commission that:

1. American Art Clay Co., Inc. is an Indiana corporation, with its principal office located at 4717 West 16th Street, Indianapolis, Indiana 46222.

2. Proposed respondent admits all the jurisdictional facts set forth in the draft of the complaint here attached.

3. Proposed respondent waives:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.

4. This agreement shall not become a part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission it, together with the draft of the complaint contemplated thereby and related materials pursuant to Rule 2.34, will be placed on the public record for a period of sixty (60) days, and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the proposed respondent, in which event it will take such action as it may consider appropriate or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondent that the law has been violated as alleged in the draft of the complaint here attached. Although the proposed respondent denies the allegations of the Commission's complaint, except the jurisdictional facts, and contests any liability with respect to the acts and practices alleged in the Commission's complaint, proposed respondent has agreed to transfer funds into the Escrow Account as hereinafter set forth. The payment of $25,000 in compensatory damages into the Escrow Account represents restitution to consumers for purchases of certain school art materials, and does not constitute a fine or penalty against the proposed respondent. It is the intent of the parties hereto that such payment satisfies in all respects the requirements of Section 461(f) of the Internal Revenue Code of 1954.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of Section 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondent: (1) issue its complaint corresponding in form and substance with the draft of the complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding, and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the United States Postal Service of the complaint and decision containing the agreed-to order to proposed respondent's address as stated in this agreement shall constitute service. Proposed respondent waives any right it may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or in the agreement may be used to vary or to contradict the terms of the order.

7. Proposed respondent has read the proposed complaint and order contemplated hereby. It understands that once the order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the order. Proposed respondent further understands that it may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

8. No part of the funds deposited by proposed respondent in the Escrow Account established pursuant to Section IV of the order shall revert or be returned to proposed respondent unless funds remain in the Escrow Account after three (3) years from the date of service of the order, in which case the remaining funds shall be returned to proposed respondent.

9. Compliance with Section IV of the order satisfies fully any claim by the Federal Trade Commission against the proposed respondent arising out of the acts and practices alleged in the draft of the complaint here attached, including any claim for consumer redress or equitable relief pursuant to Sections 5, 13(b) and 19(b) of the Federal Trade Commission Act, as amended. By its final acceptance of this agreement, the Commission waives its right to commence an action with respect to the acts and practices which precede the date of this agreement and are alleged in the draft of the complaint, including any claim under Sections 5, 13(b) or 19(b) of the Federal Trade Commission Act, as amended, and including any claim with respect to the acts and practices which precede the date of this agreement and are alleged in the draft of complaint, arising out of any violation or alleged violation of the order of the Commission dated January 31, 1938, *In the Matter of American Crayon Co., et al.* (Docket No. 2967).

Order

As used in this order:

(a) "Person" means any individual, partnership, firm, corporation, association, or other business or other legal entity.

(b) "State Institution" means any state agency, instrumentality, or institution or any political subdivision thereof, including, but not limited to, any county, city, town, municipality, or school district which purchases school art materials.

(c) "Art materials" means any of the following products: adhesives (including art and craft glue and white paste), art kits (including combinations of crayons, watercolors, brushes, glue or chalk), brushes, chalks (including art, chalkboard and industrial chalk), craft kits (including fabric crayons and fabric crayon kits), crayons (including drawing, checking, and marking crayons), modeling clays, oil pastels, paints (including finger paint, finger paint powder, tempera, poster paint, watercolors, and transparent, powder, and textile paints), paper (including finger paint paper and stencil paper), water color markers, stencil brushes, chalkboard cleaner, stencil knives, pencils (including drawing and charcoal pencils), modeling material, excello squares, ink (including printing ink), linoleum blocks, linoleum, acrylics, and media mixer.

(d) "Respondent" means American Art Clay Co., Inc., an Indiana corporation, its subsidiaries and divisions, with its principal office located at 4717 West 16th Street, Indianapolis, Indiana 46222.

I

It is ordered that respondent, its successors and assigns, and its officers, and respondent's agents, representatives, and employees, directly or indirectly, or through any corporation, subsidiary, division or other device, in connection with the manufacture, offering for sale, sale or distribution of art materials in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from directly or indirectly:

(1) Entering into, maintaining, or enforcing any agreement, combination, understanding or plan with any competitor to fix, determine, establish, or maintain the prices, discounts or other terms or conditions for the sale of art materials.

(2) Submitting any bid to any customer or prospective customer for the sale of any art

materials when any price, term or condition of sale or any element contained in such bid was discussed with, disclosed to, or received from, directly or indirectly, any competitor, actual or potential.

(3) Circulating or sending to, or exchanging with, any other person who manufactures, distributes, markets or sells art materials, any price list, price quotation or pricing factor applicable to art materials—except for price lists, price quotations, or pricing factors provided to or received from any person in the course of, and solely related to, negotiating for, entering into, or carrying out bona fide sales or potential sales by respondent directly to such person—in advance of the printing, publication, effectuation, circulation or communication of such price lists, price quotations, or pricing factors to customers generally.

(4) Collecting from circulating to or exchanging with, or reporting or recommending to any competitor who manufactures, distributes, markets or sells art materials, any cost factor or average cost of manufacture or sale of art materials, or any formulas for computing such cost.

(5) Communicating or exchanging with any other person who manufactures, distributes, markets, or sells art materials, any actual or proposed price, price change, discount, or other term or condition of sale at or upon which art materials are to be, or have been, sold—except for such information provided to or received from any person in the course of, and solely related to, negotiating for, entering into, or carrying out bona fide sales or potential sales by respondent directly to such person—prior to the communication of such information to customers generally.

(6) Disclosing to, or communicating to, any other person who manufactures, distributes, markets, or sells art materials:

(a) respondent's intention to submit, or not to submit, a bid to any purchaser;

(b) the fact that a bid has or has not been submitted prior to the communication of such information to the general public; or

(c) the content of any bid prior to the communication of such information to the general public.

except that, in declining to furnish a price quotation to a distributor to be used in connection with a particular bid, respondent may disclose that the reason for such refusal is respondent's intention to bid directly.

II

It is further ordered that respondent shall, for a period of five (5) years from the date of entry of this order, furnish simultaneously with each bid or quotation required to be sealed which is submitted by it for the sale of art materials to any purchaser, a written certification by an officer of respondent, that such bid was not in any way the result, directly or indirectly, of any agreement, understanding, or communication with any other producer, seller or distributor.

III

It is further ordered that, for a period of five (5) years from the date of entry of this order, respondent shall preserve all written price computations and other written calculations actually performed by respondent in the preparation and submission of any bid required to be sealed which is submitted to any actual or potential purchaser of art materials. Respondent shall retain such written computations and calculations for a period of at least five (5) years from the date each bid which is based on such computations or calculations is submitted to any purchaser.

IV

It is further ordered that:

(1) Prior to the fifth day after the date this order is served on respondent, the respondent shall establish an Escrow Account at the Continental Bank, 30 North LaSalle Street, Chicago, Illinois 60693, and shall designate Continental Bank as the Escrow Agent to receive monies, information and documents, to disburse monies and to carry out such other functions as may be provided for pursuant to the terms of this order, and the written directions of the Federal Trade Commission or its designee. The duties of the Escrow Agent shall be as outlined in the Escrow Instructions here attached as Appendix A and incorporated herein. Further, the parties shall be bound to the terms of said Escrow Instructions whether or not they are signatories thereto.

(2) Respondent shall deposit twenty-five thousand dollars ($25,000) in the Escrow Account in the following manner. A first deposit of ten thousand dollars ($10,000) shall be made prior to the fifth day after the order is served on respondent, a second deposit of seven thousand, five hundred dollars ($7,500) shall be made on or before the first annual anniversary of the date of the first deposit, and the third and final deposit of the remaining seven thousand, five hundred dollars ($7,500) shall be made on or before the second annual anniversary of the date of the first deposit.

(3) All interest earned on the funds deposited in the Escrow Account shall be added to the Escrow Account and disbursed by the Escrow Agent pursuant to the terms of this order, the Escrow Instructions, and the written directions of the Federal Trade Commission or its designee.

(4) Respondent shall not issue any instructions or directions respecting the Escrow Account to the Federal Trade Commission or its designee, or to the Escrow Agent with respect to the performance of their duties. These duties shall be pursuant to this order and to the Escrow Instructions, and shall include, but not be limited to, the investment of the property held by the Escrow Agent, the disbursement of the property held by the Escrow Agent, and compliance with any written directions of the Federal Trade Commission or its designee. Respondent shall not exercise any control over the property in the Escrow Account.

V

It is further ordered that:

(1) Respondent shall submit to the Federal Trade Commission, within thirty (30) days after the date of this order is served on respondent, a notarized affidavit executed by a duly authorized officer of respondent listing, to the best of its knowledge, the names of all the states within which any state institutions made purchases of respondent's chalk, crayons, watercolors, or tempera paints during any of the years 1972 through 1979, inclusive.

(2) As it has been determined by the Federal Trade Commission that the most readily identifiable and most significantly affected market consists of the school art materials purchasers, the sole purpose of the Escrow Account established pursuant to Section IV of this order is to disburse the consumer redress funds to any state institutions that purchase chalks, watercolors, or tempera paints for schools and are located in a state listed pursuant to Section V(1) of this order. Provisions contained herein or to be adopted in the future for the distribution of the funds are and shall be designed to accomplish such purpose in a manner most feasible, efficient and not inconsistent with the other provisions of this order.

(3) The Federal Trade Commission or its designee shall determine the appropriate recipients of funds in the Escrow Account, the sum paid to each recipient, and the most appropriate method to distribute the funds, taking into consideration the amount of funds available, the administrative feasibility and costs of disbursement, and the purpose of the Escrow Account, and shall instruct the Escrow Agent to distribute the funds in accordance with its determination.

(4) Funds to be distributed pursuant to paragraphs (1) through (3) of Section V of this order shall be paid out of the Escrow Account within three (3) years after the date of service of this order. All funds remaining in the Escrow Account after three (3) years from the date of service of this order shall be returned to repondent.

VI

It is further ordered that respondent:

(1) Serve within sixty (60) days after the entry of this order a copy of this order upon each of its officers and directors, and upon each of its employees and agents who have any responsibility for establishing prices, discounts or other terms or conditions for the sale of art materials.

(2) File with the Federal Trade Commission three (3) separate written reports setting forth in detail the manner and form in which they have complied with this order; the first report to be filed within sixty (60) days after service upon them of this order, the second report to be filed within thirty (30) days after the first annual anniversary of the date of the first deposit, and the third report to be filed within thirty (30) days after the second annual anniversary of the date of the first deposit.

(3) Notify the Commission at least thirty (30) days prior to any proposed change in the repondent which may affect compliance obligations arising out of this order.

Appendix A

[Document No. 78000041]

To: Continental Illinois National Bank and Trust Company of Chicago, Trust and Investment Services, Corporate Trust Division, Escrow Section, 30 North LaSalle Street—10th Floor, Chicago, Illinois 60693

The following property will be deposited with you by the undersigned within the designated times:

An initial deposit of ten thousand dollars ($10,000) will be made at the time this account is established. Two additional deposits, each of seven thousand, five hundred dollars ($7,500), will be deposited in accordance with the instructions designated in paragraph 2 of section IV of the Agreement Containing Consent Order to Cease and Desist entered into between American Art Clay Company, Inc. and staff of the Cleveland Regional Office of the Federal Trade Commission, dated ———, 1980.

As Escrowee, you are hereby directed to hold, deal with and dispose of the aforesaid property and any other property at any time held by you hereunder in the following manner subject, however, to the terms and conditions hereinafter set forth:

A. In the event you are notified in writing by the Federal Trade Commission (hereinafter called the "FTC") or its designee that it has accepted the Agreement Containing Consent Order to Cease and Desist entered into between American Art Clay Company, Inc. (hereinafter called the "Company") and the staff of the Cleveland Regional Office of the Federal Trade Commission, dated ———, 1980, and that the FTC has issued a Decision and Order in the Matter of American Art Clay Company, Inc., a corporation, you will hold the property and any other property at any time held by you hereunder (hereinafter called the "Property") until directed in writing by the FTC or its designee to distribute the Property, in which event the Property shall be distributed in accordance with its instructions.

In addition to deducting such fees, costs and expenses as incurred by you under paragraphs 7 and 8 hereof, you also will pay from the Property, as directed in writing by the FTC or its designee, such sums as you are authorized by the FTC or its designee to pay for the administration of the distribution scheme established by the FTC or its designee pursuant to the Agreement Containing Consent Order to Cease and Desist and the Decision and Order.

In addition, you shall execute such contracts regarding administration and distribution of the Escrow Account as the FTC or its designee directs. Subject to this paragraph, this Escrow will terminate upon the disbursement of all the Property pursuant to the written direction of the FTC or its designee.

B. In the event the FTC or its designee notifies you that it has determined not to accept the Agreement Containing Consent Order to Cease and Desist and to issue a Decision and Order as provided in Paragraph A, this Escrow will terminate and the Property will be returned by you to the Company not later than ten days after receipt of written notice from the FTC or its designee that the Agreement was not accepted.

C. Upon receipt of the Property you will invest the proceeds in either certificates of deposit other than certificates of deposit of Escrowee, or obligations of the United States Government or its agencies, either of which will have maturity not exceeding six (6) months from the date of purchase. You will invest the Property with the aim of securing principal, while maximizing interest income. In the exercise of your sound discretion, if you determine it necessary to sell any or all of the Property prior to maturity and invest the proceeds in either other certificates of deposit or obligations of the United States Government or its agencies, you may do so.

D. Upon maturity of any of the Property you will invest the proceeds in either additional certificates of deposit other than certificates of deposit of Escrowee, or obligations of the United States Government or its agencies, either of which will have maturity not exceeding six (6) months from date of purchase. You will invest the proceeds with the aim of securing principal, while maximizing interest income. In the exercise of your sound discretion, if you determine it necessary to sell any or all of the Property prior to maturity and invest the proceeds in either other certificates of deposit or obligations of the United States Government or its agencies, you may do so.

E. You will send the FTC or its designee, monthly cash and asset statements of this Escrow Account.

F. These Escrow Instructions may be amended any time by a document duly executed by the FTC or its designee entitled "Amendment to Escrow Instructions" to which you acknowledge receipt.

G. If the FTC decides to use a designee, you will not act pursuant to such designee's orders, until you receive a certified copy of the order of the FTC naming such designee.

Terms and Conditions

1. Your duties and responsibilities shall be limited to those expressly set forth in these Escrow Instructions, and you shall not be subject to, nor obliged to recognize, any other agreement between, or direction or instruction of, any or all of the parties hereto even though reference thereto may be made herein; provided, however, with your written consent, these Escrow Instructions may be amended at any time or times by an instrument in writing signed by the FTC or its designee.

2. You are authorized, in your sole discretion, to disregard any and all notices or instructions given by any of the undersigned or by any other person, firm or corporation, except only such notices or instructions as are hereinabove provided for and orders or process of any court entered or issued with or without jurisdiction. If any Property subject hereto is at any time attached, garnished, or levied upon under any court order or in case the payment, assignment, transfer, conveyance or delivery of any such Property shall be stayed or enjoined by any court order, or in case any order, judgment or decree shall be made or entered by any court affecting such Property or any part thereof, then and in any of such events you are authorized, in your sole discretion, to rely upon and comply with any such order, writ, judgment or decree which you are advised by legal counsel of your own choosing is binding upon you; and if you comply with any such order, writ, judgment or decree you shall not be liable to any of the parties hereto or to any other person, firm or corporation by reason of such compliance even though such order, writ, judgment or decree may be subsequently reversed, modified, annulled, set aside or vacated.

3. You shall not be personally liable for any act taken or omitted hereunder if taken or omitted by you in good faith and in the exercise of your own best judgment. You shall also be fully protected in relying upon any written notice, demand, certificate or document which you in good faith believe to be genuine.

4. Unless otherwise specifically indicated herein you shall proceed as soon as practicable to collect any checks or other collection items at any time deposited hereunder. All such collection shall be subject to the usual collection agreement regarding items received by your commercial banking department for deposit or collection. You shall not be required or have a duty to notify anyone of any payment or maturity under the terms of any instrument deposited hereunder, nor to take any legal action to enforce payment of any check, note or security deposited hereunder. You shall have no liability to pay interest on any money deposited or received hereunder.

5. You shall not be responsible for the sufficiency or accuracy of the form, execution, validity or genuineness of documents or securities now or hereafter deposited hereunder, or of any endorsement thereon, or for any lack of endorsement thereon, or for any description therein, nor shall you be reponsible or liable in any respect on account of the identity, authority or rights of the persons executing or delivering or purporting to execute or deliver any such document, security or endorsement or these Escrow Instructions.

6. Any notices which you are required or desire to give hereunder to the FTC or its designee shall be in writing and may be given by mailing the same to the address provided by the FTC or its designee by United States mail, postage prepaid. For all purposes hereof any notice so mailed shall be as effectual as though served upon the FTC or its designee to whom it was mailed at the time it is deposited in the United States mail by you whether or not the FTC or its designee thereafter actually receives such notice. Notices to you shall be in writing and shall not be deemed to be given until actually received by your trust department employee or officer who administers this Escrow. Whenever under the terms hereof the time for giving a notice or performing an act falls upon a Saturday, Sunday, or holiday, such time shall be extended to the next business day.

7. If you believe it to be reasonably necessary to consult with counsel concerning any of your duties in connection with this Escrow, or in case you become involved in litigation on account of being Escrowee hereunder or on account of having received Property subject hereto, then in either case, your costs, expenses, and reasonable attorney's fees shall be paid by you from the Property with the approval of the FTC or its designee.

8. You shall be paid a reasonable fee for your services and reimbursed for your costs and expenses hereunder by you from the Property in accordance with the fee schedule

attached hereto as Appendices 1 and 2 and incorporated herein

9. If your fees, costs, expenses, or reasonable attorney s fees provided for herein, are not promptly paid, you shall have the right to sell the Property held hereunder and reimburse yourself therefor from the proceeds of such sale or from the cash held hereunder.

10. It is understood that you reserve the right to resign as Escrowee at any time by giving written notice of your resignation, specifying the effective date therof, to the FTC or its designee. Within 30 days after receiving the aforesaid notice, the FTC or its designee agrees to appoint a successor Escrowee to which you may distribute the Property then held hereunder, less your fees, costs and expenses. If a successor Escrowee has not been appointed and has not accepted such appointment by the end of the 30-day period, you may apply to a court of competent jurisdiction for the appointment of a successor Escrowee, and the costs, expenses and reasonable attorneys' fees which you incur in connection with such a proceeding shall be paid from the property.

11. The Escrowee will have no liability if, in order to make the distribution, there is any loss of interest resulting from the liquidation of investments prior to their maturity.

12. The Escrowee shall have no responsibility for any taxes arising with regard to the Escrow Account. Such tax obligation, if any, shall be the responsibility of the recipients of the Property.

13. This Escrow Agreement shall be construed, enforced, and administered in accordance with the laws of the State of Illinois.

14. The undersigned Escrowee hereby agrees to hold, deal with and dispose of said Property and other Property at any time held by it hereunder in accordance with the foregoing Escrow Agreement.

15. Executed this——day of————, —— at Chicago, Illinois.

Parties to Escrow————————————

————————————

————————————

Addresses————————————

————————————

————————————

Attest:

Trust Officer————————————

Continental Illinois National Bank and Trust Company of Chicago, Escrowee

Vice President.————————————

Executed in——Copies.

Appendix 1—Schedule of Fees for Services as Escrow Agent

A. Administration Fees

The following rates are applicable for ordinary services in handling an escrow subject to a minimum acceptance fee of $250 and minimum annual charge of $250. The Acceptance fee will be based on the initial value of the deposits at the opening of the account.

Acceptance Fee

$250 minimum on assets up to $50,000.
$1.25 per $1,000 on next $300,000 valuation.
$.50 per $1,000 on next $350,000 valuation.
$.20 per $1,000 on next $1,000,000 valuation.
$.10 per $1,000 on excess above $1,700,000 valuation.

Annual Administrative Fee

$250 minimum on assets up to $50,000.
$1.25 per $1,000 on next $300,000 valuation.
$.50 per $1,000 on next $350,000 valuation.
$.20 per $1,000 on next $1,000,000 valuation.
$.10 per $1,000 on excess above $1,700,000 valuation.

The Annual Administrative Fee will be based on the value of the assets in the account at the beginning of the fee period plus any deposits made through the fee billing period.

When our only current duties consist of holding life or casualty insurance policies, the minimum annual fee will be reduced to $150 until the occurrence of a casualty, at which time the regular schedule will apply to the insurance proceeds.

Appendix 2

B. Operating Service Fees

When the escrow account requires the maintenance of participants' or claimants' records, the issuance of payments, and the preparation of tax forms, the following schedule applies:

1.) $2.50 per account per year (includes up to two distributions).

2.) $0.50 per check issued over two distributions.

When the escrow requires the investment of funds, a $50 charge will be made for each purchase or sale transaction. A $35 charge will be made for any fee deposit or delivery of assets (securities, deeds, insurance policies, etc.).

C. Termination

There are no separate termination charges. Fees for the final billing period will be prorated to the date of termination; subject to a minimum of six months from the date of inception.

D. Miscellaneous

The fees quoted in this schedule apply to services ordinarily rendered in administering an escrow account, and are subject to a reasonable adjustment if we are called upon to undertake unusual duties, responsibilities, procedures, or if the cost of doing business increases. The cost of all stationery and supplies, telephone, postage, printing, or other out-of-pocket expenses will be added to our regular service charges.

In determining our general schedule of fees, we have taken into consideration the various incidental benefits occurring to us from the operation of accounts. These include temporary availability to the Trust Department of funds resulting from the retention of dividends or interest in accounts pending disbursement, the execution of securities transactions for accounts, and funds from other sources.

[File No. 761 0087]

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted an agreement to a proposed consent order from American Art Clay Company.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested parties. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and comments received, and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

The complaint alleges that American Art Clay Company and other manufacturers of chalks, crayons, watercolors, or tempera paints agreed on the prices they would charge for these products. The complaint alleges that the price fixing of these products came as the result of communications between the manufacturers about the prices that were to be contained in each of the companies' price lists.

The proposed agreement with American Art Clay Company sets forth that American Art Clay will establish an interest-bearing Escrow Account within five days after the order is served upon them. American Art Clay is to deposit a total of twenty-five thousand dollars ($25,000) in this Escrow Account: $10,000 to be deposited within five days after the order is served, an additional $7,500 on or before the first annual anniversary of the date of the first deposit, and the remaining $7,500 on or before the second annual anniversary of the date of the first deposit. These funds, plus accrued interest, represent restitution to consumers for purchases of certain school art materials, and do not constitute a fine or penalty against American Art Clay Company. The administration of the distribution of the funds will be paid out of those funds.

The agreement states that the funds will not be returned to American Art Clay Company unless any funds remain in the Escrow Account longer than three years after the order has been accepted, in which event the remaining funds would be returned.

The proposed order would prohibit American Art Clay Company from:

- Entering into an agreement with any competitior to fix the prices of art materials.
- Submitting a bid to a customer when the bid was the result of communications or discussions with competitors.
- Giving price lists or prices to other art materials manufacturers before they are given out to customers generally.
- Communicating any prices for which art materials are to be, or have been, sold to anyone before this

information is given to customers generally.

- Disclosing to competitors information about or contained in a bid.
- Communicating cost information to competitors.

The order provides that the consumer redress funds from the company shall be distributed to any state institutions which purchase chalks, crayons, watercolors, or tempera paints and are located within certain eligible states. The term "state institutions" has a broad interpretation. It includes schools or other purchasers at any level of state or local government. State eligibility exists if any "state institution," as defined above, has purchased the company's chalks, crayons, watercolors, or tempera paints at any time during the period 1972 through 1979. The company must submit the names of the eligible states. The Federal Trade Commission is then responsible for the distribution plan and its implementation. Other than the eligibility restriction, only considerations of efficiency and feasibility restrict the exercise of the broad discretion granted to the Commission in developing and implementing a distribution plan.

To aid in the distribution of funds to the states, the Federal Trade Commission will request the cooperation of the State Attorneys General whose experience in class-action distributions particularly qualifies them as the appropriate state liaison persons in this matter. The Commission, with the cooperation of the State Attorneys General, will distribute the respective funds in lump-sum amounts to each of the states which satisfy the application requirements for receiving the money. The amounts will be in proportion to the states' 1979–1980 student population in grades kindergarten through 12.

To qualify for receipt of its portion of each fund, a state must provide the Federal Trade Commission with certain information. The State Attorney General must:

- Verify the state's authority to receive the funds and to use them for a particular purpose;
- Supply the 1979–1980 student population for public school children in grades kindergarten through 12;
- Furnish a plan for distributing the state's portion of each fund to state institutions which purchase chalks, crayons, watercolors, or tempera paints;
- Agree to distribute the money in accordance with the plan.

The purpose of this analysis is to facilitate public comment on the proposed order and it is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

Carol M. Thomas,

Secretary.

[FR Doc. 80-19767 Filed 6-30-80; 8:45 am]

BILLING CODE 6750-01-M

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16 CFR Part 13

[File No. 791 0134]

Tingley Rubber Corp.; Consent Agreement with Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Consent Agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order, accepted subject to final Commission approval, would require, among other things, a South Plainfield, N.J. manufacturer of molded rubber footwear, to cease withholding cooperative advertising credits or allowances from any dealer, or restricting the right of any dealer to participate in cooperative advertising programs either (1) because of the dealers' advertised or selling resale prices of Tingley products, or (2) because of the dealers' use of comparative prices in advertising or selling of Tingley products.

DATE: Comments must be received on or before September 2, 1980.

ADDRESS: Comments should be directed to: Office of the Secretary, Federal Trade Commission, 6th St. and Pennsylvania Ave., N.W., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: Paul W. Turley, Director, 3R, Chicago Regional Office, Federal Trade Commission, 55 East Monroe St., Suite 1437, Chicago, Ill. 60603, (312) 353–4423.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's rules of practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist and an explanation thereof, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(14) of the Commission's rules of practice (16 CFR 4.9(b)(14)).

In the Matter of Tingley Rubber Corp., a corporation; File No. 7910134. Agreement Containing Consent Order to Cease and Desist.

The Federal Trade Commission having initiated an investigation of certain acts and practices of Tingley Rubber Corp., a corporation, and it now appearing that Tingley Rubber Corp., a corporation, hereinafter sometimes referred to as proposed respondent, is willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated.

It is hereby agreed by and between Tingley Rubber Corp., by its duly authorized officer and its attorney, and counsel for the Federal Trade Commission that:

1. Proposed respondent Tingley Rubber Corp. is a corporation organized, existing and doing business under and by virtue of the laws of the State of New Jersey, with its office and principal place of business located at 200 South Avenue, in the City of South Plainfield, State of New Jersey.

2. Proposed respondent admits all the jurisdictional facts set forth in the draft of complaint here attached.

3. Proposed respondent waives:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.

4. This agreement shall not become a part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it, together with the draft of complaint contemplated thereby and related material pursuant to Rule 2.34, will be placed on the public record for a period of sjxty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the proposed respondent, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondent that the law has been violated as alleged in the draft of complaint here attached.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondent, (1) issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other

orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to order to proposed respondent's address as stated in this agreement shall constitute service. Proposed respondent waives any right it may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondent has read the proposed complaint and order contemplated hereby. It understands that once the order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the order. Proposed respondent further understands that it may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

For the purposes of this Order, the following definitions shall apply:

"Product" is defined as any item which is manufactured, offered for sale or sold by respondent.

"Dealer" is defined as any person, partnership, corporation or firm which purchases any product for retail sale.

"Resale Price" is defined as any price, price floor, price ceiling, price range, or any mark-up, formula or margin of profit used by any dealer for pricing any product. Such term includes, but is not limited to, any retail price suggested or established by respondent, any customary resale price or the retail price in effect at any dealer.

"Cooperative Advertising" is defined as advertising which invites the public to purchase respondent's products at dealer's place of business, whether the cost of the advertising is borne by respondent alone or is shared by dealer and/or wholesaler and respondent.

I

It is ordered that respondent Tingley Rubber Corp., a corporation, its successors and assigns; and respondent's officers, agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the designing, implementing, conducting, administering or auditing of any cooperative advertising program or any other promotional assistance program, or portion thereof, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, shall cease and desist from:

1. Threatening to withhold or withholding cooperative advertising credits or allowances or any other promotional assistance payments from any dealer, or limiting or restricting the right of any dealer to participate in any cooperative advertising program or any other promotional assistance program for which it would otherwise qualify, because of the resale price at which said dealer advertises or sells any product, or proposes to advertise or sell any product.

2. Threatening to withhold or withholding cooperative advertising credits or allowances or any other promotional assistance payments from any dealer, or limiting or restricting the right of any dealer to participate in any cooperative advertising program or any other promotional assistance program for which it would otherwise qualify, because said dealer has advertised or sold, or proposes to advertise or sell, any product using or featuring any resale price comparison.

II

It is further ordered that respondent shall:

1. Within thirty (30) days after service of this Order, mail under separate cover a copy of the enclosure set forth in the attached Exhibit A to each of its present wholesalers and to all publications soliciting advertising for respondent's products. An affidavit shall be sworn to by an official of respondent verifying that the attached Exhibit A was so mailed.

2. Mail under separate cover a copy of the enclosure set forth in the attached Exhibit A to any person, partnership, corporation or firm that becomes a new wholesaler or solicits advertising for respondents products within three (3) years after service of this Order.

III

It is further ordered that respondent shall forthwith distribute a copy of this Order to all of its operating divisions, and to present or future personnel, agents or representatives having sales, advertising or policy responsibilities with respect to the subject matter of this Order, and that respondent secure from each such person a signed statement acknowledging receipt of said Order.

IV

It is further ordered that respondent notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent, such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the Order.

V

It is further ordered that respondent shall within sixty (60) days after service upon it of this Order, file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied with this Order.

Exhibit A

Dear Wholesale Distributor/Publisher:

Tingley Rubber Corp., without admitting any violation of the law, has agreed to the entry of an Order by the Federal Trade Commission regulating its cooperative advertising programs. In connection therewith, the Company has agreed to send you this letter describing the Order.

The order provides, among other things, as follows:

1. Dealers are free to participate in any cooperative advertising program or any other promotional assistance program conducted by Tingley Rubber Corp. regardless of the retail price at which they advertise or sell any Tingley product.

2. Dealers will receive reimbursement under any Tingley cooperative advertising program or any other promotional assistance program regardless of the retail price featured in otherwise qualifying advertisements.

If you have any questions regarding the Order or this letter, please call at Tingley.

For Tingley Rubber Corp.

Analysis of Proposed Consent Order to Aid Public Comment

The Federal Trade Commission has accepted an agreement to a proposed consent order from Tingley Rubber Corporation, a leading manufacturer of molded rubber footwear.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

The complaint in this matter alleges that Tingley has restrained trade by administering a cooperative advertising program which limits and restricts the rights of retail dealers to obtain cooperative advertising credits or allowances for merchandise which is advertised at sale, discount, promotional, reduced, off-price, or prices less than the suggested retail prices or is advertised using a price comparison.

The consent agreement provides as follows:

1. Tingley cannot threaten to withhold or withhold cooperative advertising credits or allowances or in any way limit or restrict dealers from participating in any cooperative advertising program because of the resale price at which dealers advertise or sell any product.

2. Tingley cannot threaten to withhold or withhold cooperative advertising credits or allowances from any dealer or restrict the right of any dealer to participate in cooperative advertising programs because the dealer has advertised or sold any product using a price comparison.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of

the agreement and proposed order or to modify in any way their terms.

Carol M. Thomas,

Secretary.

[FR Doc. 80-19765 Filed 6-30-80; 8:45 am]

BILLING CODE 6750-01-M

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16 CFR Part 13

[File No. 801 0036]

Totes Inc.; Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Consent Agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order, accepted subject to final Commission approval, would require, among other things, a Loveland, Ohio manufacturer of umbrellas and related rainwear to cease withholding cooperative advertising credits or allowances from any dealer, or restricting the right of any dealer to participate in cooperative advertising programs either (1) because of the dealers' advertised or selling resale prices of totes' products, or (2) because of the dealers' use of comparative prices in advertising or selling of totes' products.

DATES: Comments must be received on or before September 2, 1980.

ADDRESS: Comments should be directed to: Office of the Secretary, Federal Trade Commission, 6th St. and Pennsylvania Ave., N.W., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: Robert B. Greenbaum, Acting Director, 9R, San Francisco Regional Office, Federal Trade Commission, 450 Golden Gate Ave., San Francisco, Calif. 94102, (415) 556-1270.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist and an explanation thereof, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(14) of the Commission's rules of practice (16 CFR 4.9(b)(14)).

In the Matter of totes incorporated a corporation; File No. 801 0036, Agreement containing consent order to cease and desist.

The Federal Trade Commission having initiated an investigation of certain acts and practices of totes incorporated, a corporation; and it now appearing that totes incorporated, a corporation, hereinafter sometimes referred to as proposed respondent, is willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated.

IT IS HEREBY AGREED by and between totes incorporated, by its duly authorized officer and its attorney, and counsel for the Federal Trade Commission that:

1. Proposed respondent totes incorporated is a corporation organizaed, existing and doing business under and by virtue of the laws of the State of Ohio, with its office and principal place of business located at 10078 East Kemper Road, in the City of Loveland, State of Ohio.

2. Proposed respondent admits all the jurisdictional facts set forth in the draft of complaint here attached.

3. Proposed respondent waives:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.

4. This agreement shall not become a part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission it, together with the draft of the complaint contemplated thereby and related material pursuant to Rule 2.34, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the proposed respondent, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondent that the law has been violated as alleged in the draft complaint here attached.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of Section 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondent, (1) issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to order to proposed respondent's address as stated in this agreement shall constitute service. Proposed respondent waives any right it may have to any other manner of service. The complaint my be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondent has read the proposed complaint and order contemplated hereby. It understands that once the order has been issued, it will be required to file one or moer compliance reports showing that it has fully complied with the order. Proposed respondent further understands that it may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

For the purposes of this Order, the following definitions shall apply:

"Product" is defined as any item which is manufactured, offered for sale or sold by respondent.

"Dealer" is defined as any person, partnership, corporation or firm which is authorized by respondent to purchase any product.

"Resale Price" is defined as any price, price floor, price ceiling, price range, or any mark-up, formula or margin of profit used by any dealer for pricing any product. Such term includes, but is not limited to, any retail price suggested or established by respondent, any customary resale price, or the retail price in effect at any dealer.

It is ordered that respondent totes incorporated, a corporation, its successors and assigns; and respondent's officers, agents, representatives and employees, directly or indirectly, or through any corporation, subsidiary, division or other device, in connection with the designing, implementing, conducting, administering or auditing of any cooperative advertising program, or portion thereof, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, shall cease and desist from:

1. Threatening to withhold or withholding cooperative advertising credits or allowances from any dealer, or limiting or restricting the right of any dealer to participate in any cooperative advertising program for which it would otherwise qualify, because of the resale price at which said dealer advertises or sells any product, or proposes to advertise or sell any product.

2. Threatening to withhold or withholding cooperative advertising credits or allowances from any dealer, or limiting or restricting the right of any dealer to participate in any cooperative advertising program for which it would otherwise qualify, because said dealer has advertised or sold, or proposes to advertise or sell, any product using or featuring any resale price comparison.

II

It is further ordered that respondent shall within thirty (30) days after service of this

Order, mail under separate cover a copy of the enclosure set forth in the attached Exhibit A to each of its present accounts. Respondent, however, need not send said enclosure to any account of its "XIIX Karat," A. J. Bergren, Eastman Products, or L. P. Henryson divisions. An affidavit shall be sworn to by an official of respondent verifying that the attached Exhibit A was so mailed.

III

It is further ordered that respondent shall forthwith distribute a copy of this Order to each of its operating divisions; and, for a period of three (3) years from the date of service of this Order, to each of its personnel, agents or representatives having sales, advertising or policy responsibilities with respect to the subject matter of this Order.

IV

It is further ordered that respondents notify the Commission at least thirty (30) days prior to any proposed change in the respondent, such as dissolution, assignment or sale resulting in the emergency of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the Order.

V

It is further ordered that respondent shall within sixty (60) days after service upon it of this Order, file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied with this Order.

Exhibit A

Dear Retailer: totes incorporated, without admitting any violation of the law, has agreed to the entry of an Order by the Federal Trade Commission regulating its cooperative advertising programs. In connection therewith, the Company has agreed to send you this letter describing the Order.

The Order provides, among other things, as follows:

You are free to participate in, and receive reimbursement under, any totes incorporated cooperative advertising program regardless of the retail price you feature in otherwise qualifying advertisements.

If you have any questions regarding the Order or this letter, please call ——— at totes.

For totes incorporated ———

Analysis of Proposed Consent Order to Aid Public Comment

The Federal Trade Commission has accepted an agreement to a proposed consent order from totes incorporated,* a prominent manufacturer of umbrellas and related rainware.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

The complaint in this matter alleges that totes restrained trade by controlling and manipulating the resale prices at which its dealers advertise, offer for sale and sell totes products through the following method: it has conducted cooperative advertising programs pursuant to which it denies cooperative advertising funds to dealers who do not feature totes' suggested retail prices in otherwise qualifying advertisements.

The consent agreement provides as follows:

1. totes cannot withhold advertising credits or allowances from any dealer, or restrict the right of any dealer to participate in any cooperative advertising program for which it would otherwise qualify, because of the resale prices at which the dealer advertises or sells any totes product.

2. totes cannot withhold advertising credits or allowances from any dealer, or restrict the right of any dealer to participate in any cooperative advertising program for which it would otherwise qualify, because the dealer has advertised or sold any totes product using a resale price comparison.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

Carol M. Thomas,

Secretary.

[FR Doc. 80-19766 Filed 6-30-80; 8:45 am]

BILLING CODE 6750-01-M

*The firm's corporate name uses only lower case letters.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 109, 110, 225, 226, 500, and 509

[Docket No. 80N-0128]

Current Good Manufacturing Practice Relating To Poisonous and Deleterious Substances in Food, Feed, and Food-Packaging Materials Plants; Extension of Comment Period

AGENCY: Food and Drug Administration.

ACTION: Proposed rule; extension of comment period.

SUMMARY: The Food and Drug Administration (FDA) is extending the period for submitting comments on the notice of proposed rulemaking to prohibit or limit the amount of polychlorinated biphenyls (PCB's) in sealed electrical transformers and capacitors used or stored in or around food, feed, and food- and feed-packaging materials manufacturing and storage facilities. This action is based on a number of requests for extension of the comment period received by FDA.

DATE: Comments must be submitted on or before November 4, 1980.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: F. Leo Kauffman, Bureau of Foods (HFF-214), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-245-1164.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of May 9, 1980 (45 FR 30984), FDA proposed to prohibit or limit the amount of polychlorinated biphenyls (PCB's) in sealed electrical transformers or capacitors used or stored in or around food, feed, and food- and feed-packaging materials manufacturing and storage facilities. FDA requested that comments submitted in response to that proposal include information regarding the numbers, types, and locations of PCB-containing transformers or capacitors used or stored in or around FDA-regulated food, feed, or food-packaging materials plants and storage facilities, a reasonable time estimate for replacing such electrical equipment or replacing the PCB fluid in such equipment, and an estimate of the cost involved. Interested persons were requested to submit comments by July 7, 1980.

FDA has received a number of requests for extension of the comment period ranging from 15 to 183 days (on file with the FDA Hearing Clerk). The requests assert, in general, that additional time is needed to gather information and prepare meaningful comments on complex issues raised by the proposal. One of the requests asked for withdrawal of the proposal to the extent it would affect food-packaging material facilities; this part of the request is being considered separately by FDA as a comment on the proposal.

After carefully evaluating the merits of the requests for extension of the comment period received, FDA has concluded that an extension of the comment period is necessary to provide adequate time for the compilation and submission of data and information that the agency requested be included in comments to assist FDA in developing an appropriate final rule on the proposal. The agency has further

concluded, however, that a 120-day extension should be adequate and is extending the comment period to November 4, 1980.

The Environmental Protection Agency and the U.S. Department of Agriculture also published in the **Federal Register** of May 9, 1980 similar proposed rules on the use of PCB-containing electrical equipment in agricultural chemical facilities and meat, poultry, and egg products establishments, respectively. These agencies have also received requests for an extension of the comment period on their proposals. The three agencies agree that additional time is needed for the affected industries to submit the kinds of information the agencies are seeking.

Accordingly, interested persons may, on or before November 4, 1980, submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

In granting this extension, FDA emphasizes the need for each affected firm to adopt interim messages to ensure that food, feed, or food-packaging materials will not become contaminated by PCB's because of equipment failure or other accident. Specifically, the agency advises firms to follow the instructions set forth in the technical booklet entitled, "Polychlorinated Biphenyls: An Alert for Food and Feed Facilities" (December 1979). This booklet, which was widely distributed to food and feed firms, is available upon request from any FDA regional office.

Dated: June 26, 1980.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 80–19722 Filed 6–26–80; 1:40 pm]

BILLING CODE 4110–03–M

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21 CFR Part 589

[Docket No. 75N–0180]

Substances Prohibited From Use in Animal Food or Feed; Tentative Final Regulation; Extension of Comment Period

AGENCY: Food and Drug Administration.

ACTION: Tentative final regulation; extension of comment period.

SUMMARY: The Food and Drug Administration (FDA) is extending the deadline for filing comments on a tentative final regulation to prohibit deodorizer distillate substances from animal food or feed. The Institute of Shortening and Edible Oils, Inc., requested an extension.

DATE: Comments by August 29, 1980.

ADDRESS: Written comments to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: John R. McDowell, Bureau of Veterinary Medicine (HFV–222), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–5362.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of April 29, 1980 (45 FR 28349), FDA issued a tentative final regulation to ban the use of certain industrial grade vegetable oil byproducts now defined as deodorizer distillate products. The agency invited the submission of written comments on or before June 30, 1980.

In a letter dated June 2, 1980 (on file with the FDA Hearing Clerk), the Institute of Shortening and Edible Oils, Inc., (ISEO) requested FDA to extend the comment period 90 days. FDA has considered the request and has concluded that an extension of time should be granted, but that the extension should be limited to 60 days. ISEO has agreed that 60 days will provide adequate time to prepare and submit comments.

Interested persons may, on or before August 29, 1980, submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, written comments (preferably four copies and identified with the Hearing Clerk docket number found in brackets in the heading of this document) regarding the revisions made to the proposal and issued as part of the tentative final regulation and new developments since the proposal that warrant consideration. Received comments may be seen in the office above from 9 a.m. to 4 p.m., Monday through Friday.

Dated: June 23, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80–19759 Filed 6–30–80; 8:45 am]

BILLING CODE 4110–03–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining

30 CFR Part 722

Interim Regulatory Program Modifications

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), U.S. Department of the Interior.

ACTION: Proposed rules.

SUMMARY: These proposed rules revise 30 CFR 722.11 and 722.12 to make clear OSM's authority to take enforcement action against permittees found to be in violation of any requirement of the Surface Mining Control and Reclamation Act of 1977 (Act) or of any regulations promulgated thereunder and applicable during the interim regulatory program.

DATES: Comments must be received by 5:00 p.m. on July 31, 1980, at the address indicated below. Comments received after that time will not be considered. A public hearing on these proposed rules will be held on July 22, 1980, at 9:30 a.m. at the address below. Representatives of OSM will be available to meet with interested persons upon request before the close of the comment period.

ADDRESSES: Written comments must be mailed or hand delivered to the Office of Surface Mining, U.S. Department of the Interior, Room 153, South Building, 1951 Constitution Avenue, NW., Washington, D.C. 20240. Persons wishing to testify at the hearing should contact Neil Stoloff at (202) 343–2084. A transcript of the public hearing, all written comments received, and summaries of meetings with representatives of OSM will be prepared and made available for public review in Room 153, Interior South Building, 1951 Constitution Avenue, NW., Washington, D.C. 20240, The public hearing will be held at Room 252, South Interior Building, 1951 Constitution Avenue, Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Neil Stoloff, Office of Surface Mining, Division of Enforcement, (202) 343–2084, or Mark Squillace, Office of the Solicitor, Division of Surface Mining, (202) 343–4671.

SUPPLEMENTARY INFORMATION: Sections 521(a) (2) and (3) of the Act provide, among other things, that OSM must take enforcement action when an inspector finds that a permittee is violating "any requirement of this Act." 30 USC 1271. Pursuant to section 501 (30 U.S.C. 1251 (Supp. I 1977)), OSM promulgated 30 CFR 722.11 and 722.12. Section 722.11 provides that a cessation order shall be issued whenever OSM finds "conditions or practices, or violations of applicable

performance standards, which create an imminent danger to the health or safety of the public. . . ." Section 722.12 of the regulations provides that a notice of violation shall be issued when OSM "finds a violation which is not covered by § 722.11," i.e., for non-imminent dangers.

In *Eastover Mining Co.* (*Eastover*), 2 IBSMA 70 (May 16, 1980), inspectors from OSM had been conducting an inspection at Eastover's mine in Arjay, Kentucky. When an inspector attempted to take photographs at the site of an apparent violation she was informed that company policy prohibited the taking of photographs on company property by anyone except company employees. She issued a notice of violation to Eastover, citing interference with a federal inspection by virtue of the company's refusal to allow the inspector to take photographs, Notice of Violation No. 79–II–53–2. The time for abatement was set at 24 hours.

On her return the next day, the inspector was again prohibited from taking photographs. Consequently, she issued a cessation order to Eastover for failure to abate the violation.

In Eastover's appeal of the notice and order, the interior Board of Surface Mining Appeals (Board) held that §§ 722.11 and 722.12 of the regulations must be construed in relation to one another. Accordingly, the Board interpreted the "violations" referred to in § 722.12 to mean "violations of applicable performance standards" as provided in § 722.11, and held that interference with a federal inspection is not an administratively sanctionable violation. The Board appeared further to indicate that OSM's authority to issue notices of violation and cessation orders may be limited to findings of violations of applicable performance standards. Presumably, certain other requirements and obligations of operators, in addition to that of allowing unimpeded inspections, 30 U.S.C. 1294, may be outside OSM's enforcement authority.

As noted above, sections 521(a)(2) and (3) of the Act require OSM to take enforcement action whenever an inspector finds that a permittee is violating "any requirement of this Act." 30 U.S.C. 1271. OSM believes that the Board's interpretation of 30 CFR 722.11 and 722.12 may preclude OSM from taking administrative enforcement action in response to violations of the Act that do not relate to performance standards.

Consequently, OSM proposes these rules which specifically provide that OSM has both the authority and indeed the responsibility to take enforcement action whenever it finds *any* violation of the Act or applicable regulations. To implement this, OSM proposes that the terms "violations of applicable performance standards" (30 CFR 722.11(a)) and "a violation which is not covered by § 722.11 of this part" (30 CFR 722.12(a)) both be amended to read "a violation of any requirement of the Act, or of any requirement of this Chapter applicable during the interim regulatory program * * *."

The current regulation shall remain in effect pending final promulgation of these revisions.

In accordance with Executive Order 12044 and 43 CFR Part 14, the Department of the Interior has determined that this rule does not require a regulatory analysis. The significance determination upon which that decision was made is a part of the administrative record for this rule and is available for inspection in Room 153, Interior South Building, 1951 Constitution Avenue NW., Washington, D.C.

Section 501(a) of the Act specifically provides that the promulgation of interim regulations such as these is not to be deemed a major Federal action within the meaning of section 102(2)(C) of the National Environmental Policy Act. 42 U.S.C. 4332(2)(C).

DRAFTING INFORMATION: The proposed regulations have been drafted principally by Neil Stoloff, Office of Surface Mining Reclamation and Enforcement.

Dated: June 25, 1980.

David A. Schuenke,

Acting Assistant Secretary, Energy and Minerals.

Sections 722.11(a) and 722.12(a) are proposed to be revised as follows:

§ 722.11 Imminent dangers and harms.

(a) If an authorized representative of the Secretary finds a condition or practice, or violation of any requirement of the Act, or of any requirement of this Chapter applicable during the interim regulatory program, which creates an imminent danger to the health or safety of the public, or is causing, or can reasonably be expected to cause, significant, imminent environmental harm to land, air, or water resources, the authorized representative shall immediately order a cessation of surface coal mining and reclamation operations or that portion of the operation relevant to the condition, practice, or violation.

* * * * *

§ 722.12 Nonimminent dangers or harms.

(a) If an authorized representative of the Secretary finds a condition or practice, or violation of any requirement of the Act, or of any requirement of this Chapter applicable during the interim regulatory program, but such violation does not create an imminent danger to the health or safety of the public, or cannot reasonably be expected to cause significant, imminent environmental harm to land, air, or water resources, the authorized representative shall issue a notice of violation fixing a reasonable time for abatement.

* * * * *

[FR Doc. 80-19778 Filed 6-30-80; 8:45 am]

BILLING CODE 4310-05-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 58

[FRL 1528-3]

State of Virginia; Ambient Air Quality Surveillance

AGENCY: Environmental Protection Agency.

ACTION: Proposed Rule.

SUMMARY: The State of Virginia has submitted a proposed revision which is intended to establish an ambient air quality monitoring network as required under 40 CFR Part 58 (State and Local Air Monitoring Systems or SLAMS).

The data will be used, among other things, for determining the status of attainment of National Ambient Air Quality Standards (NAAQS), as a basis for requiring control of source emissions of criteria pollutants, for determining and tracking air pollution episodes, for growth planning in urban areas, for determining the impact of area sources and for reporting to the public the status of this State's air quality.

DATE: Comments must be received on or before July 31, 1980.

ADDRESS: Copies of the proposed revision and network description are available for public inspection during normal business hours at the following locations:

U.S. Environmental Protection Agency, Air Programs Branch, 6th and Walnut Streets, Curtis Building, Philadelphia, PA 19106, Attn: Patricia Sheridan.

Virginia State Air Pollution Control Board, Room 1106, Ninth Street Office Building, Richmond, Virginia Attn: W. R. Meyer, Executive Director.

Public Information Reference Unit, Room 2922—EPA Library, U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

All comments on the proposed revision submitted on or before July 31, 1980, will be considered and should be directed to:

Mr. Howard Heim, Chief, Air Programs Branch (3AH10), Air, Toxic and Hazardous Materials Division, U.S. Environmental Protection Agency—Region III 6th and Walnut Streets, Philadelphia, PA 19106, Attn: AH500VA.

FOR FURTHER INFORMATION CONTACT:
Mr. Joseph Paparella, U.S. Environmental Protection Agency, Region III, Curtis Building, 6th and Walnut Streets, Philadelphia, PA 19106, Phone: 215/597–8184.

SUPPLEMENT INFORMATION: On December 20, 1979, the Commonwealth of Virginia to the Regional Administrator, EPA Region III, a revision of the Virginia State Implementation Plan (SIP). This section of the SIP consists of provisions which meet the new requirements for monitoring air quality which are in 40 CFR 58.20 (Air Quality Surveillance: Plan Content). The air quality surveillance network which will be established, as provided in this SIP revision, will consist of the present network with certain modifications and additions. The provisions of this submittal are intended as a supplement to existing provisions and are not intend to revoke or suspend any previous submittals.

The network will measure ambient levels of "criteria pollutants" or those pollutants for which National Ambient Air Quality Standards (NAAQS) have been established by EPA. The data will be used, among other things, for determing the status of attainment of NAAQS, as a basis for requiring control of source emissions of criteria pollutants, for determining and tacking air pollution episodes, for growth planning in urban areas, for determining the impact of area sources, and for reporting to the public the status of this State's air quality. Also, data will be reported to EPA under the new 40 CFR Part 58 reporting procedures.

The network description will include the following for each station in the air quality surveillance network:

a. The SAROAD site identification form.

b. The identity of the monitoring method or analyzer.

c. The identity of any necessary method of sample analysis.

d. The sampling schedule.

e. The monitoring objective.

f. The spatial scale of representativeness.

Also on file for public inspection will be the schedule for the following:

a. Locating and/or placing into operation any station which is not operating or located correctly on January 1, 1980.

b. Implementing quality assurance procedures for any station for which those procedures are not implemented by January 1, 1980.

c. Re-locating each station not sited according to the siting parameters of Appendix E to 40 CFR Part 58 by January 1, 1980.

Each station in the air quality surveillance network provided for by this SIP revision and described in the network description will be termed a State and Local Air Monitoring Station or a SLAMS. Any other station operated by the State or locality which is not necessary for inclusion in the SIP network will be termed a Special Purpose Monitoring Station or an SPM station.

Each continuous analyzer in a SLAMS will be operated on a continuous basis and data gathered as hourly averages. Each manual method will be operated for a full 24-hour period at six-day intervals.

Reference or equivalent methods will be used in SLAMS as defined by EPA in 40 CFR 50.1 (f) and (g), or will be a particulate sampler for which a site-specific relationship to the Hi-vol has been established at the site of the SLAMS.

The concept of episode monitoring involves daily monitoring in order to detect when ambient pollution levels reach concentrations corresponding to an air quality episode and monitoring during episodes to maintain surveillance of the situation. The Commonwealth of Virginia will operate SLAMS stations for monitoring and declaring episodes for the criteria pollutants in the localities of Northern Virginia, Richmond, Norfolk, and Salem (Roanoke County). At least one episode station for each of the criteria pollutants will be operated in those cities.

Each SLAMS monitor that is designated as an episode monitoring station will be identified in the description of SLAMS network which is on file as described in the network description.

Data from all SLAMS monitors for an entire calendar year will be summarized and submitted to EPA by July 1 of the following year. The values determined and reported will be those values indicated in Appendix F to 40 CFR Part 58. Other information as required by Appendix F will also be reported in the annual report.

The Commonwealth of Virginia will operate monitoring stations other than those in the SLAMS Network. These other stations will be termed Special Purpose Monitoring Stations (SPM) and will be used to supplement the SLAMS monitoring. The SPM stations will be used for purposes such as determining areas where permanent SLAMS need to be located, determining the effect of point sources, research, and determining acceptable growth patterns.

Data from SPM stations may be used for SIP purposes such as support for control strategies, determination of attainment/nonattainment, or model validation. Such data will have been collected in accordance with the criteria established by Subpart B of 40 CFR Part 58.

Beginning March 1 of each year, the Commonwealth of Virginia will review the air quality surveillance network to determine if there is a SLAMS station in every location where there is a need for ambient air quality data or if all the stations in the SLAMS network are necessary. A report of the findings will be submitted to the EPA Regional Office by July 1 of each year along with a schedule to add stations to the SLAMS network, to relocate stations, or to eliminate stations as the case may be. The determination of the need to add, relocate or delete stations will be based on the network design criteria in Appendix D to 40 CFR Part 58 or references therein.

The public is invited to submit to the address stated above comments on whether the above-listed modifications should be approved as a revision of Virginia's State Implementation Plan.

The Administrator's decision to approve or disapprove this proposed SIP revision will be further based on a final determination as to whether it meets the requirements of section 110(a)(2) of the Clean Air Act and 40 CFR Part 51, Requirements for Preparation, Adoption, and Submittal of Implementation Plans.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the order of whether it may follow other specialized development procedures. EPA labels these other regulations "specialized."

I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

(42 U.S.C. 7401–642.)

Dated: May 23, 1980.

Jack J. Schramm,
Regional Administrator.

Attachment No. 1

Materials furnished by the State of Virginia

1. Letter dated 12/20/79 from W. R. Meyer to J. J. Schramm.

2. Letter dated 3/24/80 from Maurice G. Rowe to Douglas M. Costle.

3. Letter dated 4/4/80 from John M. Daniel, Jr. to Stephen R. Wassersug.

4. Virginia monitoring network.

[FR Doc. 80-19729 Filed 6-30-80; 8:45 am]
BILLING CODE 6560-01-M

40 CFR Part 60

[FRL 1417-2]

Alternate Method 1 to Reference Method 9 of Appendix A—Determination of the Opacity of Emissions From Stationary Sources Remotely by Lidar; Addition of an Alternate Method

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to amend its regulations to establish an Alternative Method 1 to Reference Method 9 of Appendix A of 40 CFR Part 60. This alternate method employs a lidar (laser radar) which is an optical system installed in a truck-mounted van enclosure. This mobile lidar is specifically designed and fabricated for measuring the opacity of visible emissions from a given stationary source during both day- and night-time ambient lighting conditions.

This method is intended for use during night-time hours as it is during the day. This is a most important capability in the measurement of stationary source emissions opacity.

The effect of this rulemaking will be to allow the use of the Alternate Method in all cases when Reference Method 9 would otherwise be required.

This new test method is proposed under the authority of Sections 111, 114, and 301 of the Clean Air Act, as amended (42 U.S.C. 7411, 7414, 7601).

DATES: Comments on this proposed Alternate Method must be received on or before July 25, 1980. A public hearing for this rulemaking will be scheduled in Denver, Colorado if specifically requested.

ADDRESS: Comments should be submitted to Arthur W. Dybdahl, Chief, Remote Sensing Section, National Enforcement Investigations Center, Environmental Protection Agency, P.O. Box 25227, Denver, Colorado 80225.

FOR FURTHER INFORMATION CONTACT: Arthur W. Dybdahl, 303/234-5306.

SUPPLEMENTARY INFORMATION:

Background

On December 23, 1971, the Environmental Protection Agency promulgated standards of performance for five categories of stationary sources under Section 111 of the Clean Air Act, as amended. An appendix to the regulation contained Reference Methods 1 through 9, which detailed requirements for performance testing of stationary sources. Since the promulgation of these reference methods EPA has continued to participate in the development of new, improved and/or supplemental methods that will permit the quantitative monitoring of stationary source emissions remotely (non-contact methods), quickly, easily and with a high degree of accuracy during both day- and night-time hours. This new test method has been developed from a detailed evaluation of scientific remote sensing instrumentation for the determination of stationary source emissions (plume) opacity.

Applicable Documentation

The docket, Number A-79-41, is available for public inspection and copying between 8:00 a.m. and 4:00 p.m. at EPA's Central Docket Section, Room 2903B, Waterside Mall, 401 M Street, SW., Washington, D.C. 20460.

Copies of public comments received will be available for public inspection during normal business hours at the Public Information Reference Unit (EPA Library), Room 2922, 401 M Street, Washington, D.C.

Dated: June 24, 1980.

Douglas M. Costle,

Administrator.

EPA proposes to amend 40 CFR Part 60, Appendix A by adding an alternate method to Method 9 as follows:

Appendix A—Reference Methods

* * * * *

Method 9—Visual Determination of the Opacity of Emissions From Stationary Sources

Alternate Method 1—Determination of the Opacity of Emissions from Stationary Sources Remotely by Lidar

This proposed alternate method provides the quantitative determination of the opacity of an emissions plume remotely by a mobile lidar system (laser radar; *Li*ght *D*etection *a*nd *R*anging). The method includes procedures for the calibration of the lidar and procedures to be used in the field for the lidar determination of plume opacity. The lidar is used to measure plume opacity during either day- or night-time hours since it contains its own optical energy source or transmitter. The operation of the lidar is not dependent upon ambient lighting conditions (light, dark, sunny or cloudy).

The lidar mechanism or technique [Reference 5.1] is applicable to measuring smoke plume opacity at numerous wavelengths of laser radiation. However, the performance evaluation and calibration test results given in support of this method apply only to a lidar that employs a ruby (red light) lidar [Reference 5.1].

The most important advantages of the lidar for field use are:

- Its inherent, absolute accuracy in measuring the opacity of a plume, being significantly greater than that obtained with the Reference Method.
- Its capability of measuring plume opacity during nighttime hours as well as during daylight conditions, which cannot be effectively accomplished with the Reference Method.
- Its inherent capability of measuring plume opacity with consistent accuracy and nonsubjectivity independent of background light contrast conditions such as between a plume and clear sky, cloudy sky or terrain background, etc. The color contract between the plume under test and the background sky or terrain has no bearing on the lidar's performance since the only data required is the atmospheric optical backscatter signals from just before the plume and just beyond or behind the plume. If the lidar line-of-sight terminates against either terrain or a cloudy sky, this will not affect the lidar opacity measurements. However, the lidar cannot make accurate opacity measurements while looking directly into the sun or during precipitation conditions.

While measuring plume opacity of a white-to-gray plume the reference method has a significant negative bias, as documented in the introduction of Method 9, due to the lower contrasts between the plume and the background (haze or clouds). The opacity error will also be further increased as the ambient lighting level decreases toward darkness.

Since the measurement of plume opacity with the lidar is independent of plume/background contrast and ambient lighting conditions, the significant negative bias and negative errors inherently associated with the reference method are not present in the lidar opacity measurements. The lidar mechanism measures the acutal plume opacity with greater accuracy than does the reference method.

By definition it is usual that an alternate method gives a negative bias (lower value and possibly less accurate) for a given test parameter or variable with respect to the reference method; however, with the lidar mechanism this is not the case.

Under less-than-ideal background-to-plume color/luminiscent contrast conditions the reference method cannot be effectively used to verify the data obtained with this method because of the significant negative bias and negative errors. The same holds true with using the lidar to measure plume opacity at night. The reference method cannot be used to verify the data obtained under this method.

It is suggested that an industrial facility, etc., use a white-light transmissometer (properly positioned, calibrated, and operated) to verify the opacity values concurrently recorded with a lidar especially during night-time operations. (Some new source performance standards now require in-stack transmissometers to measure opacity.)

The results of the calibration and performance evaluation tests are documented in Reference 5.1. The required correlation (performance evaluation tests) was not carried out with visible emissions observations, due to the inherent negative bias, but with the smoke generator's white-

light transmissometer which is routinely used to certify the visible emissions observers under Reference Method 9.

The operation of a lidar in the field should be performed in accordance with stringent laser safety rules which require sound operator judgement. EPA has developed laser safety rules using the references given in Section 5, as a basis (Section 7 of Reference 5.1).

1. *Principle and Applicability*

1.1 *Principle.* The opacity of visible emissions from stationary sources (stacks, roof vents, etc.) is measured remotely by a mobile lidar (laser radar).

1.2 *Applicability.* This method is applicable for the remote measurement of the opacity of visible emissions from stationary sources during night-time as well as daylight conditions, pursuant to 40 CFR 60.11(b). It is also applicable for the calibration of the mobile lidar for the measurement of the opacity of emissions. A performance/design specification for a basic lidar system is also incorporated into this method.

2. *Procedures.* The mobile lidar calibrated in accordance with Paragraph 3 of this method shall use the following procedures for remotely measuring the opacity of stationary source emissions:

2.1 *Lidar Position.* The lidar shall be positioned at a distance from the source-under-test, sufficient to provide an unobstructed view of the source emissions. The source-under-test must be at a range greater than the lidar's transmitter/receiver convergence distance along the line-of-sight or field-of-view.

The lidar observations shall be carried out in such a way that a good quality ambient air (atmospheric backscatter) return signal, being free of obstructions, is obtained along the lidar's line-of-sight before reaching the plume (near-region) and beyond the plume (far-region). These two signal segments are used to calculate the plume opacity for each lidar measurement. When there is more than one source of emissions in the immediate vicinity of the plume under test, the lidar shall be positioned so that the lidar beam passes through only a single plume, free from any interference of the other plumes for a minimum of 50 meters on each side of the plume under test along the line-of-sight. The lidar shall be positioned so that the lidar line-of-sight is nearly perpendicular to the direction of horizontal drift of the plume, to the extent practicable. This practice will keep the lidar line-of-sight distance through a plume equal to the actual plume thickness, at the point of testing within the plume. The lidar shall be in a position so that direct solar radiation is not permitted to enter the optical receiver.

When measuring the opacity of emissions from rectangular outlets (e.g., roof monitors, open baghouses, noncircular stacks, etc.) the lidar shall be placed in a position so that the line-of-sight is approximately perpendicular to the longer (major) axis of the outlet as practicable.

2.2 *Lidar Observations and Measurements.* Once placed in its proper firing position, the lidar shall be aimed (by aiming telescope) and fired immediately below the outlet of the emissions source in order that the range to this source be measured and recorded, and to assure that the lidar transmitter beam diameter at the source range is less than the source (outlet) diameter. The lidar transmitter beam diameter must be less than the plume diameter at the particular point or location of test, to conduct the remote opacity measurement. This determination is accomplished in one of two ways. First, the operator shall directly view the reflected lidar pulse through the receiver telescope for complete spatial coincidence and by a lidar opacity calculation which will be 100% (opaque source structure) if the beam diameter is less than the plume diameter. Secondly, the lidar beam diameter shall also be calculated as the mathematical product of two parameters; namely, the inherent beam divergence angle (measured) and the lidar range to the stack under test. If the lidar beam diameter is larger than the diameter of the plume under test, then the instrument must be moved closer to the source until the above condition is fulfilled.

The lidar is then aimed and fired with the line-of-sight near the outlet height and rotated horizontally in an upwind direction to a position clear of the source structure and the associated plume (if wind conditions are calm, then the lidar may be moved to either side of the plume that is free of obstructions). This lidar data signal is the ambient-air return or reference signal. The lidar operator shall inspect this signal on the oscilloscope display to determine if the lidar line-of-sight is free of obstructions, obtain a measure of the integrity and homogeneity of the ambient air in front of and behind the source/plume, and to verify that the source/plume under test is free from interference from other plumes, for a minimum of 50 meters on each side of the plume under test along the line-of-sight, that may be in the immediate area. This ambient-air (backscatter) signal shall be recorded on magnetic tape and shall be used in the plume opacity calculations. The frequency of the reference measurements is established in the Temporal Criterion of Section 2.2.3 of this method.

Finally, the lidar is aimed at the region of the plume which displays the greatest opacity, where condensed water vapor is not present. This position is usually about ½ stack diameter from the exist for a stack under investigation. The lidar is fired through the plume so that the lidar operator may make any final aiming adjustments and choose or verify the proper locations of the backscatter signal segments used in the opacity measurement. When that is completed, the lidar is placed in operation with the nominal pulse or firing rate of 6 pulses-per-minute (pulse/10 seconds as safety permits). The lidar operator shall observe the oscilloscope display to monitor lidar performance and the quality of the plume data signals. (The display provides a near real-time means of determining the quality and integrity of the near- and far-region atmospheric backscatter signals used in calculating plume opacity.) These plume data signals are to be recorded on magnetic tape as a permanent record. The plume data signals recorded from lidar start to stop is called a data run. Short term stops of the lidar to record additional reference measurements do not constitute the end of a data run if lidar operations for a given plume are resumed within 90 seconds after the reference measurement has been recorded.

The temporal length of an individual data run may extend from 1 or 2 minutes, such as for intermittent sources, to over an hour or even longer depending usually upon the characteristics and variability of the source emissions. The lidar data rate is nominally maintained at one opacity measurement every 10 seconds throughout a given data run.

The lidar will be used to measure the opacity of hydrated or so-called steam plumes. (To the extent practicable the lidar operators should have technical information with them regarding the respective process and the control equipment for each stationary source to be tested.) As listed in the reference method there are two types, i.e., attached and detached steam plumes.

2.2.1 *Attached Steam Plumes:* When condensed water vapor is present within a plume-under-test as it emerges from the emission outlet, the opacity measurements shall be made with the lidar at a point within the residual plume where the condensed water vapor is no longer visible.

During daylight hours the lidar operator can usually locate the most dense portion of the residual plume visually. The operator shall then aim the lidar transmitter/receiver into that portion or region of the plume. During night-time operations the lidar should be used to locate the most-dense region of the residual plume, i.e., the region of highest opacity if visual determination is ineffective. (A high intensity spotlight, night vision scope, or low light level TV, etc., can be used to aid the lidar operator in aiming the transmitter/receiver at night.) In this mode the lidar operator scans the transmitter/receiver, with the lidar measuring opacity, along the longitudinal axis or center of the plume from the emissions outlet to a point just beyond the steam plume. The steam plume will have nearly 100% opacity while the residual plume opacity is most probably much lower. If the residual plume also has a 95 to 100% opacity then the lidar operator should also observe color differences as an added assurance that the lidar is aimed completely within the residual plume. Plume reflectivity can also be used to accomplish this same task, especially at night. The steam plume is white and highly reflective while the residual plume will be lower in reflectivity.

Once the residual region of the plume is located (along its center line) the lidar transmitter/receiver should then be scanned approximately perpendicular to this axis in order to locate the region of highest opacity. Plume opacity shall then be measured at this location within the plume. Adjustments are made to this location of the lidar line-of-sight within the residual plume as deemed necessary by the lidar operators to correct for changes in wind direction, etc.

The distance from the stack to the position within the plume where these opacity measurements are collected shall be obtained by a calculation using the lidar range to the stack, the lidar range to the plume monitoring position, and the azimuth/elevation angles between the stack and the plume monitoring position or point. The geometry for this

calculation, along with the respective variables, is defined in Figure AM1–1.

This distance is calculated by using Equation AM1–1.

$$R_{\delta\psi} = [R_p^2 + R_s^2 - 2 R_p R_s (\cos \beta_p \cos \beta_s \cos \psi + \sin \beta_p \sin \beta_s)]^{\frac{1}{2}} \quad \text{(AM1-1)}$$

The variables R_s, R_p, β_s, β_p, and ψ shall be measured directly with the lidar. The three angles can be measured on the transmitter/receiver mount by using an inclinometer and a protractor, for example. The two range values are calculated from the respective backscatter signals. $R_{\delta\psi}$ shall be calculated and recorded for each position of the lidar line-of-sight while the tests are being conducted.

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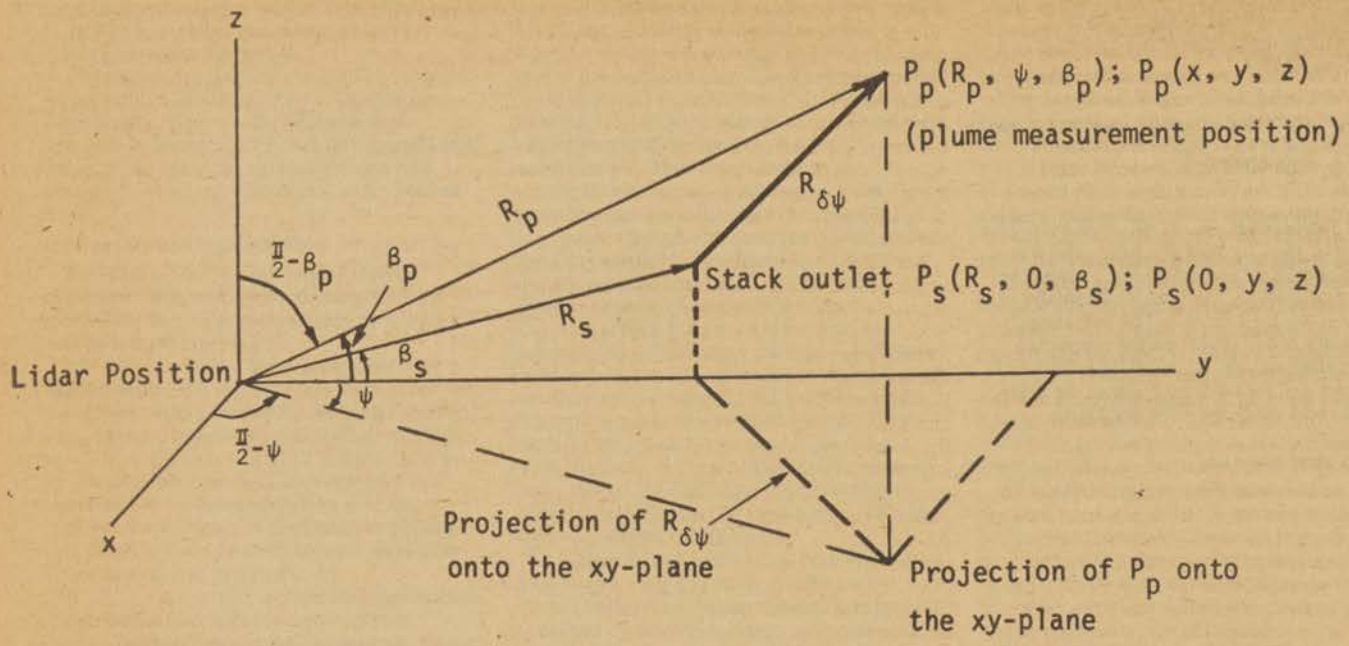

The mathematical variables or functions are defined as follows:

$R_{\delta\psi}$ = the range from the emissions point, P_s, to the plume monitoring point or position, P_p.

R_s = the range from the lidar to the source or stack outlet.

β_s = the elevation angle of the lidar line-of-sight above the horizontal plane, to the stack outlet.

R_p = the range from the lidar to the plume monitoring point.

β_p = the elevation angle of the lidar line-of-sight above the horizontal plane, to the plume monitoring point.

ψ = the azimuthal angle, in the horizontal plane, of the lidar line-of-sight measured from the y-axis which contains the lidar and stack outlet.

$P_s(R_s, 0, \beta_s)$ = Coordinates of the stack outlet in the spherical coordinate system.

$P_p(R_s, \psi, \beta_p)$ = Coordinates of the plume monitoring point in the spherical coordinate system.

Figure AM1-1. Geometry of the Residual Plume Measurement with Lidar

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2.2.2 *Detached Steam Plumes:* When the water vapor in a hydrated plume condenses and becomes visible at a finite distance from the stack or source emissions outlet, the opacity of the emissions shall be measured in a region of the smoke plume just above the emissions outlet prior to the condensation of the water vapor. The condensation of the water vapor in the source emissions forms the steam plume which appears white, and is usually about 100% opacity.

During daylight hours the lidar operator can visually determine if the steam plume is detached from the stack outlet. (At night a high intensity spotlight, a night vision scope, low light level TV, etc. can be used as an aid in determining if the steam plume is detached.) At night if visual determination is ineffective, the lidar shall also be used to determine if the steam plume is detached from the emissions outlet by repeatedly measuring plume opacity, from the outlet to the steam plume along its longitudinal axis or center line, and/or observing plume reflectance. Once the determination of a detached steam plume has been confirmed, the lidar shall then be aimed into the region of the plume between the outlet and the formation of the steam plume, about one half a stack diameter above the outlet. The lidar transmitter/receiver shall then be scanned across the plume to locate the region of greatest plume opacity. Plume opacity shall subsequently be measured at this location. Adjustments are made to the location of the lidar's line-of-sight within the plume as deemed necessary by the lidar operators to correct for changes in wind direction, air temperature changes, etc. The location of the lidar's line-of-sight within the plume shall be recorded in the lidar logbook for each position while the tests are being conducted.

In the measurement of plume opacity from a sulfuric acid manufacturing facility, the lidar line-of-sight shall be positioned within the most-dense part of the plume which will not necessarily be at the emissions outlet. The characteristic sulfurous gas absorbs plume moisture forming sulfuric acid aerosols in the submicron size range. High values for the opacity can occur. Often the aerosol plume does not become visible for a few stack diameters away from the emissions outlet. This deos not constitute a detached steam plume and shall not be treated as such.

2.2.3 *Temporal Criterion for Reference Measurements.* This criterion describes how often and under what conditions additional reference (ambient air) measurements are to be obtained.

A reference measurement shall be obtained with the lidar and recorded on magnetic tape within a 90-second time period prior to any given plume opacity data run. Another reference measurement is obtained within 90 seconds after the completion of the same data run. This is to be standard operating procedure irrespective of the variability of the local atmospheric conditions along the lidar's line-of-sight.

The reference measurement shall be obtained by directing the lidar's line-of-sight near the emissions outlet in height or elevation, and rotated horizontally in an upwind direction to a position clear or free of the source structure and the associated plume. If wind conditions are calm, then the lidar line-of-sight may be moved to either side of the plume that is free of obstructions.

The need for an additional reference measurement(s) is a function of local atmospheric kinetics which is usually determined through the judgement of the lidar operators as they observe localized meteorological conditions and the characteristics of the lidar backscatter return signals.

An additional reference measurement shall be obtained, which occurs during a data run, when the lidar operator observes a change in wind direction or plume drift of 30° or more from the direction that was prevalent when the last reference measurement was made. If the lidar operator observes a noticeable change in the amplitude variations in either the near- or far-region backscatter signal segments (not due to a common change in plume opacity) that remains present for three plume data records (about 30 seconds), then the data run shall be interrupted and another reference measurement shall be recorded. (The location on tape, time, and the proper identity of each reference measurement shall be recorded on magnetic tape.) Then the data run shall be immediately resumed and continued through completion. This process of obtaining additional reference measurements may be iterated as many times as required. If the ambient air conditions along the lidar's line-of-sight are continually changing significantly, then reference measurements and plume data measurements are usually recorded alternatively.

During the subsequent analysis of the lidar data, the reference and data measurement signals shall be analyzed in the same data run or sequence that they were recorded in the field.

Section 2.1 of this method requires that the lidar shall be positioned so that the lidar line-of-sight is nearly perpendicular to the direction of the horizontal drift of the plume, the extent practicable. If, during the course of a data run, the direction of drift of the plume changes by 30° or more, as observed from the lidar position, and if the lidar line-of-sight is more than about 3 source diameters from the sources outlet while recording plume opacity data, then the operation shall be momentarily interrupted. The parameters R_1, R_2 and α^a of the Elevation/Azimuth Angle Correction [Section 2.4.4 of this Method] shall be measured and the respective backscatter signals recorded on magnetic tape. R_1 and R_2 shall be obtained from the plume backscatter signals, measured at the center of each plume return spike [Figure AM1–4(b) of Section 2.4.1].

Usually the need to measure these parameters is coincident with the need for another reference measurement.

2.3 *Field Records.* The lidar operator shall assign a control number in the lidar logbook for each independent source under investigation even if more than one source is located within the same industrial facility [Figure AM1–2]. This assigned control number shall also be recorded on magnetic data tape for each measurement. (All respective lidar data and reports shall have the control number recorded therein.) The name of the facility, type of facility, emission source type and official designation (stack, open baghouse, etc; stack 0001, etc.) and the geographic location of the lidar with respect to the source under-investigation shall be recorded in the lidar logbook [Figure AM1–3]. The date of the test and the time period that a given source was monitored shall also be recorded in the logbook. The lidar-measured vector (emissions source range and angle referenced to magnetic north) and plume characteristics also are to be recorded in the logbook. The wind speed, wind direction, air temperature, relative humidity, barometric pressure, visibility (measured at the lidar's position) and cloud cover are recorded in the logbook at the beginning and end of each time period for a given source. A small sketch shall be recorded in the logbook depicting the location within the plume of laser beam incidence.

The parameters β_s, β_p and ψ, defined in Figure AM1–1, shall be measured at the lidar transmitter/receiver mount and recorded in the logbook for each source and for each measurement position or location within a given plume under-test.

Also the parameters α, R_1, and R_2, defined in Section 2.4.4 of this method for the Elevation/Azimuth Angle Correction Criterion, shall be recorded in the logbook for each source, each measurement position or location within the plume and for each instance when the plume drift angle is measured.

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LIDAR LOG CONTROL NUMBER TABULATION

Log Book Number-_____

(Assign a CONTROL NUMBER to each individual source under test)

CONTROL NUMBER	DATE ASSIGNED	PROJECT	CITY, STATE

continued on next page

LIDAR LOG CONTROL NUMBER TABULATION (cont')

(Assign a CONTROL NUMBER to each individual source under test)

CONTROL NUMBER	DATE ASSIGNED	PROJECT	CITY, STATE

Next Log Book Number-_____

Figure AM1-2 Lidar Log Control Number Tabulation

LIDAR LOG OF OPERATIONS

Control number: OMEGA-_____

Facility name and location:

At the field site on / / from _____ to _____ (local time)
Location of LIDAR:

Direction to source _____ Range to source _____ km
Laser inclination (+ angle is up, horizontal is 0°) _____
Source type and official designation:

Plume characteristics (color, shape, steam present, etc.):

Wind speed: begin _____ km/hr end _____ km/hr Wind direction: begin _____ end _____
Air temperature: begin _____ °C end _____ °C Relative humidity: begin _____ % end _____ %
Barometer: begin _____ end _____ Visibility: begin _____ km end _____ km
Cloud cover: begin _____ end _____

Data records made in field (tapes, printouts, photo's, etc.):

MAGNETIC TAPES		
tape#	track#	files

OPERATOR'S SIGNATURE: _____ DATE: _____

WITNESS SIGNATURE: _____ DATE: _____

LIDAR OPERATOR'S NOTES

(Include position of laser beam within plume-- attached plume, etc.)

LIDAR FUNCTION VERIFICATION

Source: optical generator ( ) screens ( )

Date of last calibration: _____ This test recorded on tape# _____ track# _____

	1	2	3	4	5	6	7	8
Calibrated opacity								
Calculated opacity								
Recorded on file								

OPERATOR'S SIGNATURE: _____ DATE: _____

WITNESS SIGNATURE: _____ DATE: _____

Figure AM1-3 Lidar Log Of Operations

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In addition to the assigned control number, the date, time (to the nearest second) of each measurement, the source identification, the video channel used (linear/logarithmic channel, for example), the digitizer's sample interval and the location or address of the ambient-air reference signal on the magnetic data tape shall be recorded on the magnetic data tape for each lidar measurement.

If a detached or attached steam plume is present at the emissions source under-test, this fact shall be recorded in the lidar logbook along with the quantitative data depicting where in the plume the lidar measurements were conducted [values of the variables in Equation AM1–1].

Each magnetic tape used to record field and calibration data signals shall be assigned a number and that number recorded in the lidar logbook.

2.4 *Lidar Data Reduction and Records.* The lidar data may be analyzed by computer at the time of each lidar measurement or having been recorded on magnetic tape, may be analyzed/verified at a later time. The opacity value and the associated statistics of the emissions from the respective source under-test shall be computed and recorded along with the time and magnetic data tape address for each measurement.

2.4.1 *Opacity Calculation and Data Analysis.* Referring to the lidar signal amplitude vs. lidar range traces in Figure AM1–4, the opacity value (O_p) for each lidar measurement is calculated using Equation AM1–2. ($O_p = 1 - T_p$; T_p is the plume transmittance.)

$$O_p = 100\% \left[1 - \left(\frac{I_f}{R_f} \frac{R_n}{I_n} \right)^{\frac{1}{2}} \right] \qquad \text{(AM1-2)}$$

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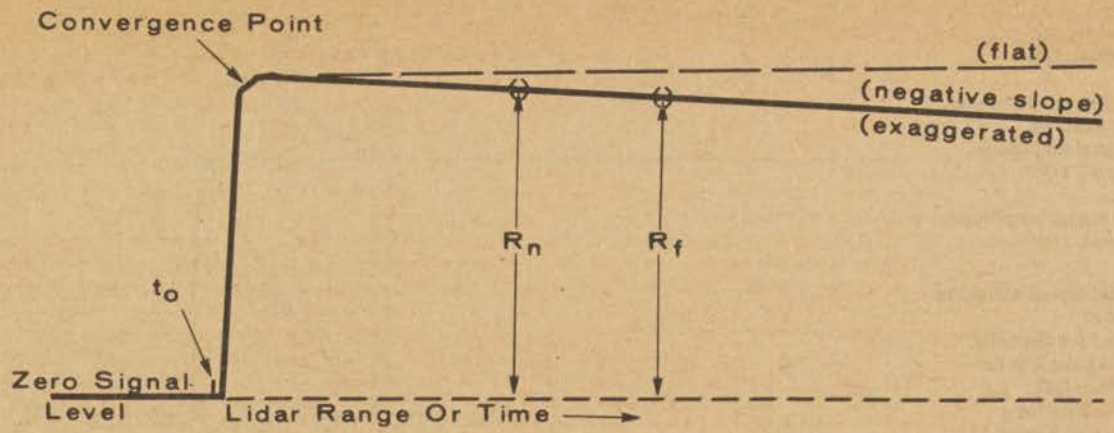
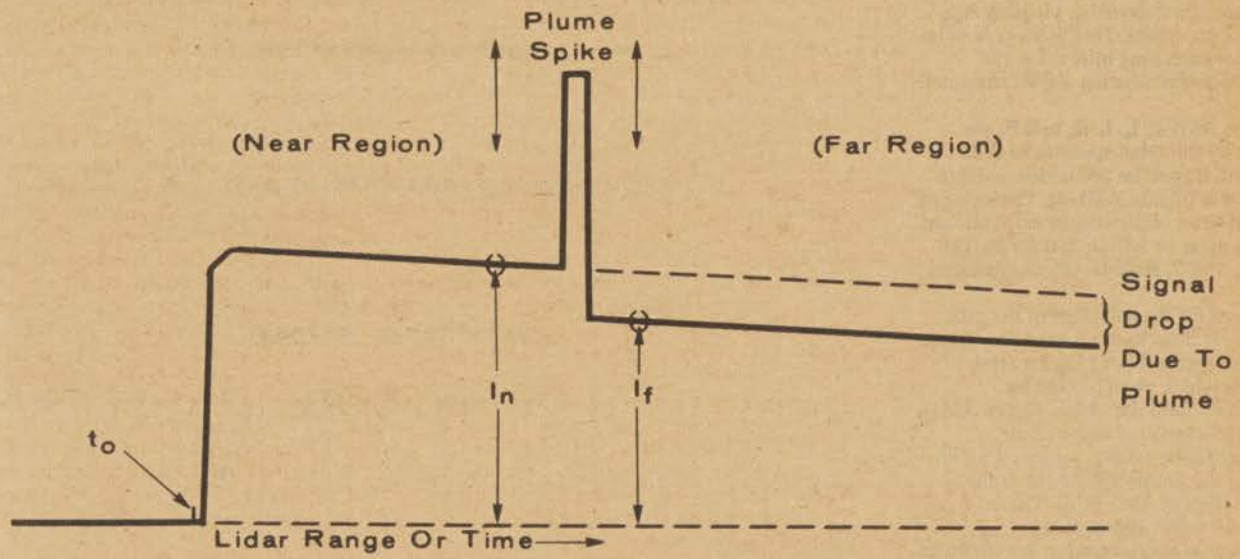


(a) Clear-air reference measurement made near the plume in order to account for the prevailing non-ideal atmospheric conditions. The signal is $1/R^2$ corrected.



(b) Lidar return (plume data) signal showing the effect of plume attenuation on the backscatter signal in the far region. The signal is $1/R^2$ corrected.

1 Nanosecond=10^{-9} Seconds. Range=Speed of Light·Time/2

()=Pick interval 100 nanoseconds in length.

Figure AM1-4 Traces Of Lidar Backscatter Signals

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where:

I_n = near-region pick interval signal amplitude, plume data signal, $1/R^2$ corrected,

I_f = far-region pick interval signal amplitude, plume data signal, $1/R^2$ corrected,

R_n = near-region interval signal amplitude, ambient-air reference signal, $1/R^2$ corrected, and

R_f = far-region pick interval signal amplitude, ambient-air reference signal, $1/R^2$ corrected.

the lidar backscatter signal traces shown in Figure AM1–4 are corrected or mathematically compensated for the $1/R^2$ signal amplitude decrease, where R is the lidar range function [Reference 5.1].

The $1/R^2$ correction mechanism for a backscatter signal is depicted in Figure AM1–5 [Reference 5.1]. Each time interval in the digital signal, beyond or later in time than t_o, shall be subjected to the $1/R^2$ correction. The signal amplitude, A_n, of the nth time interval is to be multiplied by the square of the time, elapsed from t_o, defining that interval. In Figure AM1–5, the uncorrected signal amplitude, A_n is multiplied by the square of the time of the nth interval, t_n, yielding $A_n t_n^2$, the corrected amplitude. This process is to be carried out for each time interval in the backscatter signal producing a $1/R^2$ corrected signal.

In Equation AM1–2, I_n, I_f, R_n and R_f are each chosen by the lidar operator or data analyst. I_n and I_f shall be 100 nanosecond in length minimum [Figure AM1–4]. The value of I_n must be, in time, within the interval chosen for R_n, and I_f must be within that for R_f. The lenghts of R_n and R_f shall be 100 nanosecond minimum.

The criterion for the selection of the pick intervals is best described by example. Figure AM1–6 shows 3 actual lidar backscatter return signals which were plotted by computer from a field data tape. Figure AM1–6(a) is the $1/R^2$-corrected ambient air reference backscatter signal recorded for use in calculating the plume opacity from the plume signal [Figure AM1–6(b)]. These signals contain slight atmospheric backscatter noise as observed in the ripple or variations in amplitude to the right of the point of convergence. The near-region pick interval, I_n, is to be chosen as close to the plume as practicable with the signal quality in the chosen interval being of minimum overall amplitude and minimal amplitude variation. The reference signal pick interval, R_n, must be chosen for the same time interval as I_n as depicted in Figure AM1–6(a.b).

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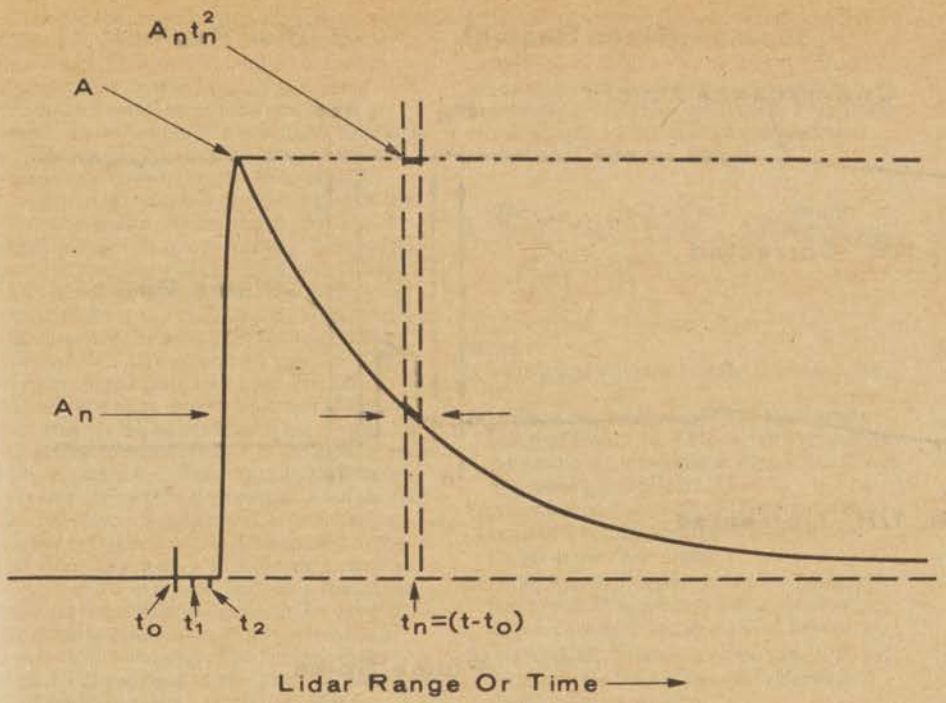
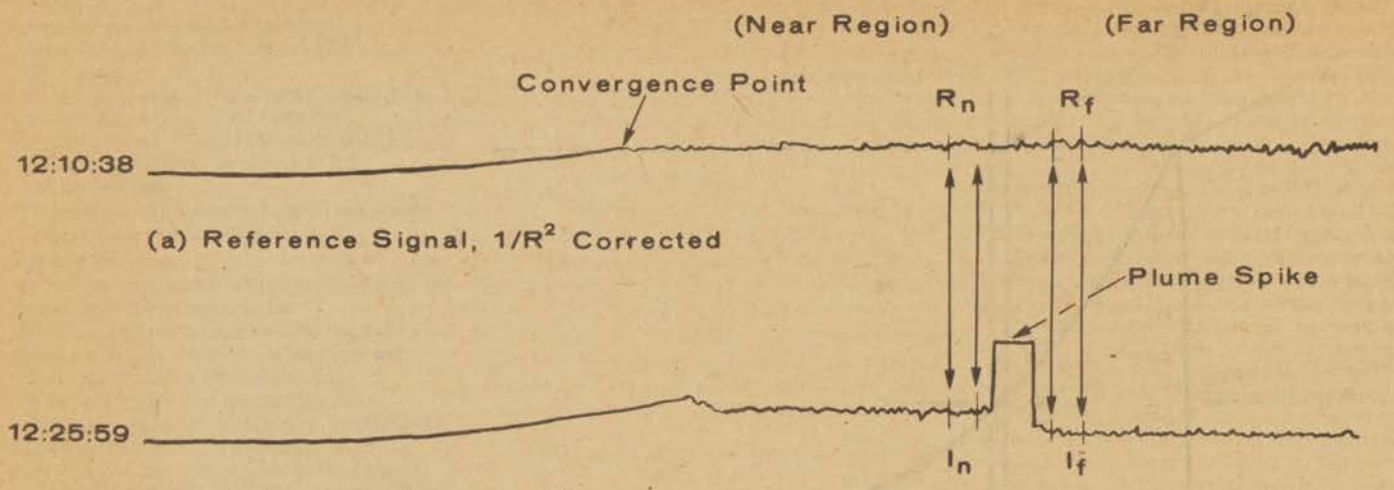


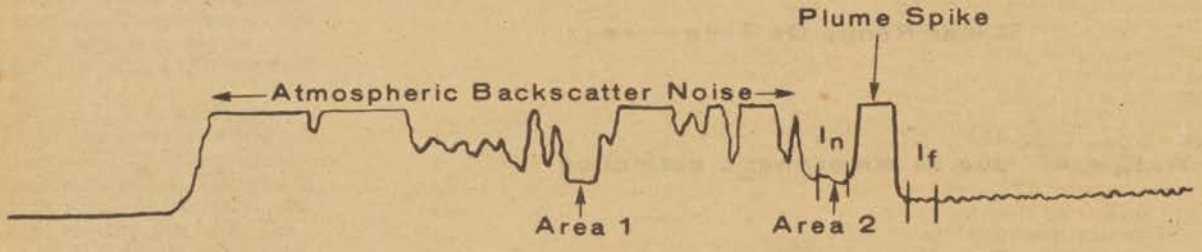
$A_n t_n^2 < A^2$ due to atmospheric extinction

$$R=ct/2,\ R^2=c^2t^2/4,$$

$$(1/R^2)\cdot R^2 = \frac{1}{\frac{c^2t^2}{4}} \cdot \frac{c^2t^2}{4} = (1/t^2)\cdot t^2 = 1$$

Figure AM1-5 $1/R^2$ Correction Mechanism





NOTES: (1) Minimum distance from convergence point to the plume spike is 50 meters.
(2) All pick intervals are 100 nanoseconds wide.

(a) Clear Air Reference Video Signal, $1/R^2$-Corrected, showing slight atmospheric noise. This reference signal is for (b). R_n, R_f are chosen as indicated coincident with I_n, I_f.

(b) Lidar-return Video Signal, $1/R^2$-Corrected, showing slight atmospheric noise, plume spike and the decrease in atmospheric backscatter signal level in the far region due to the opacity of the plume encountered. I_n, I_f are chosen as indicated.

(c) Lidar-return Video Signal, $1/R^2$-Corrected , showing significant atmospheric noise in the near region, plume spike, minimal noise in the far region and the decrease in far region signal level due to the opacity of the plume encountered. I_n, I_f are chosen as indicated.

Figure AM1-6. Computer Plots of Lidar A-Scope Backscatter Signals

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The far-region pick interval, I_f, is also to be chosen as close to the plume's far side as practicable. The quality of the backscatter signal in this chosen interval is to be of minimum overall amplitude and minimal amplitude variation. The far-region reference signal interval, R_f, must be chosen over the same interval as I_f [Figure AM1–6(a,b)].

Figure AM1–6(c) is a computer plot of the lidar backscatter return signal showing significant levels of atmospheric backscatter noise in the near-region which was due to fugitive dust blowing in front of the lidar. In this case there are only two areas in the near region where the pick interval, I_n, can be selected, i.e., areas 1 and 2 as shown. The average signal amplitude over the 100-nanosecond time interval, in each of these two areas is the same. However, in applying the above cirterion, Area 2 is the best interval to be used for the plume opacity calculation (the respective reference signal is not shown). The far-region pick interval, I_f, is chosen as shown in Figure AM1–6(c) according to the criterion. Any desired pick interval, such as areas 1 and 2 in Figure AM1–6(c), that is not 100 nanoseconds wide shall not be used in the opacity calculation. If no such interval exists in the near-region or the far-region then the plume backscatter signal shall not be used for the opacity calculation. Many additional field-oriented examples of pick interval selection are available in Reference 5.1.

Once the pick intervals have been chosen, the respective amplitudes or values of each is calculated. The amplitude of I_n shall be calculated by the average of the individual amplitudes of the signal sampling time segments or intervals (10 nanoseconds in length) that comprise the respective pick interval (100 nanoseconds minimum length) according to Equation AM1–3.

$$I_n = \frac{1}{m} \sum_{i=1}^{m} I_i \qquad \text{(AM1-3)}$$

where:

I_i = the amplitude of the ith sampling segment or interval,

Σ = sum of the individual values,

m = number of sampling segments in the pick interval (m ≥ 10),

I_n = average amplitude of the near-region pick interval.

The standard deviation, S_{In}, of this set of 10 (minimum) individual amplitude segments (near region) shall be calculated according to Equation AM1–4.

$$S_{In} = \left[\sum_{i=1}^{m} \frac{(I_i - I_n)^2}{(m-1)} \right]^{\frac{1}{2}} \qquad \text{(AM1-4)}$$

The values of I_f, R_n, R_f, S_{If}, S_{Rn}, S_{Rf} shall be calculated using this same procedure [Equations AM1–3 and AM1–4].

The plume opacity, O_p, shall be calculated according to Equation AM102. Opacity in percent is calculated by multiplying the square root of the expression in the brackets of Equation AM1–2 by 100.

The standard deviation, S_o, of each opacity value, O_p, shall be calculated. It is obtained by a multi-variable function which is given in terms of the standard deviation of the individual variables. Given Equation AM1–2 for opacity and the standard deviations previously calculated, the standard deviation of the opacity value shall be calculated according to Equation AM1–5.

$$S_o = \left[\left(\frac{\partial O_p}{\partial R_n} \right)^2 S_{Rn}^2 + \left(\frac{\partial O_p}{\partial R_f} \right)^2 S_{Rf}^2 + \left(\frac{\partial O_p}{\partial I_n} \right)^2 S_{In}^2 + \left(\frac{\partial O_p}{\partial I_f} \right)^2 S_{If}^2 \right]^{\frac{1}{2}} \qquad \text{(AM1-5)}$$

where:

S_o = standard deviation of the opacity value, O_p.

$\delta O_p / \delta R_n$ = partial derivative of the opacity function [Equation AM1–2] with respect to the ambient-air reference signal variable in the near-region [Figure AM1–6].

S_{Rn} = standard deviation of the pick-interval segments for the ambient-air reference signal in the near-region.

$\delta O_p / \delta R_f$ = partial derivative of the opacity function with respect to the ambient-air reference signal variable in the far-region.

S_{Rf} = standard derivation of the pick-interval segments for the ambient-air reference signal in the far-region.

$\delta O_p . \delta I_n$ = partial derivative of the opacity function with respect to the plume backscatter signal variable in the near-region.

S_{In} = standard deviation of the pick-interval segments for the plume backscatter signal in the near-region.

$\delta O_p / \delta I_f$ = partial derivative of the opacity function with respect to the plume backscatter signal variable in the far-region.

S_{If} = standard deviation of the pick-interval segments from the plume backscatter signal in the far-region.

The calculated values of O_p, S_o, I_n, R_n, I_f, R_f, S_{Rn}, S_{Rf}, S_{In}, and S_{If} shall be recorded as a permanent record along with the time that the lidar recorded the plume backscatter signal.

2.4.2 *Reduction Mechanism for Opacity Data.* As given in Section 2.2. the temporal length of an individual data run may extend from 1 or 2 minutes, such as from intermittent sources, to over an hour or even longer depending usually upon the characteristics and variablity of the source emissions. The lidar data rate is nominally set at one opacity measurement every 10 seconds throughout a given data run.

The mechanism by which the set of individual opacity values, O_p, comprising a given data run are reduced, is a function of the air quality regulation to be enforced. When a given state air pollution control regulation specifies a maximum permitted opacity value over a fixed time period (example: plume opacity shall not exceed 50% for a continuous period of no more than 5 minutes in any 60 consecutive minutes), then that time period or interval shall be used in the reduction of the opacity data. If the respective regulation specifies an opacity limit for an I-minute interval and the data run were I minutes in length, then all the opacity values, measured on the 10 second repetitive cycle or data rate, calculated for this interval shall be averaged yielding an average opacity, O_p, for this interval. If the average opacity is greater than that permitted by the regulation, then the souce is in violation.

The average plume opacity, O_p, for the I-minute time interval shall be calculated as the average of the consecutive (in time) individual lidar-measured opacity values, O_p, by using Equation AM1–6. (The I-minute time interval is called the "averaging interval".)

$$\bar{O}_p = \frac{1}{I} \sum_{k=1}^{I} O_{pk} \qquad \text{(AM1-6)}$$

where:

O_{pk} = the kth opacity value in the (I-minute) averaging interval,

Σ = the sum of the individual opacity values,

I = the number of individual opacity values contained in the averaging interval,

$\bar{O}_p$ = average opacity over the averaging interval.

If the respective regulation specifies an opacity limit for an I-minute interval and the data run were J-minutes in length (J > I), then a running average or progressive average shall be used to reduce the lidar opacity values for a given data run. The mechanism for the running average is shown in Figure AM1–7. The I-minute interval shall be maintained constant in length (temporal) being moved along the entire length of the J-minute data run. Once the opacity values, from 1 to i [Figure AM1–7(a)] have been averaged for the first I-minute time interval by Eq (AM1–6), the running average is performed by successively subtracting the mth value and adding the n+1 value [Figure AM1–7(d)] and calculating the average for those i opacity values again, then subtract the m+1 value and add the n+2 value and perform the calculation again, etc.

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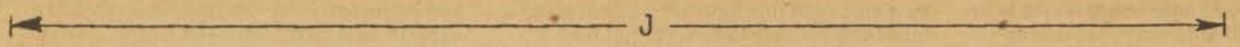
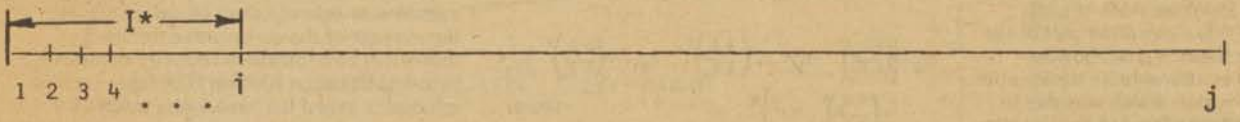
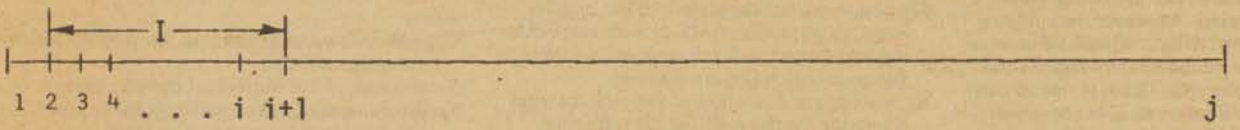
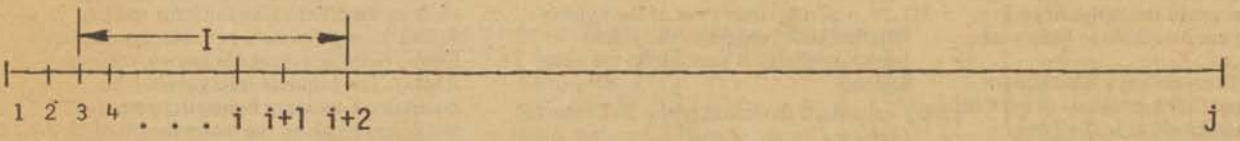




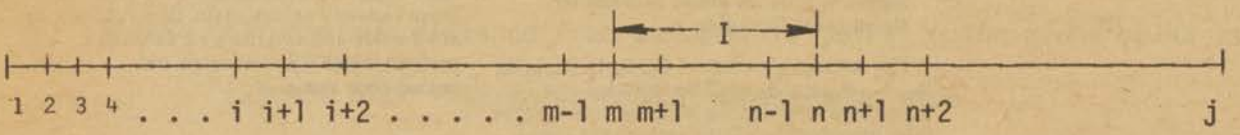
(a) First average opacity, $\overline{O}_p$, calculated for the i opacity values



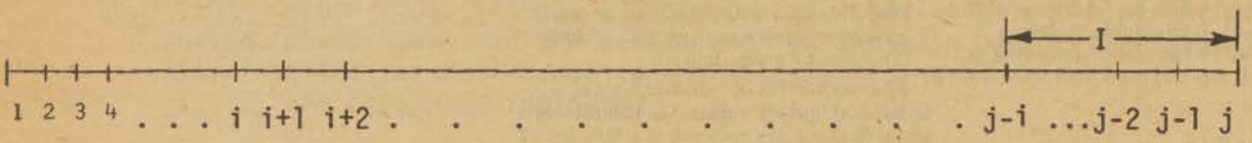
(b) Second average opacity calculated, first opacity value subtracted and the (i+1) value added.



(c) Third average opacity calculated, second opacity value subtracted and the (i+2) value added.



(d) The mth average opacity calculated.



(e) The last average opacity calculated over the time interval I.

*I is the averaging interval established by State/Local Regulation.

Figure AM1-7. Pictoral Diagram of the Running Average.

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The running average is a computational tool which locates the I-minute interval within J that has the highest average opacity. This applies directly to the example given above, i.e., the 5-minute period (I=5) in any 60 consecutive minute period (J=60). The number of values averaged in this manner will not always be equal to a constant i, but the time interval I shall be the same throughout J. A few of the i values may possibly be rejected due to the Opacity Data Acceptance/Rejection Criterion presented in Section 2.4.3 of this method. When the applicable control regulation specifies a maximum opacity value as a function of time, then the lidar opacity values, measured on the nominal 10-second data rate, are to be reduced accordingly. The time intervals over which the opacity values exceed the maximum given in the control regulation, shall be summed together within the specified consecutive or overall time period. If the summed time period exceeds the allowable time period the source is in violation. An example of this is the following: suppose the state regulations states that short-term occurrences shall not exceed 50% opacity from a period aggregating to no more than 5 minutes in any 60 consecutive minutes and/or no more than 20 minutes in any 24-hour period. The time intervals over which the plume opacity exceeded 50%, are summed together. If the sum of the intervals exceeds 5 minutes in any 60 consecutive minutes then the source is in violation. The same holds true if the sum of the individual time intervals exceeds 20-minutes in any 24-hour period.

If there is no applicable air pollution control regulation for the lidar data to be reduced, then the 6-minute time interval of Reference Method 9 shall be used. The running average technique described above, shall be used to calculate the 6-minute interval which has the highest average opacity within the given data run. Referring to Figure AM1–7, I is equal to 6 minutes and J is 6 minutes or longer.

The opacity of intermittent visible emission and cyclic processes shall be measured over a period of time considered adequate to determine compliance/noncompliance with the applicable regulation. A cyclic process is defined in Figure AM1–8.

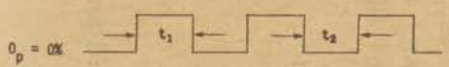

Figure AM1-8 Cyclic Process

If the regulation, such as a state or city regulation in an approved state implementation plan (SIP), specifies an opacity limit as a function of time, the lidar-measured opacity values shall be added together in accordance with the requirements of the regulation.

If there is no applicable air pollution control regulation then the 6-minute interval will be used as described above. If the time period of a given cycle is less than 6 minutes, then the opacity values for this period shall be added to sufficient number of zeros to obtain the 6-minutes period. The average opacity is computed from the opacity values and the added zeros. For example, if a particular cycle was 4 minutes in length there would be 24 opacity values (4 minutes×6 opacity values/minute). Then 12 zeros would have to be added to bring the total to the 36 required values (6 minutes×6 opacity values/minute).

In support of 40 CFR Part 51 with opacity limits as a function of time, this method shall be employed by summing the respective opacity measurement time intervals for the required period of time.

2.4.3 *Opacity Data Acceptance/Rejection Criterion:* The plume opacity, O_p, is calculated from the lidar backscatter signal data using Equation AM1–2. The standard deviation, S_o, of each respective opacity value is calculated using Equation AM1–5. S_o is an indicator of the quality or integrity of the optical backscatter signal segments from the near-region and the far-region of the lidar line-of-sight [Figure AM1–4], and is termed an atmospheric noise indicator.

If S_o is greater than 8%, lidar backscatter signal is not reliable (too noisy) for an accurate opacity measurement [Reference 5.1]. In this case the respective opacity value shall be discarded.

For a given data run, if the average of the respective individual standard deviation values, S_o, of a set of opacity values in an averaging interval, I, is greater than 8% (based on 100% opacity full scale) then the average opacity, O_p, for that interval shall be rejected and discarded from whole data run. This average is calculated using Equation AM1–7.

$$\bar{S}_o = \frac{1}{1}\sum_{k=1}^{1} S_{ok} \qquad \text{(AM1-7)}$$

where:

S_{ok} = the kth standard deviation value of the data set I, Σ = the sum of the individual standard deviations,

1 = the number of individual standard deviation values in a given data set,

S_o = the average standard deviation for a given data set.

2.4.4. Elevation/Azimuth Angle Correction Criterion. To ensure true plume opacity for a given plume under-test, the effect of the evaluation angle (angle of inclination of the lidar transmitter/receiver) of the lidar firing through a vertical plume shall be taken into consideration in the opacity calculation. The elevation angle is measured with respect to the horizontal reference line. As shown in Figure AM1–9, the optical plume opacity is typically measured with the lidar along the inclined path L. The opacity value ultimately required is along path P, the horizontal thickness of the plume.

An individual lidar-measured plume opacity value, O_p, shall be corrected for elevation angle if the lidar transmitter/receiver elevation or inclination angle, β_p, is greater than or equal to the value calculated in Equation AM1–8.

$$\beta_p \geq \cos^{-1}\left[1 - \frac{1.0}{O_p}\right], \; O_p \text{ in } \%, \qquad \text{(AM1-8)}$$

If β_p is greater than or equal the expression on the right side of Equation AM1–8 then the opacity value, O_p measured along the lidar path L shall be mathematically modified or corrected to obtain the opacity value, O_{pc}, for the actual plume (horizontal) path or thickness, P, by using Equation AM1–9.

$$O_{pc} = O_p \cos \beta_p \qquad \text{(AM1-9)}$$

This correction keeps the maximum difference of (O_p–O_{pc}) to approximately 1% (full scale). A given O_{pc} shall be used in place of its respective O_p in the Reduction Mechanism [Section 2.4.2].

When measuring the opacity in the residual region of an attached stream plume [Section 2.2.1 of this Method], the lidar shall be positioned in relation to the stack so that the lidar line-of-sight is nearly perpendicular to the direction of the horizontal drift of the plume, to the extent practicable [Section 2.1 of the Method]. This procedure will essentially keep the lidar line-of-sight distance through the plume equal to the actual plume thickness at the point of opacity measurement. However, if the direction of drift of the plume should change so that the lidar line-of-sight does not pass through the plume nearly perpendicular, then an azimuthal angle correction shall be made to the calculated opacity values obtained under this condition. The geometry of this correction is defined in Figure AM1–10. This correction shall also apply to the other plume types if the opacity measurement is made more than 3 source diameters away from the source outlet. The drift angle, ϵ, is obtained from Equation AM1–10.

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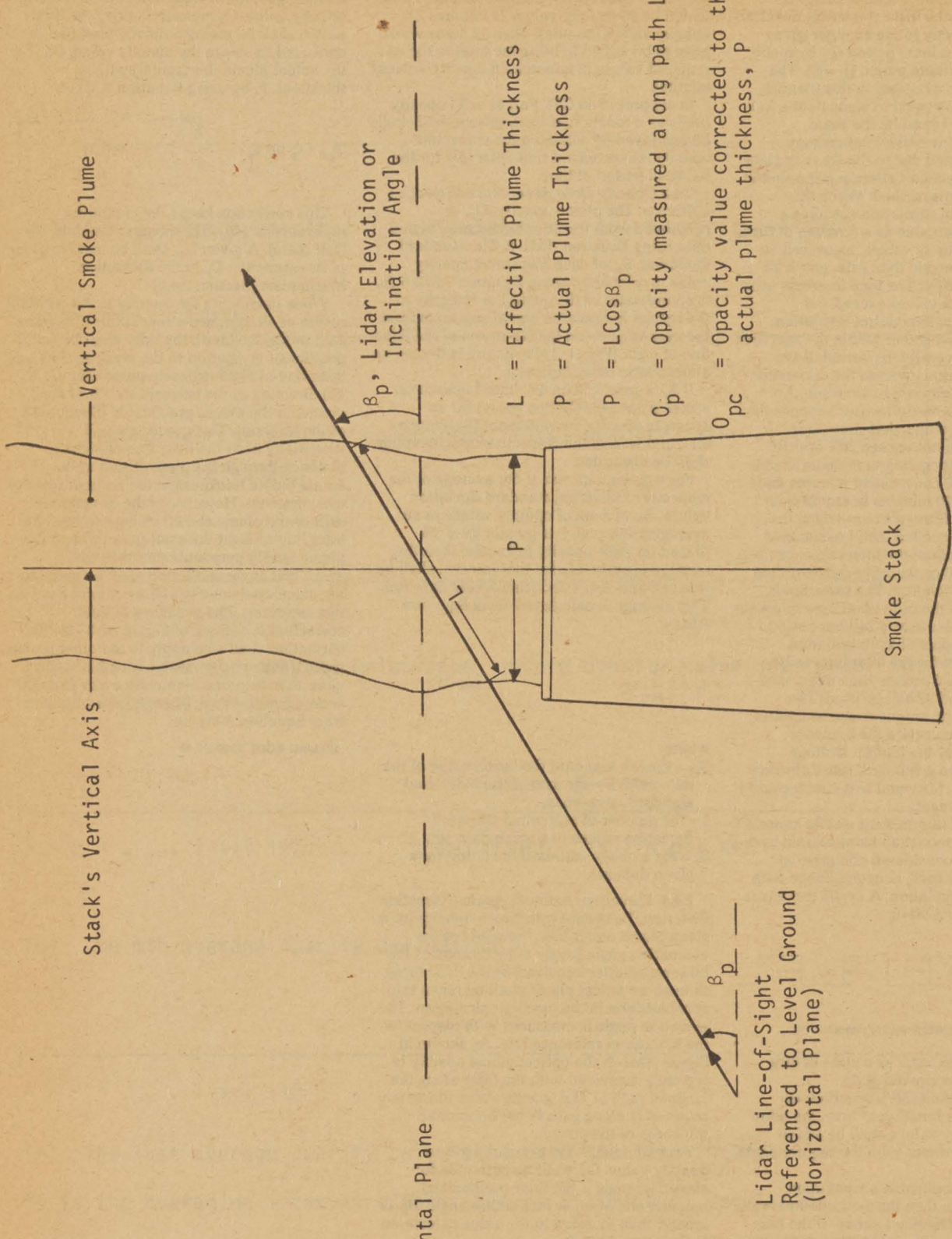

Figure AM1-9. Elevation Angle Compensation for Vertical Plumes.

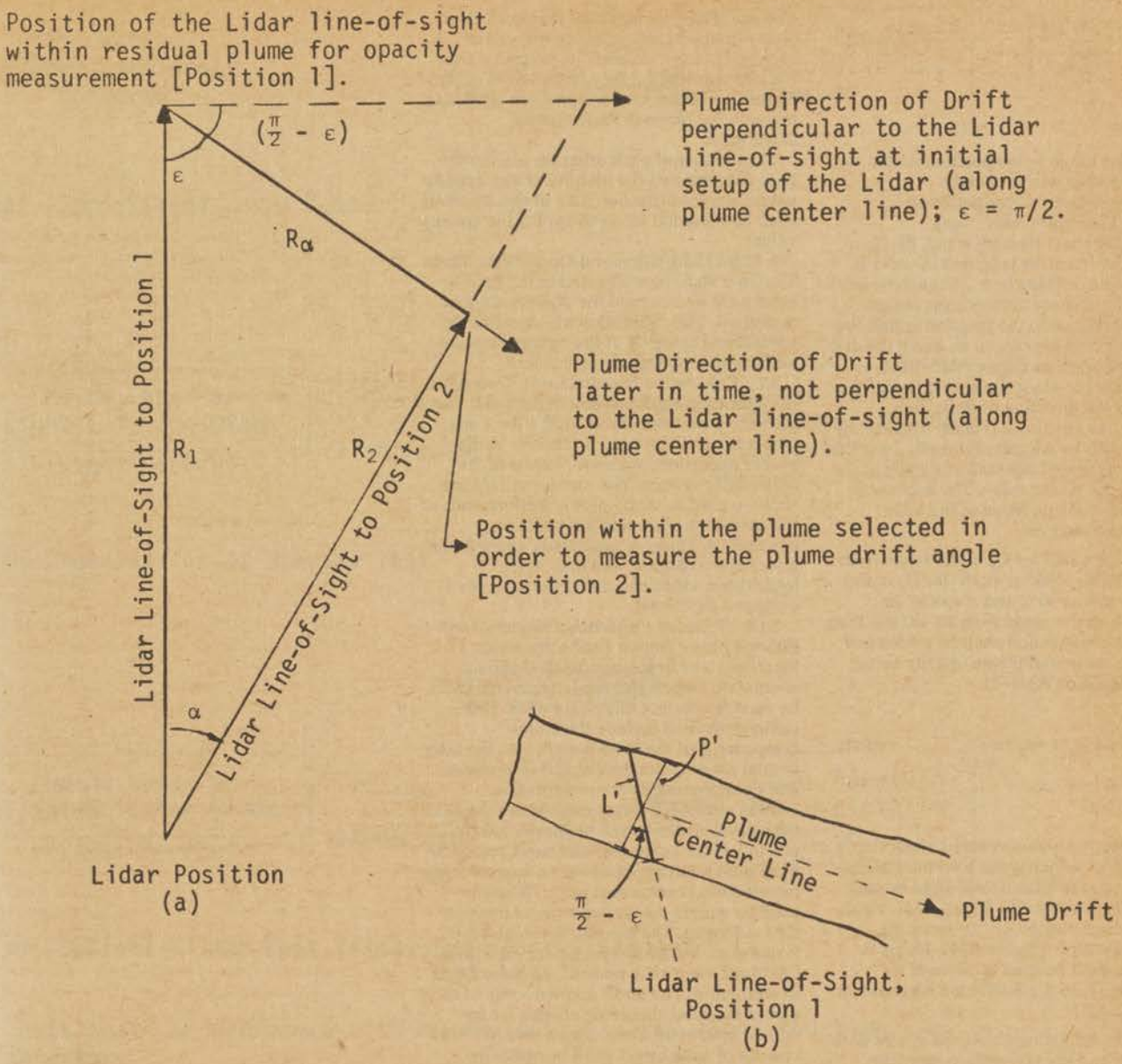

Figure AM1-10. Correction in Opacity for Drift Residual Region of an Attached Steam Plume.

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$$\epsilon = \cos^{-1}\left[\frac{R_1^2 + R_\alpha^2 - R_2^2}{2R_1R_\alpha}\right] \quad \text{(AM1-10)}$$

where:

R_1 = the lidar range to the position within the residual plume where opacity measurements are being performed. Position 1 in Figure AM1–10(a).

α = azimuthal angle through which the lidar transmitter/receiver is turned in order to measure the drift angle; $\alpha \geq 5°$ as measured at the lidar transmitter/receiver mount.

R_2 = the lidar range to the position within the plume selected in order to measure the drift angle. Position 2 in Figure AM1–10(a).

$R\alpha$ = the distance along the center line of the plume, in the direction of drift, from Position 1 to Position 2 [Figure AM1–10(a)].

R_1 and R_2 shall be measured directly from the respective plume backscatter signals at the center of the plume spike. The angle α is measured at the pedestal of the lidar transmitter/receiver.

If $\epsilon \geq 100°$ or $\epsilon \leq 80°$ for O_p in the range from 50% to 100%, if $\epsilon \geq 105°$ or $\epsilon \leq 75°$ for O_p in the range from 20% to 40%, and if $\epsilon \geq 120°$ or $\epsilon \leq 60°$ for O_p in the range from 1% to 20%, then the azimuthal correction shall be performed on the lidar measured plume opacity value, O_p, using Equation AM1–11.

$$O_{pc} = O_p \cos\left(\frac{\pi}{2} - \epsilon\right) = O_p \sin\epsilon \quad \text{(AM1-11)}$$

where:

O_p = the opacity value measured along the lidar path L^1, which is the thickness of the plume along the lidar line-of-sight through the plume, Position 1 in Figure AM1–10(b).

O_{pc} = the actual plume opacity along the corrected path P^1 [Figure AM1–10(b)]. A given O_{pc} shall be used in place of its respective O_p in the Reduction Mechanism [Section 2.4.2.].

There may be testing situations where both the azimuth and the elevation corrections shall be performed. In this case the elevation angle correction is made first and then the azimuth angle correction is carried out on the opacity value already corrected for elevation.

2.4.5. Lidar Data Analysis Record. While the lidar data analysis and reduction are being conducted permanent records shall be initiated and maintained. In these records, which may be a laboratory logbook or the paper output from a computer printer, the measured or calculated values for I_n, S_{In}; I_f, S_{If}; R_n, S_{Rn}; R_f, S_{Rf}; R_s, β_p, ψ, $R\delta\psi$; R_1, R_2, α, ϵ; O_p, S_o, O_{pc}, along with the respective units (meters, nanoseconds, etc), shall be recorded for each final opacity calculation. It shall be clear, from these records, what data processing operations were used to calculate the final opacity value from a given plume data signal. During the data reduction process (Section 2.4.2 of this Method) the Value of 0_p (which was calculated from the applicable O_p and O_{pc} values) and S_o shall be documented along with the applicable parameters used in performing the running average. The date and time that each lidar data signal was obtained, its respective assigned control number, its magnetic tape file address and the tape file address of the respective reference measurement shall also be recorded for each final opacity calculation.

The identity of each criterion used in the data analysis and the identity of any opacity values rejected [Section 2.4.3 of this Method] shall be recorded for each applicable opacity value.

3. Lidar Calibration and Operational Error. The lidar shall be calibrated in the field to ensure the accuracy of the opacity data as measured. The calibration also verifies the operational integrity of the optical receiver and the analog/digital electronics.

3.1 Calibration Requirements. Two types of calibration shall be used in the field. The primary calibration conducted once a year minimum, shall be used to directly verify proper operation and performance of the entire lidar system. The routine calibration shall be used to verify proper performance of the optical receiver and associated electronics. These requirements apply to the linear video channel and also to the logarithmic video channel if the lidar is so equipped (optional).

3.1.1 *Primary Calibration Requirement.* Either a plume from a smoke generator (Section 3.3 of Reference Method 9) or simulation targets (fabricated screens) shall be used to conduct this calibration. This calibration shall include the major components of the lidar system, i.e., the laser, optical receiver, analog/digital electronics and data processing instrumentation.

If the simulated target method is selected then these screens shall be fabricated by placing either a non-metallic mesh screen or a metallic mesh material over a narrow frame (wood, metal extrusions, etc.). The frame shall be square measuring 1 meter on each side minimum. The metallic mesh and the frame shall be lightly spray-painted with a flat black paint with none of the holes filled in with paint. The mesh and wire size of the screen material should be chosen for an optical opacity of about 25, 50, and 75%. The opacity of each target shall be optically measured and recorded in a lidar logbook.

3.1.2 *Routine Calibration Requirements.* In the routine calibration of the lidar which quickly verifies proper performance of the photo-multiplier (PMT) detector and digitizer, there are six parameters that shall be directly verified. This is accomplished by either of two techniques.

3.1.2.1 *Technique 1*—Use of neutral density optical filters to simulate opacity with a He-Ne laser (beam chopped with a mechanical chopper) or a light-emitting diode (controlled with a pulse generator) as the optical (red light for a lidar containing a ruby laser) source. The narrow band filter (6943 Angstroms peak) shall be removed [Section 4 of this Method] from its position in front of the PMT detector. Neutral density filters of nominal opacities of 0, 20, 40, 60 and 80% shall be used. The recommended test configuration is depicted in Figure AM1–11.

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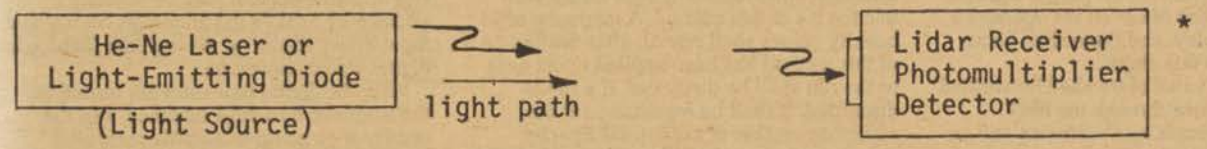
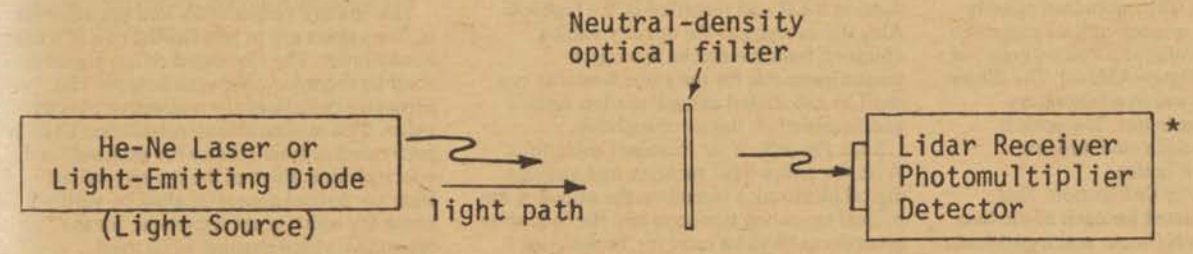
(a) Zero-Signal Level Test



(b) Clear-Air or 0% Opacity Test



(c) Optical Filter Test (simulated opacity values)

*Tests shall be performed with no ambient or stray light reaching the detector.

Figure AM1-11. Recommended Test Configuration for Technique 1.

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3.1.2.2 *Technique 2*—Use of an optical generator (built-in calibration mechanism) that contains a highly-controlled light-emitting-diode (red light for a lidar containing a ruby laser) which, by injecting an optical signal into the lidar receiver immediately ahead of the PMT detector, simulates an actual lidar return from a given atmospheric path through a plume or in clear air. The optical generator shall simulate optical signals representing clear air or 0% opacity, 20, 40, 60, and 80% opacities (nominal). Optional opacities of 10%, 30%, etc., may also be included.

The six parameters are the following:

1. The zero-signal level (receiver signal with no optical signal from the source present) shall be verified for proper digitizer adjustment or video offset on the operator's oscilloscope display, and there shall be no spurious noise in this singal.

2. The opacity value of 0% shall be verified from the light source through the PMT detector, data processing electronics and as calculated by computer.

3. A minimum of 4 opacity (nominally 20, 40, 60, and 80%) values shall also be verified through the lidar detector, data processing electronics and as calculated by computer.

3.1.2.3 *Laboratory Calibration.* The neutral density filters and the optical generator shall be calibrated for actual opacity once per month while in use. The calibrated opacity value of each filter or each optical generator simulated opacity value shall be recorded in the lidar logbook [Figure AM1–3]. The filters shall be calibrated within a laboratory accuracy of ± 2% or better. The optical generator shall be calibrated with an accuracy of ± 1% or better.

3.1.2.4 *Frequency of Calibration.* This calibration is conducted for each of the two video signal channels (linear and logarithmic [if so equipped] channels) as they are used for data collection. The calibration shall be performed for each emissions source tested. For one given source-under-test the calibration shall be performed once (minimum) every 4-hour period.

3.2 *Calibration Procedures.* The primary and routine calibration tests shall be conducted using the following procedures.

3.2.1 *Procedure for Primary Calibration.* Using either a plume from a smoke generator (in-stack transmissometer properly calibrated) or the simulation targets, this calibration test is to be performed in the field with calm (as practicable) atmospheric conditions. The lidar will be placed in such a position that the obstruction-free distance from the lidar to the selected object is a minimum of 200 m. A minimum distance of 100 m (obstruction free) shall be provided behind the selected object. The convergence distance for the laser transmitter and the receiving telescope shall be measured and recorded. The convergence distance shall be less than 100 m. The convergence distance is defined as that distance from the lidar where the laser pulse has just fully entered the telescope's field of view [Reference 5.1].

The simulated targets must be placed perpendicular to and coincident with the lidar line-of-sight at sufficient height above the ground to avoid ground-level dust contamination. (The stack exit on a smoke generator is about 15 ft above ground level.) An ambient-air reference measurement (Section 2.2.3) shall be recorded just prior to conducting the calibration test. The lidar shall then be aimed through the center of the plume within 1 stack diameter of the exit, or through the geometric center of the simulation target selected. The lidar shall be set in operation for a 6-minute data run at a nominal pulse rate of 1 pulse every 10 seconds. The data from each backscatter return signal shall be recorded on magnetic tape. (Each respective opacity value obtained from the smoke generator transmissometer's output mechanism shall be recorded in a logbook, in temporal coincidence with each lidar opacity value.) The data shall be analyzed and reduced in accordance with Section 2.4 of this method. A minimum of 24 opacity values shall remain after Section 2.4.3 of this method has been applied to the data or the run shall be discarded. If a run is discarded, it shall be repeated until the minimum number of acceptable opacity values for a given data run are recorded. This test shall be performed for 0% (clean air), 25, 50 and 75% nominal opacities where the latter three are obtained by using the smoke generator plume or simulation targets.

The average of the lidar opacity values recorded during a 6-minute calibration run shall be calculated [Equation AM1–6 of Section 2.4.3] and recorded in the logbook. Also the average of the opacity values obtained from the smoke generator transmissometer for the same 6-minute run shall be calculated using Equation AM1–6 and recorded on the same logbook.

3.2.2. *Procedure for Routine Calibration.* With the entire lidar receiver and analog/digital electronics turned on the adjusted for normal operating performance, the following procedures shall be used for Techniques 1 and 2, respectively.

Procedure for Technique 1. This test shall be performed with no ambient or stray light reaching the PMT detector. The zero-signal level shall be measured and recorded (on magnetic tape) as indicated in Figure AM1–11(a). This simulated clear-air or 0% opacity value shall be tested by using the selected light source depicted in Figure AM1–11(b). The light source either shall be a He-Ne laser with the beam mechanically chopped or a light emitting diode controlled with a pulse generator (rectangular pulse). (A laser beam may have to be optically attenuated so as not to saturate the PMT detector.) This signal level shall be measured and recorded on magnetic tape. The opacity value is calculated by taking 2 100-nanosecond pick intervals about 1 microsecond apart in time, and using Equation AM1–2 setting the ratio $R_n/R_f = 1$. This calculated value shall be recorded in the lidar logbook.

The simulated clear-air signal level is also employed in the optical test using the neutral density filters. Using the test configuration in Figure AM1–11(c), each neutral density filter is to be separately placed into the light path from the light source to the PMT detector. The signal level shall be measured and recorded on magnetic tape. The opacity value for each filter is calculated by taking the signal level for that respective filter (I_f), dividing it by the 0% opacity signal level (I_n) and performing the remainder of the calculation by Equation AM1–2 with $R_n/R_f = 1$. The calculated opacity value for each filter shall be recorded in the lidar logbook.

The file address for each filter signal recorded on magnetic tape shall be recorded in the lidar logbook.

Procedure for Technique 2. With the entire lidar receiver and analog/digital electronics turned on and adjusted for normal operating performance, the optical generator is turned on and the the signal, corrected for $1/R^2$, selected with no plume spike signal and the opacity value equal to 0%. This simulated clear-air atmospheric return signal is displayed on the system's oscilloscope display. The lidar operator then makes any fine adjustments that may be necessary which may include detector high voltage and input-offset values on the digitizer (analog-to-digital signal converter).

With the digital tape recorder turned on, the magnetic data tape installed, and the computer program-selectable parameter values read into the computer memory, the system is ready for the calibration test. Either the linear or the optional logarithmic video channel shall be selected depending on which will be used in the measurement of stationary source emissions opacity [Reference 5.1]. If both channels are expected to be used, then both shall be checked for calibration.

The opacity values of 0% and the other four or five values are to be selected one at a time in any order. The simulated return signal data shall be recorded on magnetic tape. The computer calculates the respective opacity value. This measurement/calculation shall be performed at least 3 times for each selected opacity value. Each of the opacity values from the optical generator shall be verified, while the order is not important, for the respective video channel to be used.

The calibrated optical generator opacity value for each selection shall be recorded in the lidar logbook [Figure AM1–3]. The average of the three opacity values calculated for each simulated opacity selection shall be recorded in the logbook. The file location or address on the magnetic data tape for each respective simulated video signal shall also be recorded in the logbook.

3.3 *Calibration Error.* The permissible calibration error for the primary and routine calibration tests are the following:

3.3.1 *Primary Calibration Error.* If the lidar-measured average opacity for each data run is not within ± 3% (full scale) of the respective smoke generator's average opacity or the measured opacity of the respective simulation target as follows:

Linear Channel—± 3% over the opacity range of 0% through 80%

Logarithmic Channel (Optional)—± 3% over the opacity range of 20% through 80%

then the lidar shall be considered out of calibration. Remedial action shall be taken to correct any equipment or computer problems that may be present. The primary calibration test shall be performed again. This process shall be repeated until the above conditions are fulfilled.

3.3.2 *Routine Calibration Error.* If the lidar-measured average opacity for each neutral density filter (Technique 1) or optical

generator selection (Technique 2) is not within ± 3% (full scale) of the respective laboratory calibration value as follows:

Linear Channel—± 3% over the opacity range of 0% through 80%
Logarithmic Channel (Optional)—± 3% over the opacity range through 80%

then the lidar shall be considered out of calibration. Remedial action shall be taken to correct any equipment or computer problems that may be present. The routine calibration test shall be performed again. This process shall be repeated until the above conditions are fulfilled.

4. *Specification for Basic Lidar System.* The performance/design specifications for a basic lidar system is provided in this section. This specification is directly addressed to a lidar system using a ruby laser as the optical transmitter. Another type of Q-switched laser may be used in this system with possibly some minor modifications.

4.1 *Lidar System Definition.* The essential components of the basic lidar system are depicted in Figure AM1–12, The Functional Block Diagram. The lidar system defined in this block diagram has been proven with operational lidars within EPA and the private sector. The performance/design specifications for each component depicted in Figure AM1–12 are provided as follows:

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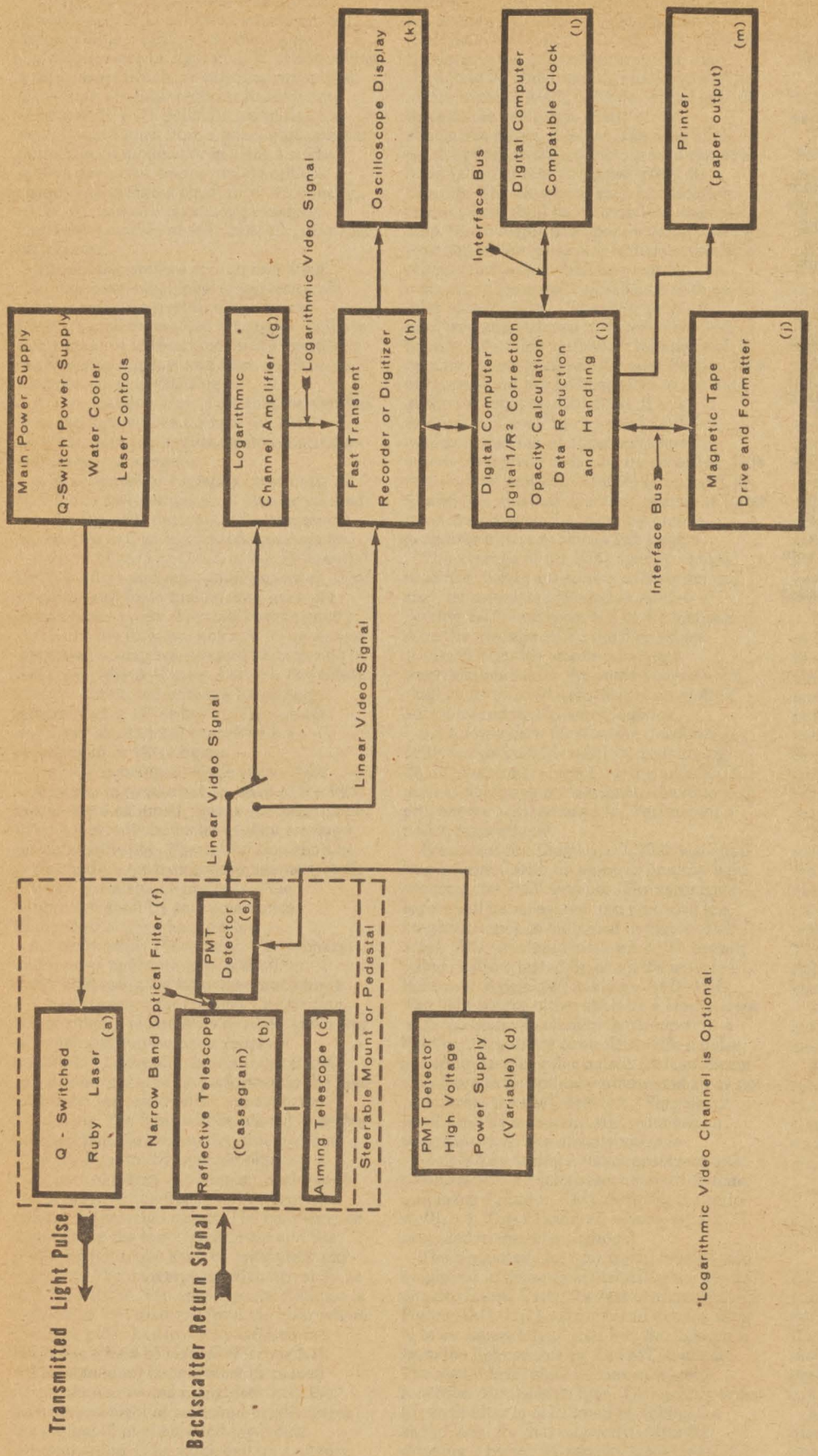

*Logarithmic Video Channel is Optional.

Figure AM1-12. Functional Block Diagram of a Basic Lidar System

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(a) *Q-switched Ruby Laser*—The laser shall have a minimum output energy (red light) of 1 joule/pulse with a pulse duration (length) of less than 35 nanoseconds (full width, half power). It shall be capable of being fired at a sustained rate of 1 pulse every 10 seconds (6 pulses/min). The beam divergence (beam spread with range) angle shall be 1.5 milliradians (full angle, half energy) maximum, which may necessitate the use of an up-collimating telescope on the front of the laser. Inherent laser beam divergence is a function of the ruby rod quality, the higher the quality the smaller the divergence angle.

(b) *Receiving Telescopes*—The telescope shall be either a refractive or a cassegrain reflective instrument with a minimum objective lens or primary mirror diameter of 15 cm (6 in). A standard amatur astronomical telescope performs efficiently at the ruby (red light) wavelength, especially the reflective type.

(c) *Aiming Telescope*—This device is a standard rifle scope with an optical power or magnification of 10 or 12.

(d) *PMT Detector Power Supply*—This is a standard PMT high-voltage power supply variable over the range from 1.0 to about 3.0 KVDC.

(e) *Photomultiplier Detector (PMT)*—The PMT used in the lidar application is of special design to eliminate the problems of afterpulsing or signal induced noise encountered in standard off-the-shelf detectors [Reference 5.1]. The PMT shall have a gain of 10_8 at less than 2.5 KVDC with a measured quantum efficiency of about 5% at the ruby wavelength of 6943 Angstroms. It should have a low impedance photo cathode. Its special response should approximate S-20. The PMT shall be properly mounted to the secondary end of the receiving telescope.

(f) *Narrow Bank Optical Filter*—This filter keeps all optical radiation that enters the receiver from reaching the PMT detector with the exception of the extremely narrow band which contains the ruby wavelength. Its center wavelength should be $6943 + 2, -0$ Angstroms at 75°F. Its half height bandwidth should be less than 14 Angstroms. The peak optical transmittance of this two-cavity, type-2, filter should be about 50%.

(g) *Logarithmic Channel Amplifier (optional)*—This amplifier basically deamplifies strong return signal, gain <1, while it greatly amplifies weak return signals, gain $>>1$. Its bandwidth should be 30 MHz with a rise time of about 12 nanoseconds. Its linearity should be less than $\pm$ 1.0 dB. Its slope should be nominally 25 millivolts/dB with an overall gain of 100 dB.

(h) *Fast Transient Recorder (Digitizer)*—This instrument converts the analog backscatter (linear or logarithmic) signal into a computer-compatible digital form. The digital output signal is directed to the computer and the oscilloscope display [Reference 5.1]. The digitizer must have a frequency response of DC to 25 MHz, a sample interval as short as 10 nanoseconds and a resolution of 8 bits. Its input signal range shall be from about $\pm$ 50 mV to $\pm$ 5 V (full scale) with AC and DC coupling. It shall have a manual arming capability minimum. The digital data output should be to a 16-bit computer interface.

(i) *Digital Computer*—The computer carries out the required data handling, equipment address assignments and data transfer to/from the magnetic tape recorder in addition to performing the plume opacity and other calculations.

(j) *Magnetic Tape Drive/Formatter*—This compound instrument records and plays back the lidar backscatter signal data. It should be a 9 track unit with a recording density of 800 or 1600 bits per inch with a nominal read/write speed of 25 inch per sec. Tape format shall be industry compatible.

(k) *Oscilloscope Display*—The scope provides a continual monitor of the lidar backscatter signals for the lidar operator. A standard oscilloscope with a 100 MHz bandwidth is adequate for the lidar application.

(l) *Digital Clock*—The digital clock (computer addressable) shall provide time to the nearest second to the computer for each lidar backscatter input signal. The time on the clock is set either manually or by the computer.

(m) *Printer*—Any standard line printer, printer/plotter, thermal printer, etc., may be used in this application.

As depicted in Figure AM1-12, the laser and the telescope are mounted biaxially on a steerable mount or pedestal along with the aiming telescope. The PMT detector and the narrow band optical filter are mounted on the secondary end of the receiving telescope. The minimum convergence distance between the laser beam and the telescope's instantaneous field-of-view shall be 50 m.

Extra care must be taken not to route the video signal cables (coaxial cable, 50Ω impedence) from the PMT detector adjacent to power, high voltage and remote control wiring to eliminate electromagnetic interference. The AC power for the electronics must be regulated and isolated from the 220 VAC power lines used for the laser. The list of references in Reference 5.1 in addition to the text of this reference provides much information on the theory, design, fabrication and use of ruby lidars.

The computer software necessary to fulfill the requirements of this method can be readily developed from the contents of Section 2 of this Method.

4.2 *Performance Evaluation Tests.* Each lidar system whether it employs a ruby Q-switched laser or another Q-switched laser as the optical transmitter, shall be subjected to performance evaluation tests and properly qualified in order to be used under this method. These tests are the following.

Each component of the lidar shall be checked for proper operation and the results documented in a logbook which shall not be discarded or destroyed. With all the components integrated/interfaced together, the entire lidar system shall be checked for proper operation, such as adequate video signal levels, no electromagnetic interference on the video signal, etc., with the results recorded in the logbook. With these requirements completed the lidar shall be subjected to the primary calibration tests (Sections 3.1.1, 3.2.1 and 3.3.1). These evaluation tests shall be performed for three separate complete runs or trials and the results of each documented in the logbook. The requirements of Section 3.3.1 shall be fulfilled for each of the three contiguous runs.

Once the lidar performs in accordance with the requirements of the primary calibration test for the three complete runs, then the lidar receiver shall be subjected to the routine calibration tests (Sections 3.1.2, 3.2.2 and 3.3.2) for three separate complete runs or trials. The results of each of these three tests shall be recorded in the logbook. The requirements of Section 3.3.2 shall be fulfilled for each of the three contiguous runs.

5. *References*

5.1 The Use of Lidar for Emissions Source Opacity Determination, U.S. Environmental Protection Agency, National Enforcement Investigations Center, Denver, CO, EPA-330/1-79-003, Arthur W. Dybdahl, current edition.

5.2 Field Evaluation of Mobile Lidar for the Measurement of Smoke Plume Opacity, U.S. Environmental Protection Agency, National Enforcement Investigations Center, Denver, CO, EPA/NEIC-TS-128, February 1976.

5.3 Remote Measurement of Smoke Plume Transmittance Using Lidar, C. S. Cook, G. W. Bethke, W. D. Conner (EPA/RTP). Applied Optics 11, pg 1742, August 1972.

5.4 Lidar Studies of Stack Plumes in Rural and Urban Environments, EPA-650/4-73-002, October 1973.

Laser Safety References:

5.5 American National Standard for the Safe Use of Lasers ANSI Z 136.1-176, 8 March 1976.

5.6 U.S. Army Technical Manual TB MED 279, Control of Hazards to Health from Laser Radiation, February 1969.

5.7 Laser Institute of America Laser Safety Manual, 4th Edition.

5.8 U.S. Department of Health, Education and Welfare, Regulations for the Administration and Enforcement of the Radiation Control for Health and Safety Act of 1968, January 1976.

5.9 Laser Safety Handbook, Aiex Mallow, Leon Chabot, Van Nostrand Reinhold Co., 1978.

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[FR Doc. 80-19674 Filed 6-30-80; 8:45 am]

BILLING CODE 6560-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Ch. X

[Ex Parte No. 355]

Cost Standards for Railroad Rates

AGENCY: Interstate Commerce Commission.

ACTION: Revised notice of proposed interpretation of statutory provisions.

SUMMARY: A revised interpretation of statutory minimum rate provisions is proposed for public comment. Interpretation of statutory rate increase provisions is deferred. The Commission has concluded that a new proposed interpretation of the pertinent statutory provisions should be published for comment, and that the scope of the

proceeding should be revised accordingly. The focus of the proceeding is now on the interpretation of the minimum rate provisions of Section 202(b) of the Railroad Revitalization Act of 1976.

DATES: Comments are due July 31, 1980.

ADDRESS: An original and 15 copies (if possible) of comments should be sent to: Office of Proceedings, Room 5340, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT: Richard Felder or Jane Mackall (202) 275–7693.

SUPPLEMENTARY INFORMATION: By a notice appearing in the proposed rule section in the **Federal Register** October 11, 1978, (43 FR 46877) the Commission stated that it was instituting a proceeding "to adopt formulas for determining the variable costs and the incremental costs of providing rail service." The notice requested public comment on working definitions of a number of terms, which it said would be used in the formulas.

Comments in response to this notice have been received and analyzed. The Commission has concluded that a new proposed interpretation of the pertinent statutory provisions should be published for comment, and that the scope of the proceeding should be revised accordingly.

The proposed interpretation is set forth in a decision by the Commission issued concurrently with this notice. Briefly, the focus of the proceeding is now on the interpretation of the minimum rate provisions of Section 202(b) of the Railroad Revitalization and Regulatory Reform Act of 1976 (codified at 49 U.S.C. § 10701). The proposed interpretation includes the following points:

1. The objective of the proposed interpretation is to provide maximum flexibility for rate reductions, in accordance with the purposes of the 4R Act;

2. A rate which covers "directly variable cost" as shown by Commission formula is presumed not to be unreasonably low;

3. "Directly variable cost," for the purpose of Section 202, consists only of direct operating expenses, and in this category, the Commission proposes to include as its formula only the line-haul cost of the lading, applicable switching costs, and station clerical cost;

4. The presumption based on directly variable cost may be rebutted by a showing that the rate fails to contribute to the carrier's going concern value;

5. A rate contributes to a carrier's going concern value where it maintains or increases the carrier's net cash flow;

6. The net cash flow from a service is the difference between the revenues received and the cash outlays made, both properly discounted;

7. The discount rate for cash flow purposes is the after-tax cost of capital rate;

8. The income tax rate for cash flow purposes is the marginal statutory tax rate;

9. As an adjunct of the proposed standards, carriers must comply with reasonable date requests from complainants;

10. Minimum rate proceedings involving intermodal competition will be governed by the same contribution-to-going-concern-value standard as other minimum rate proceedings;

11. Carriers will be free to raise reduced rates except in certain special circumstances;

12. The general meaning of variable cost, as it may be used for purposes other than minimum rate proceedings, is no longer at issue in this proceeding.

Other provisions of Section 202(b), relating to rate increases, may be affected by pending railroad legislation. Accordingly, interpretation of these provisions is deferred for the present.

Full details of the proposed interpretation of the minimum rate provisions and the supporting discussion are set forth in the Commission's decision, issued concurrently with this notice, in Ex Parte No. 355, *Cost Standards for Railroad Rates.* Copies of the decision are available from the Office of the Secretary of the Commission.

All interested persons, including those who have not previously participated in this proceeding, are invited to submit comments on the proposed interpretations.

This proposal will not significantly affect either the quality of the human environment or conservation of energy resources.

Dated: June 9, 1980.

(49 U.S.C. 10701)

By the Commission, Chairman, Gaskins, Vice Chairman Gresham, Commissioners Stafford, Clapp, Trantum, Alexis, and Gilliam. Commissioner Stafford dissenting with a separate expression.

Commissioner Stafford, dissenting: My objections to the proposal are stated in the decision in Ex Parte No. 355, served this date.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80–19698 Filed 6–30–80; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 219

Seizure, Forfeiture, and Disposal Procedures

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Proposed rule.

SUMMARY: Regulations are proposed to revise 50 CFR Part 219, presently entitled "Seizure and Forfeiture Procedures." A number of laws enforced by NOAA provide for the seizure and forfeiture of fish, wildlife, and other property involved in violations of the laws. This revision of NOAA's forfeiture regulations will clarify existing procedures and establish procedures for the disposal of forfeited or abandoned items seized under any law administered by NOAA.

DATES: Comments on these proposed regulations must be received on or before July 31, 1980.

ADDRESSES: Comment should be addressed to the NOAA Assistant General Counsel for Enforcement and Litigation (GCEL), Page Building 1, Room 280, 2001 Wisconsin Ave., N.W., Washington, D.C. 20235.

FOR FURTHER INFORMATION CONTACT: Stephen J. Powell or David Allan Fitch, NOAA Office of General Counsel, Page Building 1, Room 280, 2001 Wisconsin Ave., N.W., Washington, D.C. 20235. Telephone 202–254–8350.

SUPPLEMENTARY INFORMATION: The National Oceanic and Atmospheric Administration (NOAA) and its National Marine Fisheries Service (NMFS) administer several laws which provide for the seizure and forfeiture of fish, wildlife, and other property involved in violations of the laws. Section 3(c) of the Fish and Wildlife Improvement Act of 1978, P.L. No. 95–616, 16 U.S.C. section 742*l*(c), authorizes the Secretary of Commerce to dispose of items abandoned or forfeited to the United States under such laws, in a manner which the Secretary deems appropriate. Section 3(c) specifies that such disposal includes, but is not limited to, loan, gift, sale, or destruction. This authority has been delegated to NOAA and NMFS. The regulations proposed today prescribed the manner and procedures for disposal of these items.

These disposal procedures do not provide for the sale of marine mammals and endangered species items. To relieve pressure on wildlife stocks,

Congress has attempted to eliminate trade in these items, and has prohibited their importation or sale in interstate commerce. Therefore, sale would not be an appropriate means of disposal for these items. Special rules may provide for the sale of fish seized in connection with violations of the Fishery Conservation and Management Act of 1976 and other fisheries laws; see, for example, 50 CFR 621.2, 45 FR 10349 (February 15, 1980), and 50 CFR 280.16.

The regulations establish procedures for the disposal of items which have been abandoned or forfeited to the United States under certain wildlife laws. Such abandonment or forfeiture may occur judicially, by voluntary waiver on the part of the owner, or as part of the settlement of a civil penalty claim. Once forfeited or abandoned, items will be delivered to the NOAA Administrator, or to persons designated by the Administrator, for disposal.

Disposal under these regulations serves two basic purposes. It alleviates overcrowding of governmental storage facilities, and it accommodates governmental agencies and other institutions which may require these items for scientific purposes, education, or public display, including programs designed to increase public awareness of the wildlife laws and their goals.

NOAAA anticipates that the preferred method of disposal will be by loan. Interested parties may direct inquiries to the Regional Offices of NOAA and NMFS, or may respond to "notices of availability" which NMFS will publish periodically in the **Federal Register** to solicit applicants.

Certain precautions are necessary to assure that loaned items will not be used in a manner inconsistent with the various wildlife laws. Applicants must agree to use the loaned items(s) only for noncommercial scientific, educational, or public display purposes. Applicants must also demonstrate their ability to provide adequate care and security for loaned items. The borrower and the government will execute a loan agreement containing the terms and conditions of the loan. A copy of this loan agreement must accompany the item whenever it is shipped or transported across state or international boundaries.

The Administrator, or his or her desigee, may approve temporary reloans by the borrower, such as for temporary exhibition by another institution. Copies of the original loan agreement, and of NOAA's written approval for the temporary reloan if for more than 30 days, must accompany an item when it is reloaned. Retransfer of a loaned item by the borrower, whether by sale, loan, or otherwise, will void the loan agreement, unless the prior approval of the Administrator or his or her designee has been obtained.

To alleviate overcrowding of government storage facilities, some items may be destroyed. These regulations required that such items be raw materials (i.e., not handicrafted), or of less than $100 value. Items may not be destroyed unless publication in the **Federal Register** of a notice of their availability has resulted in no acceptable applications for loans, or unless no applicaitons have been received in the past when notice of availability of similar items was published. A record will be made of the destruction of any item and retained in the appropriate case file.

Items which are evidence in a case generally may not be disposed of before that case has been closed. Exceptions; will be made for perishable items. Where possible, food items will be given to group which provide public welfare food services.

NOAA's Administrator has determined that these proposed regulations do not constitute a significant action and therefore do not require a regulatory analysis under Executive Order 12044 and NOAA Directive 21–24.

The Assistant Administrator for Fisheries has also determined that issuance of these regulations would not be a major Federal action significantly affecting the quality of the human environment. Therefore the preparation of an environmental impact statement is not required.

Signed at Washington, D.C., this 26 day of June, 1980.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

It is proposed to amend 50 CFR Part 219 as follows:

PART 219—SEIZURE, FORFEITURE, AND DISPOSAL

1. Revise the title by substituting the following: "Part 219—Seizure, Forfeiture, and Disposal Procedures."

2. Revise this Part 219 by substituting the words "Administrator, or his or her designee," wherever the word "Director" appears.

3. Add a new Subpart C, §§ 219.20–219.31 as follows:

Subpart C—Disposal of Forfeited or Abandoned Items

Sec.

Subpart C—Disposal of Forfeited or Abandoned Items

§ 219.20 Delivery to Adminstrator.

Upon forfeiture of any fish, wildlife, parts or products thereof, or other property to the United States, or the abandonment or waiver of any claim to any such property, it shall be delivered to the Administrator, or his or her designee, for storage or disposal according to the provisions of this subpart.

§ 219.21 Definition of disposal.

For purposes of this subpart C, the term "disposal" includes, but is not limited to, the loan, gift, or destruction of items. The term does not include sale of marine mammal or endangered species items, and such items may not be be disposed of by sale.

§ 219.22 Purposes of disposal.

Disposal procedures may be used to alleviate overcrowding of evidence storage facilities, and to avoid the accumulation of seized items where disposal is not otherwise accomplished by court order, as well as to address the needs of governmental agencies and other institutions and organizations for such items for scientific, educational, and public display purposes. In no case shall items be used for personal purposes, either by loan recipients or government personnel.

§ 219.23 Disposal of evidence.

Items that are evidence shall be disposed of only after authorization by the NOAA Office of General Counsel. Disposal approval usually will not be given until the case involving the evidence is closed, except that perishable items may be authorized for disposal sooner.

§ 219.24 Loans to institutions.

Items approved for disposal may be loaned to institutions or organizations requesting such items for scientific, educational, or public display purposes. Items will be loaned only after execution of a loan agreement which provides, among other things, that the loaned items will be used only for noncommercial scientific, educational, or public display purposes, and that they will remain the property of the United States government, which may demand

their return at any time. Parties requesting the loan of an item must demonstrate the ability to provide adequate care and security for the item.

§ 219.25 Loans to individuals.

Items generally will not be loaned to individuals not affiliated with an institution or organization unless it is clear that the items will be used in a noncommercial manner, and for scientific, educational, or public display purposes which are in the public interest.

§ 219.26 Selection of loan recipients.

Recipients of items will be chosen so as to assure a wide distribution of the items throughout the scientific, educational, public display and museum communities. Other branches of NMFS, NOAA, the Department of Commerce, and other governmental agencies will have the right of first refusal of any item offered for disposal. The Administrator, or his or her designee, may solicit applications, by publication of a notice in the **Federal Register**, from qualified persons, institutions, and organizations who are interested in obtaining the property being offered. Such notice will contain a statement as to the availability of specific items for which transferees are being sought, and instructions on how and where to make application. Applications will be granted in the following order: other offices of NMFS, NOAA, and the Department of Commerce; U.S. Fish and Wildlife Service; other Federal agencies; other governmental agencies; scientific, educational, or other public or private institutions; and private individuals.

§ 219.27 Loan agreement.

Items will be transferred pursuant to a loan agreement executed by the Administrator, or his or her designee, and the borrower. Any attempt on the part of the borrower to retransfer an item, even to another institution for related purposes, will violate and invalidate the loan agreement, and entitle the United States to immediate repossession of the item, unless the prior approval of the Administrator, or his or her designee, has been obtained pursuant to section 219.28. Violation of the loan agreement may also subject the violator to the penalties provided by the laws governing possession and transfer of the item.

§ 219.28 Temporary reloans; documents to accompany item.

Temporary reloans to another qualified borrower (as for temporary exhibition) may be made if the Administrator, or his or her designee, is advised in advance by the borrowers. Temporary loans for more than thirty days must be approved in advance in writing by the Administrator or his or her designee. A copy of the original loan agreement, and a copy of the written approval for reloan, if any, must accompany the item whenever it is temporarily reloaned or is shipped or transported across state or international boundaries.

§ 219.29 Destruction of items.

This paragraph and other provisions relating to the destruction of property apply to items—

(a) which have not been handicrafted, or

(b) which have been handicrafted and are of less than one hundred dollars ($100) value, and

(c) for which no acceptable applications have been received, or for which publication in the **Federal Register** of the availability of similar items in the past has resulted in the receipt of no applications.

Such items may be destroyed if they have been in government ownership for more than one year. Perishable items which are not fit for human consumption may be destroyed sooner, if the authorization required by § 219.23 has been obtained. Destruction of items shall be witnessed by two persons, one of whom may be the disposing officer.

§ 219.30 Food items.

Food items shall, if possible, be disposed of by gift to nonprofit groups providing public welfare food services.

§ 219.31 Record-keeping.

A "fish and wildlife disposal" form shall be completed each time an item is disposed of pursuant to the policy and procedure established herein, and shall be retained in the case file for the item. These forms shall be available to the public.

4. Revise the "Authority" section to read as follows:

Authority: Black Bass Act, 16 U.S.C. 851–856; Marine Mammal Protection Act of 1972, 16 U.S.C. 1361–1407; Endangered Species Act of 1973, 16 U.S.C. 1531–1543; Lacey Act, 18 U.S.C. 42–44, 3054, 3112; Fish and Wildlife Improvement Act of 1978, 16 U.S.C. 742*l*(c); Atlantic Tunas Conservation Act of 1975, 16 U.S.C. 971–971g; Fishery Convention and Management Act of 1976, 16 U.S.C. 1801–1882; Northern Pacific Halibut Act of 1937, 16 U.S.C. 772–772j; North Pacific Fisheries Act of 1954, 16 U.S.C. 1021–1032; Sockeye Salmon or Pink Salmon Fishing Act of 1947, 16 U.S.C. 776–776f; Sponge Act, 16 U.S.C. 781–785; Tuna Conventions Act of 1950, 16 U.S.C. 951–961; Whaling Convention Act of 1949, 16 U.S.C. 916–916*l*; Fur Seal Act of 1966, 16 U.S.C. 1151–1187.

5. Revise § 219.2, Scope of Regulations, to read as follows:

§ 219.2 Scope of regulations.

The regulations in this Part apply to fish, wildlife, or any other items (referred to as "items" hereinafter) which have been forfeited or abandoned to the United States under the following laws and regulations issued thereunder:

(a) Endangered Species Act of 1973, 16 U.S.C. 1531–1543;

(b) Marine Mammal Protection Act of 1972, 16 U.S.C. 1361–1407;

(c) Black Bass Act, 16 U.S.C. 851–856;

(d) Lacey Act, 18 U.S.C. 42–44, 3054, 3112;

(e) Fishery Conservation and Management Act of 1976, 16 U.S.C. 1801–1882;

(f) Atlantic Tunas Convention Act of 1975, 16 U.S.C. 971–971g;

(g) Northern Pacific Halibut Act of 1937, 16 U.S.C. 772–772j;

(h) North Pacific Fisheries Act of 1954, 16 U.S.C. 1021–1032;

(i) Sockeye Salmon or Pink Salmon Fishing Act of 1947, 16 U.S.C. 776–776f;

(j) Sponge Act, 16 U.S.C. 781–785;

(k) Tuna Conventions Act of 1950, 16 U.S.C. 951–961;

(l) Whaling Convention Act of 1949, 16 U.S.C. 916–916l;

(m) Fur Seal Act of 1966, 16 U.S.C. 1151–1187.

The regulations in this Part are in addition to, and not in contradiction of, any special rules which may provide for the sale of fish and perishable items seized under various of these laws.

[FR Doc. 80-19773 Filed 6-30-80; 8:45 am]

BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 45, No. 128
Tuesday, July 1, 1980

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

Horse Protection; Disqualification

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of Disqualification.

PURPOSE: This notice is to advise the general public and the horse industry of the disqualification of the following individuals, under section 6(c) of the Horse Protection Act, from showing or exhibiting any horse, judging or managing any horse show, horse exhibition, or horse sale or auction for the period indicated: David Church, Rt. 1, Box 186, Williston, Florida 32696.

1. David Church is hereby disqualified from showing or exhibiting any horse, judging or managing any horse show, horse exhibition, or horse sale or auction for a period of 3 years from the date this order becomes effective, April 29, 1980, through April 28, 1983. Earle Shade, c/o Ray Tenpenny Stable, Wartrace, Tennessee 37183.

2. Earle Shade is hereby disqualifed from showing or exhibiting any horse and from judging or managing any horse show, exhibition, sale or auction for a period of 1 year from the date this order becomes effective, February 1, 1980, through January 31, 1981.

SUPPLEMENTARY INFORMATION: Section 6(c) of the Horse Protection Act (15 U.S.C. 1825(c)) states in relevant part that, ". . . any person . . . may be disqualified by order of the Secretary, after notice and an opportunity for a hearing before the Secretary, from showing or exhibiting any horse, judging or managing any horse show, horse exhibition, or horse sale or auction for a period of not less than 1 year for the first violation and not less than 5 years for any subsequent violation. Any person who knowingly fails to obey an order of disqualification shall be subject to civil penalty of not more than $3,000 for each violation. Any horse show, horse exhibition, or horse sale or auction, or the management thereof, collectively and severally, which knowingly allows any person who is under an order of disqualification to show or exhibit any horse, to enter for the purpose of showing or exhibiting any horse, to take part in managing or judging, or otherwise to participate in any horse show, horse exhibition, or horse sale or auction in violation of an order shall be subject to a civil penalty of not more than $3,000 for each violation. . . ."

This will serve as notification to the general public and the horse industry that the above individuals have been disqualified, as indicated, and that allowing any disqualified person to participate in any prohibited activity, is a violation of section 6(c) of the Act and is subject to the penalties indicated therein.

Done at Washington, D.C., this 25th day of June 1980.

Pierre A. Chaloux,

Deputy Administrator, Veterinary Services.

[FR Doc. 80-19688 Filed 6-30-80; 8:45 am]

BILLING CODE 3410-34-M

Federal Grain Inspection Service

Grain Inspection; Memorandum of Understanding With the Food and Drug Administration

Cross Reference: For a document giving notice of a Memorandum of Understanding between the Federal Grain Inspection Service (FGIS) and the Food and Drug Administration (FDA) setting forth cooperative working arrangements which FGIS and FDA will follow in discharging their responsibilities in the inspection and standardization of grain, rice, pulses, and food products, see FR Doc. 80-19680 appearing at page 44401 of this issue of the **Federal Register.**

Office of the Secretary

National Advisory Council on Child Nutrition; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given that the National Advisory Council on Child Nutrition, established by Section 15 of the National School Lunch Act to make a continuing study of the child nutrition program of the U.S. Department of Agriculture, has scheduled a meeting on July 17, 18, and 19, 1980. The meeting will be from 8:30 a.m., to 4:30 p.m., daily, in Room A-B, Mezzanine level, Radisson Muehlebach Hotel, Baltimore at 12th Street, Kansas City, Missouri. The meeting will be open to the general public and participants will be allowed to participate as time permits.

The agenda for the meeting includes discussion of the Agency's response to Council recommendations made in the 1979 Annual Report to the President and Congress, discussion of program meal patterns, and discussion of other current program issues of interest to the Council. It will be available 15 days prior to the meeting from Mrs. Margaret O'K. Glavin, Executive Secretary, National Advisory Council on Child Nutrition, U.S. Department of Agriculture, FNS, 500 12th Street, SW., Washington, DC 20250. Telephone: (202) 447-5548. Comments on the agenda should also be addressed to the Executive Secretary:

Dated: June 24, 1980.

Carol Tucker Foreman,

Assistant Secretary and Chairperson, National Advisory Council on Child Nutrition.

[FR Doc. 19495 Filed 6-30-80; 8:45 am]

BILLING CODE 3410-01-M

Soil Conservation Service

Carbon Hill Watershed, Montana

AGENCY: Soil Conservation Service, U.S. Department of Agriculture.

ACTION: Notice of Finding of No Significant Impact.

FOR FURTHER INFORMATION CONTACT: Mr. Van K. Haderlie, State Conservationist, Soil Conservation Service, 410 Federal Building, Bozeman, Montana 59715, telephone 406-587-4271.

NOTICE: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the deauthorization of Federal funding of the Carbon Hill Watershed, Custer County, Montana.

The environmental assessment of this action indicates that deauthorization of Federal funding of the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Van K. Haderlie, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this action.

The watershed project, which included land treatment, flood control structures, drainage system, and recreation facilities, will not be constructed and will not contribute to watershed protection, flood prevention, or recreational development of the area.

The finding of no significant impact has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Van K. Haderlie. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until August 29, 1980.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program, Pub. L. 83–566, 16 U.S.C. 1001–1008.)

Dated: June 20, 1980.

J. W. Haas,

Deputy Chief for Natural Resource Projects.

[FR Doc. 80–19613 Filed 6–30–80; 8:45 am]

BILLING CODE 3410–16–M

Clarks Fork Siphon Farm Irrigation R.C. & D. Measure, Wyoming

AGENCY: Soil Conservation Service, U.S. Department of Agriculture.

ACTION: Notice of a Finding of No Significant Impact.

FOR FURTHER INFORMATION CONTACT: Mr. Frank S. Dickson, Jr., State Conservationist, Soil Conservation Service, Room 3113, Federal Building, 100 East "B" Street, P.O. Box 2440, Casper, Wyoming 82602, telephone 307–265–5550, Ext. 5201.

NOTICE: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Clarks Fork Siphon Farm Irrigation R.C. & D. Measure, Park County, Wyoming.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Frank S. Dickson, Jr., State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for the installation of an inverted siphon pipeline to convey irrigation water in the main canal of the Clarks Fork Irrigation District across the Clarks Fork Yellowstone River. The planned work is a replacement of an existing structure. Included are the inlet and outlet structures and other appurtenances of the pipeline, the repair of a short dike in the river, and the enlarging and regrading of a portion of the irrigation canal.

The Notice of a Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Frank S. Dickson, Jr., State Conservationist, Soil Conservation Service, Room 3113, Federal Building, 100 East "B" Street, P.O. Box 2440, Casper, Wyoming 82602, telephone (307) 265–5550, Ext. 5201. The FNSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until July 30, 1980.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program—Pub. L. 87–703, 16 U.S.C. 590a–f, q.)

Joseph W. Haas,

Deputy Chief for Natural Resource Projects.

June 17, 1980.

[FR Doc. 80–19610 Filed 6–30–80; 8:45 am]

BILLING CODE 3410–16–M

Sandy Creek Watershed, Oklahoma

AGENCY: Soil Conservation Service, U.S. Department of Agriculture.

ACTION: Notice of Finding of No Significant Impact.

FOR FURTHER INFORMATION CONTACT: Mr. Roland R. Willis, State Conservationist, Soil Conservation Service, Agricultural Center Building, Stillwater, Oklahoma 74074, telephone number (405) 624–4360.

NOTICE: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the installation of remaining measures in the Sandy Creek Watershed, Pontotoc and Garvin Counties, Oklahoma.

An environmental assessment of three remaining planned floodwater retarding structures, wildlife mitigation measures, and critical area treatment reveals that the installation of these measures will not cause significant adverse impacts on the human environment. As a result of these findings, Mr. Roland R. Willis, State Conservationist, has determined that the preparation and review of an environmental impact statement is not needed for this action.

The finding of no significant impact has been forwarded to the Environmental Protection Agency. The environmental assessment is on file and may be reviewed by interested parties by contacting Mr. Roland R. Willis, State Conservationist, Soil Conservation Service, Agricultural Center Building, Farm Road and Brumley Street, Stillwater, Oklahoma 74074, telephone number (405) 624–4360. The finding of no significant impact has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the finding of no significant impact is available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until July 30, 1980.

(Catalog of Federal Domestic Assitance Program No. 10.904, Watershed Protection and Flood Prevention Program—Pub. L. 83–566, 16 U.S.C. 1001–1008.)

Dated: June 18, 1980.

Joseph W. Haas,

Deputy Chief for Natural Resource Projects.

[FR Doc. 80–19612 Filed 6–30–80; 8:45 am]

BILLING CODE 3410–16–M

Village of Natchez Flood Prevention R.C. & D. Measure, Louisiana

AGENCY: Soil Conservation Service, U.S. Department of Agriculture.

ACTION: Notice of a Finding of No Significant Impact.

FOR FURTHER INFORMATION CONTACT: Mr. Alton Mangum, State Conservationist, Soil Conservation Service, 3737 Government Street, P.O.

Box 1630, Alexandria, Louisiana 71301, telephone 318–473–7751.

NOTICE: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Village of Natchez Flood Prevention R.C. & D. Measure, Natchitoches Parish, Louisiana.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Alton Mangum, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for flood prevention in the Village of Natchez. The planned works of improvement include 8,500 feet of channel modification with two water control structures.

The Notice of a Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Alton Mangum, State Conservationist, Soil Conservation Service, 3737 Government Street, P.O. Box 1630, Alexandria, Louisiana 71301, telephone 318–473–7751. The FNSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until July 30, 1980.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program—Public Law 87–703, 16 U.S.C. 590a–f, q.)

Joseph W. Haas,

Deputy Chief for Natural Resource Projects.

June 17, 1980.

[FR Doc. 80-19611 Filed 6-30-80; 8:45 am]

BILLING CODE 3410-16-M

DEPARTMENT OF COMMERCE

International Trade Administration

Goshen College, et al.; Consolidated Decision on Applications for Duty-Free Entry of Electron Microscopes

The following is a consolidated decision on applications for duty-free entry of electron microscopes pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301). (See especially Section 301.11(e).)

A copy of the record pertaining to each of the applications in this consolidated decision is available for public review between 8:30 A.M. and 5:00 P.M. at 666–11th Street, N.W. (Room 735), Washington, D.C.

Docket No.: 80–00101. Applicant: Goshen College, Goshen IN 46526. Article: Electron Microscope, Model JEM 100S and Accessories. Maunfacturer: JEOL, Ltd., Japan. Intended use of article: The article is intended to be used for studies of the effects of aging on the ultrastructure of tissues, cells, and cuticles in Drosophila melanogaster, the subcellular morphology associated with tip growth of cells, and ultra cytochemistry of cells. The main objective of this research is to obtain new information about the materials and phenomena studied at the ultrastructural level. In addition, the article will be used to instruct upper level college students in ultrastructural techniques so they may use this instrument as a tool to discover new information in their individual advanced research projects. Article ordered: December 3, 1979.

Docket No.: 80–00103. Applicant: Department of Commerce, National Bureau of Standards, Chemistry Building, Room A121, Washington, D.C. 20234. Article: Electron Microscope, Model JEM 200CX and Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used for the preparation of standards for the analyses of asbestos in air requiring the identification of not only asbestos fibers but other crystalline material by morphology, elemental composition and crystal structure. Another area of study involves the development of a quantitative analyses procedure for ultrafine particles less than 0.3 um. Other studies will be initiated involving energy loss spectrometry which will address both molecular and elemental information. The article will also be used in the study of crystal structure chemical changes and intergrowths in mineral species. Article ordered: April 11, 1979.

Docket No.: 80–00104. Applicant: Baylor College of Medicine, Department of Pathology, 6621 Fannin Street, Houston, Texas 77030. Article: Electron Microscope, Model JEM 100CX/SEG/ASID and Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used for studies of surgically removed portions of the nervous system, liver, intestine, kidney, heart and other tissues of children and experimental animals, as well as tissue cultures from patients with various genetic and metabolic diseases and tumors; and critical qualitative and quantitative study of serial thin and semi-thin sections of these tissues, thereby making it possible clearly to elucidate the essential nature of ultrastructural changes. These modalities are required not only for modern diagnoses but for enhanced understanding of the mechanisms of disease. Application received by Commissioner of Customs: December 26, 1980.

Docket No.: 80–00106. Applicant: Department of Health, Education and Welfare, National Institutes of Health, Building 36, Room 5D–06, 9000 Rockville Pike, Bethesda, MD 20205. Article: Electron Microscope Model EM 400T. Manufacturer: N. V. Philips, The Netherlands. Intended use of article: The article is intended to be used for studies of normal and virally infected nerve cells. The experiment will include inoculation of cells or animal brain with neurotropic viruses and study of virus maturation thereafter. Application received by Commissioner of Customs: December 26, 1979.

Docket No.: 800–00112. Applicant: Pennsylvania Muscle Institute, Presbyterian-University of Pennsylvania Medical Center, 51 N. 39th Street, Philadelphia, PA 19104. Article: Electron Microscope, Model EM 400 and Accessories. Manufacturer: Philips Electronic Instruments NVD, The Netherlands. Intended use of article: The article is intended to be used for studies of the smooth muscle in the wall of blood vessels as well as cardiac and skeletal muscle and some other vertebrate cell systems. The composition of cryo sectioned cells will be determined at a spatial resolution of down to approximately 20 Å units with electron probe X-ray and electron energy loss analysis. High resolution dark field and bright field structural studies will be conducted on negatively stained and unstained cryo sections through conventional means and image

processing techniques of low dose electron micrographs. The effect of drugs on the fine structure and ionic composition of cells and intracellular organelles will be studied by these techniques that are designed to provide fundamental understanding of the normal processes of cell function and eventually lead to the prevention and cure of diseases of the cardiovascular system. Article ordered: August 10, 1979.

Docket No.: 80–00119. Applicant: Louisiana State University and Agriculture and Mechanical College, Baton Rouge, Louisiana 70803. Article: Electron Microscope, Model EM 109 and Accessories. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used for studies of viruses, fungi, bacteria, protists, animal cells and animal tissues. Fine structural details will be observed during investigations of normal and diseased conditions. The research projects to be conducted range from investigations of changes in cardiac muscle during Cobalt induced heart failure through immuno-cytochemical investigations of tissue culture cells infected with bovine leukemia virus to clinical diagnosis of diarrhea through the identification of isolated negatively stained viruses. The article will also be used in the course VMED 5463 Special Training—Electron Microscopy in which the basic principles of electron microscopy in veterinary medicine will be taught. Article ordered: June 30, 1980.

Docket No.: 80–00120. Applicant: University of California, Facility for Advanced Instrumentation, Davis, California 95616. Article: Electron Microscope, Model EM 109 and Accessories. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used in training students in the theory of electron microscopy as well as for laboratory training in preparation techniques and microscope operation. Article ordered: November 30, 1979.

Docket No.: 80–00122. Applicant: The John Hopkins University, Charles & 34th Streets, Baltimore, Maryland 21218. Article: Electron Microscope, Model EM 10C and Accessories. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used to study the structure of cells, tissues, cell organelles, macromolecules, macromolecular assemblies, and viruses. In addition, the article will be used in the course "Optical Methods in Biology" and in the students' thesis research. Article ordered: February 9, 1979.

Docket No.: 80–00123. Applicant: University of Illinois, Urbana-Champaign Campus, Purchasing Division, 223 Administration Building, Urbana Illinois 61801. Article: Electron Microscope, EM 400 with Scanning Attachment. Manufacturer: Philips Electron Instruments NVD, The Netherlands. Intended use of article: The article is intended to be used for studies of metals, alloys, ceramics, glasses, minerals and plastics. Phase transformations and the accompanying microscopic phenomena will be investigated with particular attention to the electron diffraction effects from highly localized zones such as phase and grain boundaries and incipient precipitates in transforming materials. Room temperature observations as well as observations of the behavior of these materials at different temperatures will be made under varying diffracting conditions. The investigation will call for the observation of diffraction effects from zones on the order of 200 Angstrom units or less in extent. These studies will be conducted with the aim of shedding light on transformation mechanisms in martensitic phenomena, in spinodal decomposition and omega phase transformations in sintering reactions, corrosion phenomena and other related phenomena. Article ordered: October 23, 1979.

Comments: No comments have been received with respect to any of the foregoing applications. Decision: Applications approved. No instrument or apparatus of equivalent scientific value to the foreign articles, for such purposes as these articles are intended to be used, was being manufactured in the United States at the time the articles were ordered. Reason: Each foreign article to which the foregoing applications relate is a conventional transmission electron microscope (CTEM). The description of the intended research and/or educational use of each article establishes the fact that a comparable CTEM is pertinent to the purposes for which each is intended to be used. We know of no CTEM which was being manufactured in the United States either at the time of order of each article described above or at the time of receipt of application by the U.S. Customs Service.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to any of the foreign articles to which the foregoing applications relate, for such purposes as these articles are intended to be used, which was being manufactured in the United States either at the time of order or at the time of receipt of application by the U.S. Customs Service.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 80–19677 Filed 6–30–80; 8:45 am]

BILLING CODE 3510–25–M

Mobile Infirmary Association, Inc. et al.; for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Public Law 89–651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Statutory Import Programs Staff, U.S. Department of Commerce, Washington, D.C. 20230, on or before July 21, 1980.

Regulations (15 CFR 301.9) issued under the cited Act prescribe the requirements for comments.

A copy of each application is on file, and may be examined between 8:30 A.M. and 5:00 P.M., Monday through Friday, in Room 735 at 666-11th Street, N.W., Washington, D.C.

Docket No: 80–00232. Applicant: Mobile Infirmary Association, Inc., West End, Center Street, P.O. Box 2144, Mobile, Alabama 33601. Article: Therac 20-Saturne Linear Accelerator and Accessories. Manufacturer: Atomic Energy of Canada, Ltd. Canada. Intended use of article: The article is intended to be used in the treatment of cancer patients. The patient's treatment on this unit will have treatment results of incidence of complications, evaluated and compared with treatment from conventional units. Through use of the article in treatment of deep-seated tumors and those lying within a few centimeters of the skin, patients care can be taught to physicians concerning the benefits to be expected for the patient in terms of reduced morbidity, and better tumor control through use of this new generation of equipment. The article will also be used for training of diagnostic radiation technology students in the area of therapeutic radiology. Application received by Commissioner of Customs: March 11, 1980.

Docket No.: 80–00233. Applicant: Scott and White Clinic, 2401 S. 31st, Temple,

Texas 76501. Article: Electron Microscope, Model H–600–3 and Accessory. Manufacturer: Hitachi Ltd., Japan. Intended use of article: The article is intended to be used for studies of human tissues in health and disease as seen in a diagnostic pathology service and related to investigation of disease processes in tissues, i.e., kidney, muscle, and soft tumors. Experiments will consist of actual case studies and analysis, the search for viruses, crystalline inclusions and other ultrastructural bodies. In addition, the article will be used in the teaching of medical students as well as pathology interns and residents technique applications, limitations and interpretative results of electron micrographs. Application received by Commissioner of Customs: March 11, 1980.

Docket No.: 80–00234. Applicant: University of Pennsylvania, Dept. of Psychology, 3815 Walnut Street, Philadelphia, Pa. 19104. Article: CRT Display Unit. Manufacturer: Peter Joyce Electronics, United Kingdom. Intended use of article: The article is to be used in a research program on pattern vision. Application received by Commissioner of Customs: March 12, 1980.

Docket No.: 80–00235. Applicant: State University of New York at Buffalo, Capital Equipment Division, 434 Croft Hall, Amherst Campus, Amherst, New York 14260. Article: Electron Microsope, Model H–500–L and Accessories. Manufacturer: Hitachi Scientific Instruments Limited, Japan. Intended use of article: The article is intended to be used to study a wide range of biological material during the following investigations:

(1) Functional topology of the cell nucleus—elucidation of the association between nuclear function and matrix structure.

(2) Insect neurobiology—study of the role played by the nervous system in controlling behavior.

(3) Nuclear division in eukaryotic cells—combined biochemical and electron microscopic study to clarify important aspects of cell division.

(4) Yeast nucleic acid—study to provide verification of biochemical molecular weight determinations.

The article will also be used for demonstration purposes in the courses: (a) Cell Biology laboratory 211; (b) Molecular Genetics, 329; (c) General Biology laboratory, 121. Application received by Commissioner of Customs: March 13, 1980.

Docket No.: 80–00236. Applicant: Tufts University, Department of Chemistry, 62 Talbot Avenue, Medford, MA 02155. Article: Pulsed CO_2 Laser, Model 103 and Accessories. Manufacturer: Lumonics Research Limited, Canada. Intended use of article: The article is intended to be used in the research project entitled: Infrared Laser Chemistry: Intramolecular Energy Transfer and Unimolecular Isomerization in Methlyisocyanide. The primary activity of this research is directed at determining the limits either to molecule specific or to mode specific energy deposition and reactions. In addition, the article will be used by graduate students working toward a Doctorate in chemistry. Application received by Commissioner of Customs: March 13, 1980.

Docket No.: 80–00237. Applicant: University Hospital, State University of New York, Stony Brook, Stony Brook, New York 11794. Article : Electron Microscope, Model H–500–L and Accessories. Manufacturer: Hitachi, Japan. Intended use of article: The article is intended to be used for studies of human tissues, human cells, body fluids, and excreta for understanding of the etiology and pathogenesis of human diseases. The article will also be used by predoctoral and postdoctoral students in the course Ultramicroscopy for Practicing Pathologists. Application received by Commissioner of Customs: March 17, 1980.

Docket No.: 80–00238. Applicant: University of California, Lawrence Berkeley, Laboratory, One Cyclotron Road, Berkeley, CA 94720. Article: Electron Microscope, Model JEM–200CS and Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of Article: The article is intended to be used for producing photographic images of specimens at very high resolution in the Atomic Resolution Microscopy project within the Materials and Molecular Research Division, and will eventually be utilized as a "feeder" instrument to the Atomic Resolution Microscope (ARM). Application received by Commissioner of Customs: March 17, 1980.

Docket No.: 80–00240. Applicant: Massachusetts Institute of Technology, 77 Massachusetts Avenue, Cambridge, MA 02139. Article: Klystron Oscillator, Type VRB–2113B. Manufacturer: Varian of Canada, Canada. Intended use of article: The article is intended to be used in radio atronomy investigations which will involve observing the emission of various rotational-state spectral line emissions, including the silicon monoxide line at 43.0 GHz as well as a variety of other known and hypothesized lines in the region between 38.0 and 44.0 GHz. The phenomena to be investigated will include: a) the distribution of such emission in the sky to determine its association with celestial objects; and b) its variation with frequency and time to improve the understanding of the physics of the objects and in some cases the mechanism of emission, where such mechanism is not obviously the usual thermal-equilibrium excited-line radiation. Application received by Commissioner of Customs: March 17, 1980.

Docket No.: 80–00238. Applicant: University of California, Lawrence Berkeley, Laboratory, One Cyclotron Road, Berkeley, CA 94720. Article: Electron Microscope, Model JEM–200CS and Accessories. Manufacturer: JOEL Ltd., Japan. Intended use of article: The article is intended to be used for producing photographic images of speciments at very high resolution in the Atomic Resolution Microscopy project within the Materials and Molecular Research division, and will eventually be utilized as a "feeder" instrument to the Atomic Resolution Microscope (ARM). Application received by Commissioner of Customs: March 17, 1980.

Docket No.: 80–00240. Applicant: Massachusetts Institute of Technology, 77 Massachusetts Avenue, Cambridge, MA 02139s. Article: Klystron Oscillator, Type VRB—2113B. Manufacturer: Varian of Canada, Canada. Intended use of article: The article is intended to be used in radio astronomy investigations which will involve observing the emission of various rotational-state spectral line emissions, including the silicon monoxide line at 43.0 GHz as well as a variety of other known and hypothesized lines in the region between 38.0 and 44.0 GHz. The phenomena to be investigated will include: a) the distribution of such emission in the sky to determine its association with celestial objects; and b) its variation with frequency and time to improve the understanding of the physics of the objects and in some cases the mechanism of emission, where such mechanism is not obviously the usual thermal-equilibrium excited-line radiation. Application received by Commissioner of Customs: March 17, 1980.

Docket No.: 80–00241. Applicant: San Diego State University, Systems Ecology Research Group, San Diego, CA 92182. Article: Infrared Gas Analyzer (CO_2), ADC Type 225 Mk II. Manufacturer: Analytical Development Co., United Kingdom. Intended use of article: The article is intended to be used for studies of photosynthesis of higher plants in mediterranean ecosystems. Experiments

will involve CO_2 exchange of laboratory and in situ Chapparal plants, under varied regimes of soil and air temperature, light, water availability, and nutrient concentration. Application received by Commissioner of Customs: March 17, 1980.

Docket No.: 80–00242. Applicant: The University of Mississippi Medical Center, 2500 North State Street, Jackson, Mississippi 39216. Article: Electron Microscope, Model EM 10C. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used for studies of biological tissues, including: brain, internal organs, muscle specimens, bone and skin. The investigations to be conducted include:

(a) Studies of experimentally induced cardiac myopathies.

(b) Experiments designed to clarify the morphological properties of the microvascular in central and peripheral nervous tissue.

(c) Studies directed toward an analysis of synaptic architecture in sensory and motor pathways in mammalian brain and spinal cord tissue.

(d) Investigations of muscle ultrastructure and properties of neuromuscular relationships.

(e) Studies of bone transformations as a function of dietary and nutritional factors.

The article will also be used in the course Techniques in Electron Microscopy to instruct students and faculty in the use of ultrastructural methods in the analysis of structure-function relationships in mammalian, biological tissue. Application received by Commissioner of Customs: March 17, 1980. Docket No.: 80–00243. Applicant: National Bureau of Standards, Washington, D.C. 20234. Article: Engine Cam and Tappet Tester. Manufacturer: MIRA, United Kingdom. Intended use of article: The article is intended to be used for studies of friction and wear of auto engine cam and tappet for engine lubrication evaluation. Application received by Commission of Customs: March 17, 1980.

Docket No.: 80–00239. Applicant: Ramapo College of New Jersey, Program in Biology, 505 Ramapo Valley Road, Mahwah, New Jersey 07430. Article: Ultramicrotome, Model LKB 8800A and Accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used to section biological materials that have been embedded in an appropriate resin. These speciments will then be used in investigations that include ultrastructural studies on normal and pathologic plant and animal tissues, developmental studies on fungal systems, cyto and histochemical studies on enzyme and subcellular organelle localization in cells and tissues, membrane interactions at hostparasite interfaces, and subcellular changes in cells induced by changes in their biochemical and physical environments. The article will also be used in the courses, Introduction of Electron Microscopy and Advanced Electron Microscopy, I, II, and III which will involve a study of general principles on techniques and the use of the electron microscope to study the fine structure of tissues and cells, and various subcellular organelles and the employment of cytochemical staining methods to localize various constituents. Application received by Commissioner of Customs: March 17, 1980.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Entry Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 80–19678 Filed 6–30–80; 8:45 am]

BILLING CODE 3510–25–M

National Bureau of Standards et al.; Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-fee entry of scientific articles pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Statutory Import Programs Staff, U.S. Department of Commerce, Washington, D.C. 20230, July 21, 1980.

Regulations (15 CFR 301.9) issued under the cited Act prescribe the requirements for comments.

A copy of each application is on file, and may be examined between 8:30 A.M. and 5:00 P.M., Monday through Friday, in Room 735 at 666–11th Street, N.W., Washington, D.C.

Docket No.: 80–00301. Applicant: National Bureau of Standards, Fracture and Deformation Division, Bldg. 223/ Room A113, Washington, D.C. 20234. Article: Electron Microscope, Model EM 400T and Accessories. Manufacturer: Philips Electronic Instruments NVD, The Netherlands. Intended use of article: The article is intended to be used to support basic and applied research programs on ceramic, metallic and polymeric materials. This research includes microstructural analysis of materials in the as-received condition and for materials which have been subjected to mechanical testing or to environmental exposures. The relationship between microstructure and microstructural changes resulting from these tests will be explored. Additional progams involving the application of image contrast analysis to high resolution image interpretation will be developed. Application received by Commissioner of Customs: May 14, 1980.

Docket No.: 80–00302. Applicant: Department of Health, Education, and Welfare, Food and Drug Administration, Division of Veterinary Medical Research, Agricultural Research Center, Building 328A, Beltsville, Maryland 20705. article: Electron Microscope, Model H–500–1 and Accessories. Manufacturer: Hitachi, Ltd., Japan. Intended use of Article: The article is intended to be used to examine and evaluate ultrastructural changes in experiments related to the safety and efficacy of therapeutic drugs in animals. These experiments include evaluations of drug parasites animal interrelation, ultrastructural organelle changes, produced by cell drug interaction and the molecular aspects of virus-drug interaction. Application received by Commissioner of Customs: May 14, 1980.

Docket No.: 80–00303. Applicant: University of California, Lawrence Livermore Laboratory, P.O. Box 5012, Livermore, CA 94550. Article: Electron Microscope, Model JEM 200CX and Accessories. Manufacturer: Jeol Ltd., Japan. Intended use of article: The article is intended to be used to provide structural and chemical analysis of solid materials for the research work being done by the Chemistry and Materials Science Department. The research projects will include: (1) evaluation of the structures of chemical compositions of the mineral phases in a synthetic mineral aggregate for immobilization of reaction waste products, (2) determination of and structure produced by crystallization of amorphous materials and (3) analysis of the structures and mechanisms of deformation of A1N, Nb_3 Sn superconductors and general evaluation of the structures of materials used in LLL weapons and energy research programs. Application received by Commissioner of Customs: May 14, 1980.

Docket No.: 80–00304. Applicant: University of Pennyslvania, Pennsylvania Muscle Institute, B42

Anatomy-Chemistry Bldg/G3, Philadelphia, PA 19104. Article: Electron Microscope, Model EM 109 and Accessories. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used for studies of the fine structure of the blood vessel wall, vascular smooth muscle and striated muscle. The purpose of these studies is to determine the nature of the molecular events leading to activation and contraction in vascular smooth muscle, and to determine the earlier ultrastructural changes in vascular smooth muscle that are associated with development of high blood pressure and arteriosclerosis. Application received by Commissioner of Customs: May 14, 1980.

Docket No.: 80-00305. Applicant: William Marsh Rice University, Main Street, Houston, TX 77001. Article: NMR Spectrometer, Model JNM/FX-90Q and Accessories. Manufacturer: Jeol Ltd., Japan. Intended use of article: The article is intended to be used for studies of samples derived from on going research programs in organic chemistry, biochemistry, and inorganic chemistry. Spectroscopy will be utilized to identify the structure of synthetic and natural products, to study the dynamics of various reaction mechanisms and to emplore both the structure and dynamics of molecular interactions. Pulsed Fourier transform NMR spectra will be obtained for 1_H. 2_H. 13_C. 15_N. 17_O. 19_F. 31_P. on various molecules as required by the different projects. Chemical shifts, coupling constants, relaxation times, Nuclear Overhauser Effects, lineshapes and temperature effects on the spectral parameters will be employed to obtain information on the structures and dynamics of the systems under investigation. Application received by commissioner of Customs: May 15, 1980.

Docket No.: 80-00306. Applicant: University of New Mexico/School of Medicine, 915 Standord, N.E., Albuquerque, NM 87131. Article: Stereotaxic Surgical Equipment. Manufacturer: AB Elekta Equipment, Sweden. Intended use of article: The article is inteded to be used to study the anatomico-physiological topography of the human diencephalon during stereotactic surgery as well as performing the surgery. The material to be studied consists of the deep human brain core responsible for the transmission of various sensory, motor and affectual modalities. Experiments to be conducted include recording and stimulation to further elucidate the structures and function of this brain area. In addition, the article will be used for teaching surgical residents, fellows, medical students and nurses the principles of the stereotactic operative technique, its indication and efficacy, as well as the principles of patient care and management; the development of a working understanding of diencephalic anatomico-pathophysiology. Application received by commissioner of Customs: May 22, 1980.

Docket No.: 80-00307. Applicant: Arizona State University, Tempe, Arizona 85281. Article: Electron Microscope, Model EM 400 and Accessories. Manufacturer: Philips Electronic Instruments NVD, The Netherlands. Intended use of article: The article is intended to be used for the investigation of the structure of thin solid specimens of non-bioligical materials and direct visualization of the arrangements of the atoms. The features of the structure of crystals to be studied include the arrangements of atoms in near-perfect regions of crystals and in regions of crystals having faults or disorders. For pooly crystalline or amorphous materials, studies will be made of the nature of the short-range ordering of atoms and of the size and shape of the regions having any particular form of short-range ordering. Micro-analysis techniques will be used in conjunction with the high resolution imaging. Experiments to be conducted will include examination of thin regions of small crystals of various inorganic oxides and sulfides, minerals of various types, semiconductors, ceramics and alloys. Also observations will be made on the stucture of amorphous or poorly crystalline materials. The article will also be used for experiments designed to confirm theoretical prediction on the dependence of image intensities on various experimental parameters relating to both. Application received by commissioner of Customs: May 27, 1980.

Docket No.: 80-00288. Applicant: Trustees of the University of Pennsylvania, Purchasing Department, 3451 Walnut Street/16, Philadelphia, PA 19104. Article: ESCALAB 5 Spectrometer. Manufacturer: VG Scientific Limited, United Kingdom. Intended use of article: The foreign article will be used for research on interfacial studies on metals to include:

(1) *Interfacial Cohesion (Fracture)*—to determine the effects of segregated elements on intercrystalline bonding, examine the details of the electronic structure bonding of the elements in the gram core region and identify what elements are at the interface and relative concentration.

(2) *Hydrogen Embrittlement*—to determine the equilibrium concentration of hydrogen at the interface, how it is bonded and how the II—metal bond effects the metal-metal bond by ultraviolet photoemission and inelastic electron scattering.

(3) *Free Surface Segregation*—to determine multi-component single crystals of Ni and Fe to study free surface segregation.

(4) *Mechanisms of Molecular Reactions at Interfaces* on (a) Solid-Vapor Interfacial Mass Transfer Reactions—to determine the surface bonding of these impurities and the effect the impurities have upon the bonding of CO_2 and N_2 by angle resolved photoelectron spectroscopy with both ultraviolet and X-ray excitation and (b) Solid-Vapor Interfacial Phase Formation—to study the effects of such variables at successive stages of Cr-rich oxide growth in controlled environments by XPS.

(5) *Corrosion at Elevated Temperatures*—to determine a combination of spectroscopic techniques to analyze the chemisorption phenomena in SO_2O_2–SO_3 environments on solid surfaces (Nickel, Ni_3S_2.NiO) at temperatures between 25 and 600°C to provide the basic information needed to interpret kinetic investigations of the simultaneous sulfidation oxidation of nickel and study the dynamics of these processes at pressures less than 10^{-1} ton.

(6) *Modification of Surface Reactivity by Ion Implantation*—to study and modify the chemical and electrochemical catalytic activity of metal electrode surfaces and the rate of oxidation of selected metal surfaces by chemical and electrochemical means by studying the effects of various implanted species, such as Ni, Pg, Ag, Pt, Cd, etc.

Application received by commissioner of Customs: April 28, 1980.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Program Staff.

[FR Doc. 80-19676 Filed 6-30-80; 8:45 am]

BILLING CODE 3510-25-M

Minority Business Development Agency

Financial Assistance Application Announcement

The Minority Business Development Agency (MBDA), formerly the Office of Minority Business Enterprise, announces that it is seeking applications under its Program to operate one project for a 12 month period beginning September 1, 1980 within the counties of Alamance,

Davidson, Catawba, Forsyth, Guilford, Iredell, Randolph, Rockingham, and Rowan in North Carolina. The cost of the project is estimated to be $131,000 and the Project Number is 04–10–30013–00.

Funding Instrument: It is anticipated that the funding instrument, as defined by the Federal Grant and Cooperative Agreement Act of 1977, will be a grant.

Program Description: Executive Order 11625 authorizes MBDA to fund projects which will provide technical and management assistance to eligible clients in areas related to the establishment and operation of businesses. This proposed project is specifically designed to provide general business services.

Eligibility Requirements: There are no restrictions. Any for-profit firm or non-profit institution is eligible to submit an application.

Application Materials: An application kit for this project may be requested by writing to the following address:

Atlanta Regional Office, Minority Business Development Agency, U.S. Department of Commerce, 1371 Peachtree Street N.E., Suite 505, Atlanta, GA 30309.

In requesting an application kit, the applicant must specify its profit status (i.e., a State or local government, federally recognized Indian tribunal unit, educational institution, hospital, other type of non-profit organization, or if the applicant is a for-profit firm). This information is necessary to enable MBDA to include the appropriate cost principles in the application kit.

Award Process: All applications that are submitted in accordance with the instructions in the application kit will be submitted to a panel for review and ranking. The applications will be ranked according to the capability of the staff assigned to the project, the management capability of the applicant, the proposed program plan, the budget allocation plan, and the applicant's knowledge of the area to be served. Secific criteria will be included in the application kit.

Renewal Process: If an award is made, continuation awards for up to two additional years may be made to the successful recipient without competition, provided that funds have been appropriated for a project of this kind, and MBDA has determined that such funds for a project of this kind, and MBDA has determined that such funds are available, there is a continuing need for a project of this kind, and the recipient has performed satisfactorily.

Closing Date: Applications are encouraged to obtain an application kit as soon as possible in order to allow sufficient time to prepare and submit an application before the closing date of July 31, 1980. Detailed submission procedures are outlined in each application kit.

11.800 Minority Business Development.

(Catalog of Federal Domestic Assistance).

Dated: June 24, 1980.

Allan A. Stephenson,

Deputy Director.

[FR Doc. 80–19679 Filed 6–30–80; 8:45 am]

BILLING CODE 3510–21–M

National Technical Information Service

Government-owned Inventions; Availability for Licensing

The inventions listed below are owned by the U.S. Government and are available for domestic and, possibly, foreign licensing in accordance with the licensing policies of the agency-sponsors.

Copies of patents cited are available from the Commissioner of Patents & Trademarks, Washington, DC 20231, for $.50 each. Requests for copies of patents must include the patent number.

Copies of patent applications cited are available from the National Technical Information Service (NTIS), Springfield, Virginia 22161 for $5.00 each ($10.00 outside North American Continent). Requests for copies of patent applications must include the PAT-APPL number. Claims are deleted from patent application copies sold to avoid premature disclosure. Claims and other technical data will usually be made available to serious prospective licensees upon execution of a non-disclosure agreement.

Requests for information on the licensing of particular inventions should be directed to the addresses cited for the agency-sponsors.

Douglas J. Campion,

Program Coordinator, Office of Government Inventions and Patents, National Technical Information Service, Department of Commerce.

U.S. Department of the Air Force, AF/JACP, 1900 Half Street SW, Washington, D.C. 20324

Patent application 6–115, 845: Multi-Channel Longitudinal Video Tape Recording; filed Jan. 28, 1980.

Patent 4–187, 675: Compact Air-to-Air Heat Exchanger for Jet Engine Application; filed Oct. 14, 1977; patented Feb. 12, 1980; not available NTIS.

U.S. Department of Agriculture, Program Agreements & Patents Branch, Administrative Service Division, Federal Building, Science & Education Administration, Hyattsville, MD 20782.

Patent application 6–112, 980: Biodegradable Starch-Based Blown Films; filed Jan. 17, 1980.

U.S. Department of Health & Human Services, National Institutes of Health, Chief, Patent Branch, Westwood Building, Bethesda, MD 20205

Patent application 6–114, 298: Unitized Three Leaflet Heart Valve; filed Jan. 22, 1980.

Patent 4–192, 584: System for Creating Motion Effects Employing Still Projection Equipment; filed Aug. 15, 1978; patented Mar. 11, 1980; not available NTIS.

Patent 4–196, 085: Dialysis Solution Handling Device; filed June 9, 1976; patented Apr. 1, 1980; not available NTIS.

U.S. Department of the Navy, Assistant Chief for Patents, Office of Naval Research, Code 302, Arlington, VA 22217

Patent application 6–062, 835: Integrated Wheelchair and Ambulator; filed Aug. 1, 1979.

Patent application 6–084, 253: A Radiation (Albedo) Power Converter; filed Oct. 12, 1979.

Patent application 6–096, 852: A System for Placing Freshly Mixed Concrete on the Seafloor; filed Nov. 23, 1979.

National Aeronautics & Space Administration, Assistant General Counsel for Patent Matters, NSAS Code GP–2, Washington, DC 20546

Patent application 6–113, 015: Precision Heat Forming of Tetrafluoroethylene Tubing; filed Jan. 18, 1980.

[FR Doc. 80–19726 Filed 6–30–80; 8:45 am]

BILLING CODE 3510–04–M

Government-Owned Inventions; Availability for Licensing

The inventions listed below are owned by the U.S. Government and are available for domestic and, possibly, foreign licensing in accordance with the licensing policies of the agency-sponsors.

Copies of patents cited are available from the Commissioner of Patents & Trademarks, Washington, DC 20231, for $.50 each. Requests for copies of patents must include the patent number.

Copies of patent applications cited are available from the National Technical Information Service (NTIS), Springfield, Virginia 22161 for $5.00 each ($10.00 outside North American Continent). Requests for copies of patent applications must include the PAT–APPL number. Claims are deleted from patent application copies sold to avoid premature disclosure. Claims and other technical data will usually be made available to serious prospective

licensees upon execution of a non-disclosure agreement.

Requests for information on the licensing of particular inventions should be directed to the addresses cited for the agency-sponsors.

Douglas J. Campion,

Program Coordinator, Office of Government Inventions and Patents, National Technical Information Service, U.S. Department of Commerce.

U.S. Department of the Air Force, AF/JACP, 1900 Half Street, SW., Washington, D.C. 20324

Patent application 6–097,596: Face Plate for Cathode Ray Tube; filed Nov. 27, 1979.
Patent application 6–104,924: Anti-Backlash Gear Drive; filed Dec. 18, 1979.
Patent application 6–104,925: Heat Transfer Calibration Plate; filed Dec. 18, 1979.
Patent application 6–105,363: Nonlinear Amplitude Detector; filed Dec. 19, 1979.
Patent application 6–110,146: Vane Configuration for Fluid Wake Re-Energization; filed Jan. 8, 1980.
Patent application 6–110,888: Energetic Monopropellant; filed Jan. 10, 1980.
Patent application 6–110,889: Method and Apparatus for Analyzing Supersonic Flow Fields by Laser Induced Fluorescence; filed Jan. 10, 1980.
Patent application 6–110,960: Low Volume, Lightweight, High Voltage Electron Gun; filed Jan. 10, 1980.
Patent application 6–113,890: Statistical Method of Measuring the Differential Linearity of an Analog/Digital Converter Using a Pseudo-Random Triangle Wave Stimulus; filed Jan. 21, 1980.
Patent application 6–114,541: High Absorption Coating; filed Jan. 23, 1980.
Patent application 6–115,513: Improved Coaxial Cable Design; filed Jan. 25, 1980.
Patent application 6–115,516: Composite Blade for Turbofan Engine Fan; filed Jan. 25, 1980.
Patent application 6–115,843: Metallurgical Specimen Tester; filed Jan. 28, 1980.
Patent 4–189,203: Circular Connector; filed July 24, 1978; patented Feb. 19, 1980; not available NTIS.
Patent 4–189,527: Spherical Heat Pipe Metal-Hydrogen Cell; filed Jan. 17, 1979; patented Feb. 19, 1980; not available NTIS.
Patent 4–190,273: Cabinet Lock Assembly; filed June 6, 1978; patented Feb. 26, 1980; not available NTIS.
Patent 4–190,808: Amplifier-Oscillator Frequency Multiplier Apparatus; filed Mar. 23, 1978; patented Feb. 26, 1980; not available NTIS.
Patent 4–190,815: High Power Hybrid Switch; filed Mar. 9, 1978; patented Feb. 26, 1980; not available NTIS.
Patent 4–190,858: Method for Improved Performance of Infrared Vidicon Cameras; filed Sept. 27, 1978; patented Feb. 26, 1980; not available NTIS.

U.S. Department of Agriculture, Program Agreements & Patent Branch, Administrative Service Division, Federal Building, Science & Education Administration, Hyattsville, MD 20782

Patent application 6–109,590: Optical Wood-Bark Segregator; filed Jan. 4, 1980.
Patent 4–194,016: Process for Preparing Precooked Fruits and Vegetables; filed Sept. 11, 1978; patented Mar. 18, 1980; not available NTIS.

U.S. Department of Health & Human Services, National Institutes of Health, Chief, Patent Branch, Westwood Building, Bethesda, MD 20205

Patent application 6–094,088: 1,4-Bis(2[1] phaloethyl)-1,4-diazabicyclo(2.2.1)-Heptane Dihydrogen Dimaleate and Selected Salts; filed Nov. 14, 1979.
Patent 4–184,922: Dual Circuit, Woven Artificial Capillary Bundle for Call Culture; filed Nov. 11, 1977; patented Jan. 22, 1980; not available NTIS.

U.S. Department of the Navy, Assistant Chief for Patents, Office of Naval Research, Code 302, Arlington, VA 22217.

Patent application 6–078,251: Intensive Electron Beam Microwave Switch; filed Sept. 24, 1979.
Patent application 635,821: A Device for Minimizing Interchannel Crosstalk in High Rate Commutator Multiplexers; filed Nov. 28, 1975.
Patent application 670,816: High PRF Unambiguous Range Radar; filed Mar. 26, 1976.
Patent application 691,924: Noise Resistant Zone Penetration Detection System; filed June 1, 1976.
Patent application 699,923: Improved Molded Drag Reduction Coatings; filed June 25, 1976.
Patent application 700,373: Coatings That Reduce Flow Resistance and Turbulent Drag at Their Interface with Liquids; filed June 28, 1976.
Patent application 705,734: Cook-Off Liner Component; filed July 15, 1976.
Patent application 706,705: Solid State Klystron; filed July 19, 1976.
Patent application 719,493: Hydroways; filed Sept. 1, 1976.
Patent application 719,779: Narrowband Wide Field of View Optical Filter; filed Sept. 2, 1976.
Patent application 720,313: Rotary Expander Engine; filed Sept. 3, 1976.
Patent application 720,314: Accommodating Device for Thermal Transient Expansions; filed Sept. 3, 1976.
Patent application 724,831: Mechanism for Deep Ocean Instrumentation Remote Release; filed Sept. 20, 1976.
Patent application 727,744: Electro-Optic Analog/Digital Converter; filed Oct. 29, 1976.
Patent application 728,488: Recoil Simulator; filed Sept. 30, 1976.
Patent application 729,052: Low-Loss Signal Coupler for Optical Communications and Integrated Optics; filed Oct. 4, 1976.
Patent application 729,550: Frequency-Selective Loss Technique for Oscillation Prevention in Traveling-Wave Tubes; filed Oct. 4, 1976.
Patent application 729,921: Battery Wedge for Submarines or Other Installations; filed Oct. 6, 1976.
Patent application 731,471: Radar Signal Processor Utilizing a Multi-Channel Optical Correlator; filed Oct. 12, 1976.
Patent application 733,626: A Device for Measuring the Velocity of a Body in an Undersea Environment; filed Oct. 18, 1976.
Patent application 734,690: Magnetically Tuned, Surface Acoustic Wave Device; filed Oct. 21, 1976.
Patent application 744,560: Frequency Multiplexed Water Leak Detection System; filed Nov. 24, 1976.

[FR Doc. 80-19727 Filed 6-30-80, 8:45 am]

BILLING CODE 3510-04-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1980; Addition

AGENCY: Committee for Purchase From the Blind and Other Severely Handicapped.

ACTION: Addition to Procurement List.

SUMMARY: This action adds to Procurement List 1980 a service to be provided by workshops for the blind and other severely handicapped.

EFFECTIVE DATE: July 1, 1980.

ADDRESS: Committee for Purchase From the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT:
C. W. Fletcher, (703) 557–1145.

SUPPLEMENTARY INFORMATION: On April 4, 1980, the Committee for Purchase From the Blind and Other Severely Handicapped published notice (45 FR 23048) of proposed addition to Procurement List 1980, November 27, 1979 (44 FR 67925).

After consideration of the relevant matter presented, the Committee has determined that the service listed below is suitable for procurement by the Federal Government under 41 U.S.C. 46–48c, 85 Stat. 77.

Accordingly, the following service is hereby added to Procurement List 1980:

SIC 7349

Janitorial/Custodial, Federal Building, 111 West Huron Street, Buffalo, New York.

C. W. Fletcher,

Executive Director.

[FR Doc. 80-19723 Filed 6-30-80; 8:45 am]

BILLING CODE 6820-33-M

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

Revision to the Notice of Intent To Prepare a Draft Supplement to the Final Environmental Impact Statement for the Proposed Twin Valley Lake-Wild Rice River Flood Control Project, Norman County, Minn.

AGENCY: St. Paul District, U.S. Army Corps of Engineers.

ACTION: Revision to the Notice of Intent To Prepare a Draft Supplement to the Final Environmental Impact Statement (FEIS).

The following revision applies to the Notice of Intent for the Twin Valley Lake Project that was published in the Friday, January 11, 1980 issue of the Federal Register (Vol. 45, No. 8, pp. 2360–2361):

"We estimate that the Draft Supplement to the FEIS will be available to the public during the fourth quarter of Fiscal Year 1980 (July 1980–September 1980)."

S. E. Draper,

Ltc. Corps of Engineers Acting District Engineer.

[FR Doc. 80–19724 Filed 6–30–80; 8:45 am]

BILLING CODE 3710–CY–M

Department of the Navy

Secretary of the Navy's Advisory Board on Education and Training; Meeting

Pursuant to Section 10, paragraph (a)(2) of the Federal Advisory Act (5 U.S.C. App. I), notice is hereby given of an open meeting of the Secretary of the Navy's Advisory Board on Education and Training, to be held July 16–17, 1980. The Board will meet in the Conference Room, Headquarters, Fifth Naval District, Building N–26, U.S. Naval Base, Norfolk, Virginia. The July 16 session will begin at 8:30 a.m. and continue until 2:30 p.m. The July 17 session will meet from 8:30 a.m. until 11:30 a.m.

As part of the meeting the Board will receive briefings on officer accessions and attrition, and training plans for civilians with the Department of the Navy. Matters of continuing interest include an update on previous reports on the quality of off-duty education, and research and development program management. The Board will also receive a briefing on Recruiting Command initatives with public and private high schools.

Dated: June 28, 1980.

P. B. Walker,

Captain, JAGC, U.S. Navy Deputy Assistant Judge Advocate General (Administrative Law).

[FR Doc. 80–19833 Filed 6–30–80; 8:45 am]

BILLING CODE 3810–71–M

DEPARTMENT OF ENERGY

Voluntary Agreement and Plan of Action To Implement the International Energy Program; Meeting

In accordance with section 252(c)(1)(A)(i) of the Energy Policy and Coservation Act (42 U.S.C. 6272), notice is hereby provided that a meeting of Subcommittee C of the Industry Advisory Board (IAB) to the International Energy Agency (IEA) will be held on July 8 and 9, 1980, at the offices of Exxon Corporation, 1251 Avenue of the Americas, New York, New York, beginning at 9:30 a.m. on July 8.

The Agenda for the meeting is as follows: Dispute Settlement Center, including preparation of procedures.

As provided in section 252(c)(1)(A)(ii) of the Energy Policy and Conservation Act, this meeting will not be open to the public.

Pursuant to section 252(c)(3) of the Energy Policy and Conservation Act, a verbatim transcript of this meeting will be made; the transcript, with such deletions as are determined to be necessary or appropriate pursuant to EO 12065 (43 FR 28949, July 3, 1978), EO 11932 (41 FR 32691, August 5, 1976) and 22 CFR 9a.1–9a.8, will be available in the Reading Room of the Department of Energy, Room 5B–180, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, between the hours of 8:00 AM and 4:00 PM weekdays, except Federal holidays.

Issued in Washington, D.C. June 26, 1980.

Eric J. Fygi,

Deputy General Counsel.

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BILLING CODE 6450–01–M

Economic Regulatory Administration Action Taken on Consent Orders

AGENCY: Economic Regulatory Administration.

ACTION: Notice of Action Taken on Consent Orders.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives Notice that Consent Orders were entered into between the Office of Enforcement, ERA, and the firms listed concerning selling prices alleged to be in excess of the maximum lawful selling price for motor gasoline. The Consent Orders do not address or limit any liability with respect to the consenting firm's prior compliance with the Mandatory Petroleum Price and Allocation Regulations. Among other matters, the consenting firms agree to reduce prices for each grade of gasoline to no more than the maximum lawful selling price, make a proper posting as required by law, and otherwise comply with applicable law. For further information regarding these Consent Orders, please contact Thomas M. Holleran, Program Manager for Product Retailers, Department of Energy, Economic Regulatory Administration, Enforcement Program Operations, 2000 M Street, NW, Washington, DC 20461, telephone number 202–653–3569.

Issued in Washington, DC on the 25th day of June, 1980.

James J. Fenton,

Acting Director, Enforcement Program Operations Division, Economic Regulatory Administration.

Consent Orders Issued, Northeast District, April 1980

Station and address	Issue date	Violation
James Bulloch, Inc., 439 Beach 129 St., Belle Harbor, NY	4/3/80	10.6
A&B Service Center, 194–14 Linden Blvd., St. Albans, NY	4/4/80	6.9
Corner Service Station, 6501 13th Avenue, Brooklyn, NY	4/14/80	7.9
Burlie's Shell Service, 1845 Webster Ave., Bronx, NY	4/1/80	1.2
Bronxchester Servicenter, Rt. 45 & Schoolhouse Rd., Spring Valley, NY	4/2/80	9.1
All Service Station, 2350 So. Grand Ave., Baldwin, NY	4/16/80	13.0
Earlwood Service Station, 50–92 Northern Blvd., Long Island City, NY	4/21/80	3.6
Merrick Road Getty, 476 Merrick Road, Oceanside, NY	4/21/80	1.4
North Henry Street Service Station, 230 Norman Avenue, Brooklyn, NY	4/23/80	15.4
Peristera Service Station, Grand Central PKY West, East Elmhurst, NY	4/25/80	2.7
Lorelei Service Station, 60–12 Metropolitan Ave., Ridgewood, NY	4/25/80	2.8
Chet Palozzo's Service Sta., 558 Little Britain Rd., Newburgh, NY	4/30/80	6.6
Tremont Texaco, 363 Tremont Street, Boston, MA	4/3/80	2.7
John & Nick's Citgo, 2055 Mass. Avenue, Cambridge, MA	4/4/80	5.0
Howe's Mobil, route 25, Merideth, NH	4/4/80	2.3
Robin's Chevron, 856 Eastern Ave., Malden, MA	4/2/80	1.8
Bob's Chevron, 123 River Street, Newton, MA	4/2/80	7.9
Ray's Exxon, 325 Alewife Brook Pkwy, Somerville, MA	4/4/80	.2
Westford Exxon, Little Road, Westford, MA	4/1/80	5.2
Leo's Mobil, 264 Neponset Parkway, Hyde Park, MA	4/10/80	.8
Chelmsford Chevron, 201 Boston Road, Chelmsford, MA	4/8/80	9.9
Crowley's Chevron, 870 No. Main St., Randolph, MA	4/9/80	8.7
Giordano Bros. (Getty), 150 Swan Street, Methuen, MA	4/7/80	1.4
Ken's Exxon Service Center, 46 Central Avenue, Dover, NH	4/7/80	4.1
Al & Julia's Inc., 1150 N. Main Street, Randolph, MA	4/16/80	3.4

Consent Orders Issued, Northeast District, April 1980—Continued

Station and address	Issue date	Violation
R. S. Bacchiochi, 1111 Great Plain Ave., Needham, MA	4/17/80	3.2
Burgess Chevron, 475 Ferry Street, Everett, MA	4/17/80	6.9
Harvey's Gulf Service, 175 Douglas Ave., N Providence, RI	4/10/80	1.2
Marieville Shell, 1131 Mineral Spring Ave., N Providence, RI	4/14/80	4.2
Waller's Arco, Rt. 128 South, Newton Lower Falls, MA	4/23/80	2.0
Ed Woelfel Chevron Sta., 581 Centre St., Jamaica Plain, MA	4/23/80	6.9
Needham Exxon, 1110 Great Plain Ave., Needham, MA	4/25/80	6.0
Walt & Bill's (Chevron), 236 Trapelo Road, Belmont, MA	4/3/80	3.9
Richmond Service Center (Mobil), Route 138, Wyoming, RI	4/24/80	3.8
Abe's Arco Inc., 1 South Street, Natick, MA	4/28/80	7.0
Ted's Getty, Route 4A, Bomoseen, VT	4/28/80	7.2
Dom's Service Station (Arco), 1280 Dixwell Ave., Hamden, CT	4/29/80	3.2
Hartman's Chevron, Valley Rd. Rt. 8 Box 469, Cumberland, MD	4/15/80	3.1
Super 170 Exxon, Rt. 170 & Betson Ave., Odenton, MD	4/8/80	5.6
Dave's Auto Service (Mobil), 2914 Mountain Road, Pasadena, MD	4/8/80	5.9
Nursery Road Shell, 724 Nursery Road, Linthicum Hts., MD	4/3/80	1.6
Ferndale Amoco, 403 Baltimore-Annapolis, Ferndale, MD	4/3/80	4.6
Severn Automatic Transmission, Rt. 554, Severn, MD	4/7/80	6.2
Barnharts Exxon, 501 S. Monroe, Baltimore, MD	4/9/80	3.2
Capital Trail Exxon, 6219 Belair Road, Baltimore, MD	4/9/80	8.2
Robinson's Texaco, 1818 Woodlawn Drive, Baltimore, MD	4/15/80	2.3
DC & FA Warshime-Sunoco, 4533 Falls Road, Baltimore, MD	4/3/80	1.9
Mullins Sunoco, 6601 Harford Road, Baltimore, MD	4/8/80	.6
Alessi & Son, 4725 Harford Road, Baltimore, MD	4/2/80	1.5
Benton's Citgo, 1740 York Road, Lutherville, MD	4/11/80	.2
Arlington Auto-Getty, 6100 Reistertown Rd., Baltimore, MD	4/10/80	.6
Reisterstown Sunoco, 11701 Reisterstown Rd., Reisterstown, MD	4/18/80	3.9
D&G Texaco, 11903 Reisterstown Rd., Reisterstown, MD	4/18/80	4.4
Jims Gulf, 9301 Liberty Road, Randallstown, MD	4/18/80	3.9
Marriots Amoco, 9802 Liberty Road, Ransdallstown, MD	4/11/80	4.8
Middle River Exxon, 2107 Eastern Ave., Baltimore, MD	4/14/80	.9
Wayne Sullivan & Sons, 8800 Pulaskie Hwy, Baltimore, MD	4/17/80	4.3
Nearing's Grocery Store, 13522 Long Green Pike, Baldwin, MD	4/16/80	1
J&R BP, 18830 York Road, Parkton, MD	4/8/80	4.8
Eiler's Gulf, 1627 Eastern Blvd., Baltimore, MD	4/8/80	8.9
Mort's Sunoco, 6629 Reisterstown Rd., Baltimore, MD	4/7/80	2.3
Towson Plaza Citgo, 831 Delaney Valley Rd., Townson, MD	4/9/80	2.9
Country Mart BP, 12124 Greenspring Ave., Owens Mills, MD	4/8/80	5.1
East Drive Auto (Getty), 5301 East Drive, Arbutus, MD	4/16/80	.3
Lansdowne Shell, 3100 Hammonds Ferry, Lansdowne, MD	4/11/80	.2
Westend Exxon, 7901 Wise Avenue, Baltimore, MD	4/16/80	2.2
Addie's Amoco, 7899 Dundalk Ave., Baltimore, MD	4/16/80	3.3
Turner's Exxon, Rt. 16 & 404, Denton, MD	4/17/80	5.8
Walls Garage-Gulf, Sunset Blvd., Ridgley, MD	4/15/80	2.5
Sand Bet Inc.-BP, Rt. 311 (Rt. 1 Box 93B), Marydel, MD	4/17/80	1.7

Consent Orders Issued, Northeast District, April 1980—Continued

Station and address	Issue date	Violation
Cox Distributing Co.-Sunoco, 5th Ave., & 7th St., Denton, MD	4/22/80	2.6
T&C Mini Market-Amoco, 513 Machanic Valley, Northeast, MD	4/4/80	6.6
Parkers, Inc., 118 Broad Street, Hollock, MD	4/21/80	3.3
Reliance Market, Route 20 & Road 1, Seaford, DE	4/22/80	(1)
Truck City, Inc., Rte 9 Box 73, Frederick, MD	4/10/80	8.2
Flint Hill Exxon, Rt. 1 Box 99-A, Adamstown, MD	4/8/80	6.1
River City Chevron, 225 S. John St., Havre De Grace, MD	4/7/80	2.8
Eddies 66, 603 Revolution St., Havre De Grace, MD	4/7/80	4.1
Primos Sunoco Station, 780 W Bel Air Ave., Aberdeen, MD	4/8/80	2.4
Mels 66, 607 S. Philadelphia Blvd., Aberdeen, MD	4/8/80	4.0
Whiteford Service Center, Rt. 165 & Dooley Road, Whiteford, MD	4/10/80	4.5
Circle Service Station & Grocery, 4800 Rock Spring Road, Street, MD	4/16/80	4.2
Barry's Market, Rt. 2 Melitota, Chestertown, MD	4/14/80	7.0
Eastern Shore Arco, 350 N. Washington, St., Easton, MD	4/17/80	2.1
Kaplans Grocery, 1 Fenton Avenue, Williamsport, MD	4/15/80	9.9
Daves Sport Shop, Inc., Quantico Rd-Rt. 1, Quantico, MD	4/22/80	5.7
Tommy's 66, US-13 & Pine Bluff Rd., Salisbury, MD	4/21/80	3.8
Webb's Corner Market, P.O. Box 6, Pocomoke, MD	4/22/80	2.6
Eldridge Texaco, P.O. Box 61, Jessup, MD	4/24/80	3.0
Moravia Arco, 6020 Moravia St., Baltimore, MD	4/24/80	4.1
McCready's Getty, 2635 Wilkens Ave., Baltimore, MD	4/23/80	3.6
Jang's Arco, 6023 Baltimore Nat'l Pk., Baltimore, MD	4/24/80	2.1
Owens Market-Shell, 2410 Mountain Rd., Joppa, MD	4/24/80	6.9
Fertig Bros. Phillips 66, 522 Pulaski Hwy., Joppa, MD	4/23/80	3.0
Landeford Gas & Go, North Route 13, Pocomoke, MD	4/25/80	3.4

[1] Records.

Consent Orders Issued, Northeast District, May 1980

Station and address	Issue date	violation
Anthony's Service Station, 150 Main Street, Binghamton, NY	5/7/80	1.2
Madison Fuel & Repair, 190 Main Street, Port Washington, NY	5/7/80	10.8
Dimitra Service Station, 20-01 31st Street, Long Island City, NY	5/8/80	8.2
Bob's Sunoco, 80 Bolton Street, Marlboro, MA	5/22/80	6.8
Pineton's Enterprises, Inc., No. Main Street, Randolph, MA	5/12/80	.4
Accord Pond Sunoco, 117 Pond Street, Norwell, MA	5/14/80	3.5
Osborn Country Store, 632 Summer Street, Duxbury, MA	5/13/80	11.7
Jack's Super Service, 60 Whalley Avenue, New Haven, CT	5/2/80	2.6
Slamin's Station Inc., 9 Walnut Street, Natick, MA	5/5/80	3.0
Don's Servicenter, Center Street, Pembroke, MA	5/2/80	3.9
Clark's Chevron, 90 Concord Avenue, Belmont, MA	5/2/80	2.9
McCafferty Inc. Exxon, Baltimore Pike & Providence Road, Media, PA	5/14/80	3.0
Village Green Chevron, Concord Rd. & Village Drive, Village Green, PA	5/7/80	5.8

Consent Orders Issued, Northeast District, May 1980—Continued

Station and address	Issue date	violation
Don's Auto Repair & Getty Service Station, Markley and Marshall Rd., Norristown, PA	5/6/80	3.4
Marty's Exxon, Baltimore Pike & Brooke Avenue, Media, PA	5/9/80	2.0
Al's Chevron, 110 Township Line, Havetown, PA	5/16/80	2.8
Frank Civillico's Sunoco, 217 East Lancaster Ave., Wayne, PA	5/19/80	4.6
Al & Harry's Texaco, 380 Montgomery Ave., Merion, PA	5/19/80	1.3
L. S. Riggins' Oil Co., Inc., 3938 South Main Rd., Vineland, NJ	4/24/80	15.8
Tony's Chevron, 320 Jericho Tpk., Smithtown, NY	5/28/80	3.7
Jo's Petro Emporium, 100 Shore Road, Port Washington, NY	5/28/80	5.6
New Hempstead Service Station, 364 New Hempstead Rd., New City, NY	5/28/80	4.1
Easy Automotive, 115 Bayview Ave., Port Washington, NY	5/20/80	11.5
375 Clinton Street Service Sta., 375 Clinton Street, Hempstead, NY	5/20/80	4.9
Ralph's Automotive Service, 6520 Fort Hamilton Pky., Brooklyn, NY	5/23/80	5.2
Minnesota Ave. Gulf, 3820 Minnesota Ave. SE, Washington, DC 20019	5/28/80	.018
Anacostia Exxon, 2255 Martin Luther King Ave. SE, Washington, DC 20020	5/22/80	.020
Gouldin's Exxon Service Center, 3900 Martin Luther King Ave., Washington, DC 20032	5/22/80	.020
Randy's Exxon, 2713 Good Hope Rd., Washington, DC 20020	5/22/80	.040
Joe's Sinclair, 2 South Benton Drive, Sauk Rapids, MN 56379	5/7/80	.0170
Ralph's Service, 1315 First St. South, St. Cloud, MN 56301	5/7/80	.0550
Tony's Standard, 2400 Division, St. Cloud, MN 56301	5/7/80	.0210
Lnych's Amoco, 1720 St. Germain, St. Cloud, MN 56301	5/7/80	.0110
Pineridge Standard, 7470 Pt. Douglas Road, Cottage Grove, MN 55016	5/8/80	.0090
Transportation Oil Co. (IN), 3403 S. Chicago, Milwaukee, WI 53172	4/29/80	.0290
Schnoor Corp., P.O. Box 248, Fox Lake, IL 60020	5/1/80	.2310
Norman Bauske Boat Basin, 152 N. U.S. Highway 12, Fox Lake, IL 60020	5/5/80	.0180
Ben's Service Inc. Shell, 20 Hwy 12 Mead Court, Fox Lake, IL 60020	5/7/80	.0800
West End Amoco Mr. Kan Higgins, 602 Route 173, Antioch, IL 60002	5/8/80	.0070
John's Interstate Amoco, Route 57 & Route 136, Rantoul, IL 61866	5/9/80	.0180
Park & Butterfield Standard, Rich Wassell, 22 W. 555 Butterfield Rd., Glen Ellyn, IL 60137	5/12/80	.0090
Brown's Mobil, U.S. 30 & Hwy 2, Valparaiso, IN 46383	5/15/80	.0220
Floyd's Standard, Rt. 12 & Honey Lake Rd., Lake Zurich, IL 60047	5/19/80	.0200
George Shell, 301 N. Cass Avenue, Westmont, IL 60559	5/20/80	.0160
Danny's Main "66", 864 Main Street, Antioch, IL 60002	5/20/80	.0860
Broadview Grantwood Sunoco, 6138 Broadview Rd., Parma, Ohio 44134	5/30/80	.019
William Crayon Sunoco, 1705 Collingwood, Toledo, Ohio 43606	5/17/80	.027
Greenhill Shell, 24 Eswin, Greenhills, Ohio 45218	5/1/80	.015
Girten's Marathon, 9763 Colerain Rd., Cincinnati, Ohio 45239	5/1/80	.03
Bob's Shoreway, 4208 East Lake Rd., Sheffield Lake, Ohio 44054	5/2/80	.128
Bowling's Mobil, 304 South First Avenue, Beech Grove, Indiana 46107	5/16/80	.028
Carter's Phillips 66 Service, 3811 Sycamore, Cairo, IL 62914	5/14/80	.144

Consent Orders Issued, Southwest District, June 1980

Station and address	Issue date	Violation
Mosley Gulf Stations, 404 E. End Blvd. So., Marshall, TX 75670	3/11/80	6.2
Noodle Grocery, Rt. 1, Box 111, Merkil, TX 79536	5/1/80	.3
Church Street Exxon, 630 Church Street, Sulphur Springs, TX 75482	5/22/80	.9
Hindman's Exxon, 455 N. Main St., Paris, TX 75460	5/22/80	4.8
Kirby's Exxon, 2685 Lamar Ave., Paris, TX 75460	5/23/80	.6
Shipman's Exxon, 400 E. Main, Honey Grove, TX 75496	5/23/80	.2
Alberta Creek Resort, Star Route A, Box 104, Kingston, OK 73439	5/24/80	.9
Soldier Creek Resort & Marina, Star Rt. A, Kingston, OK 73439	5/24/80	2.0
Big Cypress Liquors and Grocery, P.O. Box 98, Karnack, TX 75661	5/26/80	9.05
Crip's Camp, Rt. 2, Karnack, TX 75661	5/26/80	5.55
Hopkins Grocery, Rt. 6, Box 306, Marshall, TX 75670	5/27/80	3.55
Harvey's Gulf, Rt. 4, Box 157, San Augustine, TX 75972	5/27/80	1.5
Jackson Hill Marina, P.O. Box 148, Broaddus, TX 75929	5/28/80	3.9
Skelton Exxon, 11730 Preston Rd., Dallas, TX 75230	5/22/80	(1)
Golden #1 Stop, Rt. 1, Box 298, Gordonville, TX 76245	5/24/80	(1)
Ussery & Son Grocery, P.O. Box 704, Clarksville, TX 75426	5/26/80	2.8
Camp Texarkana, P.O. Box 5963, Texarkana, TX 75501	5/28/80	(1)
Kelly Creek Landing, Rt. 1, Box 247-A, Maud, TX 75567	5/27/80	17.4
Hank's Creek Marina, Rt. 1, Box 252, Huntington, TX 75949	5/27/80	6.0
Twin Dikes Marina, P.O. Box 6, Sam Rayburn, TX 75951	5/27/80	7.0
Huxley Bay Marina, Rt. 1, Box 146, Shelbyville, TN 75973	5/28/80	13.6
Roger Harbor Marina, Rt. 1, Box 100, Shelbyville, TX 75973	5/28/80	(1)
Carlos Domingo Shell, 3210 N. Buckner Blvd., Dallas, TX 75228	5/20/80	5.6
Grandpappy Paint Harbor, Rt. 2, Box 66P, Denison, TX 75020	5/23/80	6.5
Eisenhower Yacht Club, Rt. 2, Box 50M, Denison, TX 75020	5/23/80	8.3
Loe's Highport Marina, Rt. 1, Pottsboro, TX 75076	5/23/80	12.3
Flowing Wells Resort, Rt. 1, Box 42, Pottsboro, TX 75076	5/24/80	3.5
Mill Creek Resort, Rt. 1, Pottsboro, TX 75076	5/24/80	2.1
Joe's Grocery & Bait, 1216 N. 3rd Street, Longview, TX 75601	5/26/80	3.3
Kamper's Haven, Rt. 1, Box 214-A, Jefferson, TX 75657	5/26/80	7.35
Island View Landing, Rt. 1, Box 209, Jefferson, TX 75657	5/26/80	2.4
Char-Mar Marina, Rt. 4, Box 1100, Jefferson, TX 75657	5/27/80	.5
McCarley's Exxon, 227 Henderson, Kilgore, TX 75662	5/27/80	.3
Goode's Exxon, 1220 Henderson Blvd., Kilgore, TX 75662	5/27/80	.3
Best Park, Star Route, Milam, TX 75959	5/28/80	.9
Shamrock Marina, Star Route, Milam, TX 75959	5/28/80	1.7
Holly Park Marina, Star Rt., Milam, TX 75959	5/28/80	.9
Darjean Gulf Service, 3310 Katy Frwy, Houston, TX 77007	4/29/80	.7
Cottingham Texaco, 9801 Stella Link, Houston, TX 77025	5/2/80	16.9
Joubert Gulf Service, 5203 Griggs, Houston, TX 77021	5/2/80	.5
Kermally's Texaco, 6868 Spencer Hwy., Pasadena, TX 77505	5/6/80	.4
Herman Gulf, 11649 Eastx Frwy, Houston, TX 77093	5/8/80	.2
Patel Texaco, 12003 Eastx Frwy, Houston, TX 77039	5/9/80	.5
H & B Texaco, 4660 South Loop East, Houston, TX 77033	5/7/80	.7
Dome Grocery, Hwy. 105 & 146, Montgomery, TX 77356	5/6/80	3.2
Quick & Easy Food Store, 701 E. Airline Hwy., Kenner, LA 70062	5/12/80	6.0
J & J Exxon Service, 201 SW Railroad Ave., Ponchatoula, LA 70454	5/9/80	.3
Benson's Gulf Service, Old Spanish Trail, Slidell, LA 70458	5/6/80	2.9
Sell's Chevron Service Center, 11 E. Livoeak, Arcadia, CA 91006	4/29/80	.9
Richard Sjoberg Chevron, 1801 N. Azusa, West Covina, CA 91791	4/29/80	1.1
Jack Geer Texaco, 2790 E. Lincoln, Anaheim, CA 92805	4/29/80	1.2
Pierre's Texaco Station, 12525 E. Hadley Street, Whittier, CA 90601	4/30/80	1.9
Montebello Car Wash, 2300 W. Whittier Blvd., Montebello, CA 90640	5/1/80	2.1
Beverly Texaco, 10807 Beverly Blvd., Whittier, CA 90601	5/1/80	3.2
Austin's Arco Station, 2439 S. Garfield Ave., Monterey Park, CA 91754	5/2/80	.6
Joe Bezerra Chevron Service #1, 801 W. Olympic Blvd., Montebello, CA 90640	5/2/80	1.3
Joe Bezerra Chevron Service #2, 2200 W. Beverly Blvd., Montebello, CA 90640	5/5/80	1.9
Pauls Auto Electric 76, 4069 Lakewood Blvd., Long Beach, CA 90807	5/5/80	5.3
E & E Chevron Service, 16170 E. Leffing Well Rd., Whittier, CA 90604	5/6/80	1.0
John's Chevron, 3804 Barham Blvd., Los Angeles, CA 90028	5/6/80	1.0
Kozai Brothers, 18564 S. Western Ave., Gardena, CA 90248	5/6/80	1.0
Saman Mobil Service, 9144 Painter Ave., Whittier, CA 90602	5/7/80	6.1
McHenry Chevron, 4410 S. Figueroa Street, Los Angeles, CA 90037	5/7/80	.9
Eli Chevron, 2005 Merced, S. El Monte, CA 91732	5/7/80	1.4
Hernandez Auto Center, 2406 Durfee Ave., El Monte, CA 91732	5/8/80	6.4
Rathbone Mobil, 2549 Huntington Drive, San Marino, CA 91108	5/8/80	4.7
Ralph's Service Chevron, 9010 Garvey, Rosemead, CA	5/9/80	5.1
Noda's Texaco Service, 14141 So. Crenshaw Blvd., Hawthorne, CA 90250	5/9/80	7.2
Naylor's Texaco, 2201 W. 182nd Street, Torrance, CA 90504	5/9/80	1.6
Santa Ana Chevron Service, 1251 W. 17th Street, Santa Ana, CA 92706	5/13/80	6.0
Dickens Mobil Service, 1701 N. Broadway, Santa Ana, CA 92706	5/14/80	3.5
Hossin Bonakdar's Chevron Service, 1104 S. Bristol, Santa Ana, CA 92704	5/14/80	5.1
Bob Gage's Fox Hills Chevron Service, 5975 Centinela, Los Angeles, CA 90045	5/14/80	4.3
Freeway Texaco, 1440 E. 4th Street, Ontario, CA 91764	5/16/80	3.5
Choi's Exxon Station, 2995 Long Beach Blvd., Long Beach, CA 90806	5/19/80	6.6
Hals Service Mobil, 9700 E. Valley, Rosemead, CA 91770	5/19/80	7.0
Walt Smith Arco, 702 E. 6th Street, Corona, CA 91720	5/20/80	4.2
Frank's Union, 1543 Hoover, Los Angeles, CA 90006	5/20/80	5.4
Irvine Shell Service, 4162 Trabuco, Irvine, CA 92705	5/22/80	3.1
Ekberg's Chevron, 13561 Big Bear Blvd., Big Bear Lake, CA 92315	5/26/80	.8
4C's Sons Mobil, 40829 Big Bear Blvd., Big Bear Lake, CA 92315	5/26/80	2.2
Stock's Auto Repair, 41390 Big Bear Blvd., Big Bear Lake, CA 29315	5/26/80	1.3
Gay's Chevron Service, 418 E. Glenoaks Blvd., Glendale, CA 91207	5/29/80	5.1
Ward's Exxon, 1490 S. Broadway, Santa Maria, CA 93456	4/25/80	.5
Tom Brown & Son Truck Service, 1948 N. Broadway, Santa Maria, CA 93454	4/28/80	.4
Gil's Chevron Service, 1026 E. Stowell Rd., Santa Maria, CA 93454	4/29/80	.2
G & G Texaco, 743 E. Main, Santa Maria, CA 93454	4/29/80	.5
Ken's Mobil, 107 E. Ocean, Lompoc, CA 93436	4/30/80	1.0
Village Arco, 3883 Constellation, Lompoc, CA 93436	4/30/80	2.0
James L. Robertson's Shell, 100 N. H Street, Santa Maria, CA 93454	5/1/80	4.0
David Thompson Chevron, 739 E. Donvan Road, Santa Maria, CA 93454	5/30/80	7.7
COE's Texaco, 432 So. Boulder Hwy., Henderson, NV 89015	5/26/80	2.0
Boulder City Automotive Texaco, 501 Nevada Hwy., Boulder City, NV 89005	5/26/80	9.6
Herb's Boulder City Chevron, 801 Nevada Hwy., Boulder City, NV 89005	5/26/80	12.9
Dennett's Mobil, 1004 Nevada Hwy., Boulder City, NV 89005	5/26/80	7.8
Summit Inn Texaco, I-15 & Oakhill, Phelan, CA 92371	5/26/80	1.8
Paso Alto Towing Union 76, Halloran Summit, CA	5/26/80	5.9
Main & Charleston Texaco, 1107 So. Main Street, Las Vegas, NV 89101	5/27/80	2.2
Bill Bailey's Chev., 808 Stierlin Road, Mountain View, Ca. 94043	5/29/80	4.3
Diablo Texaco, 915 Diablo Ave., Novato, California 94927	5/22/80	5.2
Ed Field Chevron, 400 Diablo Road, Danville, Ca. 94526	5/21/80	2.8
Bob Bridgedale Chev., 343 N. Hartz Ave., Danville, Ca. 94526	5/21/80	5.4
Danville Arco, 300 N. Hartz, Danville, Ca. 94526	5/27/80	2.6
E. and L. Service, 2416 Grove Way, Castro Valley, Ca. 94546	5/22/80	5.3
Sowers Exxon, 3207 Danville Blvd., Alamo, Ca. 94507	5/23/80	1.3
Lafayette Chev.-West, 3589 Mt. Diablo, Lafayette, Ca. 94549	5/29/80	7.5
Rain Tunnel #2, 620 Second Street, San Rafael, Ca. 94901	5/8/80	9.1
Crow Canyon Exxon, 2799 Crow Canyon Road, San Ramon, Ca. 94583	5/5/80	4.4
Mayer Chevron, 5276 Broadway, Oakland, California 94618	5/5/80	6.9
City Mobil Service, 905 Linden Ave., So. San Francisco, Ca. 94080	5/2/80	4.8
Rain Tunnel, 4595 Clayton Road, Concord, Ca. 94520	4/25/80	2.9
4th & Santa Clara Che., 147 E. Santa Clara, San Jose, Calif. 95113	5/28/80	2.2
Little Bear Car Wash, 604 Ygnacio Valley Rd., Walnut Creek, Ca.	5/23/80	(2)
Little Bear Car Wash, 2051 N. Main, Walnut Creek, Ca.	5/23/80	(2)
Parkland Chevron, 11908 Pacific Hwy., Tacoma, WA 98444	5/5/80	7.8
Kingsgate Texaco, 12225 124th N.E., Kirkland, WA 98033	5/14/80	2.9
University Arco, 4106 Brooklyn Ave., Seattle, WA 98105	5/8/80	2.9
Twin Lakes Chevron, 3450 S.W. 320th, Federal Way, WA 98003	5/16/80	.9
Morelli's Texaco, 3966 S.E. Hawthorne Blvd., Portland, OR 97215	5/14/80	4.2
Bridges Chevron, 904 E. Main, Cottage Grove, OR 97424	5/23/80	8.4

[1] Inadequate records.
[2] Record keeping.

[FR Doc. 80-19705 Filed 6-30-80; 8:45 am]
BILLING CODE 6450-01-M

Action Taken on Consent Orders

AGENCY: Economic Regulatory Administration.

ACTION: Notice of action taken on consent order.

SUMMARY: The Economic Regulatory Administration of the Department of Energy (DOE) hereby gives Notice that Consent Orders were entered into between the Office of Enforcement ERA, and the firms listed below during the month of March 1980. These Consent

Orders concern prices charged by retail motor gasoline dealers allegedly in excess of the maximum lawful selling price for motor gasoline. The purpose and effect of these Consent Orders is to bring the consenting firms into present compliance with the Mandatory Petroleum Price Regulations and the General Allocation and Price Regulations, and they do not address or limit any liability with respect to the consenting firms' prior compliance or possible violation of the aforementioned regulations. Pursuant to the Consent Orders, the consenting firms agree to the following actions.

1. Reduce prices for each grade of gasoline to no more than the maximum lawful selling price;

2. Post the maximum lawful selling price for each grade of gasoline on the face of each pump in numbers and letters not less than one-half inch in height, or in a prominent place elsewhere at the retail outlet in numbers or letters not less than four inches high;

3. Properly maintain records required under the aforementioned regulations; and

4. Cease and desist from employing any discriminatory and/or unlawful business practices prohibited by the aforementioned regulations.

For further informaiton regarding these Consent Orders, please contact James C. Easterday, District Manager, Southeast District, Department of Energy, Office of Enforcement, 1655 Peachtree Street, N.E., Atlanta, Georgia 30367, telephone number (404) 881-2396.

Firm Name, Firm Address, and Audit Date

Sea Island Gulf, 862 Coleman Blvd., Mt. Pleasant, S.C.; 9-26-79.
Rubio's Texaco Service, 5900 S.W. 8th St., Miami, Fla. 33144; 2-19-80.
Sheppard's Texaco, 2116 Broad River Rd., Columbia, S.C.; 2-20-80.
Armando Bacallao, 2000 S.W. 57th Ave., Miami, Fla.; 2-20-80.
R.C. Texaco, 1199 N.W. 42nd Ave., Miami, Fla.; 2-21-80.
Interstate Fina Service, Hwy 301 & I-26, Orangeburg, S.C.; 2-21-80.
B & F Exxon, Rt. 2, Box 674, Orangeburg, S.C.; 2-21-80.
Norman's Shell, 1117 Savannah Hwy., Charleston, S.C.; 2-25-80.
Stuckeys, I-95 and SC 102, Summerton, S.C.; 2-26-80.
Wilson's Chevron, Box 541, Troy, Ala.; 2-27-80.
Best Western Exxon, P.O. Box 638, Summerton, S.C.; 2-27-80.
White Horse Exxon, 6101 White Horse Rd., Greenville, S.C.; 2-27-80.
Troy Exxon, 320 S. Three Notch, Troy, Ala.; 2-28-80.
Porter's Exxon, 309 South Oates, Dothan, Ala.; 2-28-80.
Southside Exxon, 2200 Ross Park Cr., Dothan, Ala.; 2-28-80.
Rowland Automotive, Hillcrest Shopping Center, Spartanburg, S.C.; 2-28-80.
Twin Oaks Exxon, 1497 Greenville Hwy., Spartanburg, S.C.; 2-28-80.
Enfinger's, 807 W. Main, Dothan, Ala.; 2-29-80.
West Main Union 76, 830 W. Main, Dothan, Ala.; 2-29-80.
Terry Fountain's Exxon, 639 W. Tenn, Tallahassee, Fla.; 3-3-80.
Bray's Texaco, 1745 N. Monroe St., Tallahassee, Fla.; 3-3-80.
Northwood Exxon, 1875 N. Monroe, Tallahassee, Fla.; 3-3-80.
M & W Standard, I-75 and Ky 21, Berea, Ky.; 3-4-80.
Stephens Van Terminal, 9500 N.W. 27th Ave., Miami, Fla.; 3-5-80.
Van's Exxon, 1909 Atlantic Blvd., Del Ray Beach, Fla.; 3-6-80.
Pete's Standard, 2751 N. Monroe, Tallahassee, Fla.; 3-7-80.
Robert R. Thornsberry, 1450 S. Main St., Paris, Ky.; 3-7-80.
Owen's Exxon, 200 E. Leigh St., Richmond, Va.; 3-8-80.
Liles Bros., P.O. Box 185, U.S. 70, Mason, Tenn.; 3-11-80.
H & I Chevron, 6890 N. 9th Ave., Pensacola, Fla. 32504; 3-14-80.
Browns Gulf, 3199 Jackson, Paducah, Ky. 42001; 3-18-80.
Brosville Texaco, Rt. 1, Box 268, Danville, Va. 24541; 3-18-80.
Terry L. Shope, 1201 Hurstbourne Ln., Louisville, Ky. 40222; 3-18-80.
Jacks Standard, 800 Joe Clifton Dr., Paducah, Ky. 42001; 3-19-80.
Thomas E. Dickerson, 501 13th St., Ashland, Ky. 41101; 3-19-80.
John T. Conlin, R.R. 2, Box 495, Ashland, KY. 41101; 3-20-80.
Allen Bailey, I-64 & Maysville Rd., Mt. Sterling, Ky. 40353; 3-21-80.
Elder's Standard, 2377 N U.S. 1, Mims, Fla. 32754; 3-21-80.
Joe Brooks-Ralph Cramer, 401 71st St., Miami Beach, Fla. 33141; 3-25-80.
Jack Robbins, 1453 Aston Rd., Miami Beach, Fla. 33135; 3-25-80.
Cesom, Inc., 2701 W. Sunrise Blvd., Ft. Lauderdale, Fla. 33314; 3-25-80.
Gerald M. Nolan, 1500 N. Krome Ave., Homestead, Fla. 33030; 3-26-80.
John Hollon, 30790 S. Federal Hwy., Leisure City, Fla. 33030; 3-26-80.
Gulf Stream Standard, 15 N. Federal Hwy., Hallendale, Fla. 33009; 3-27-80.
Alberson's Grocery, 1198 U.S. 70, Arlington, Tenn.; 3-11-80.
Bates Shell Station, 1449 Bardstown Rd., Louisville, Ky.; 3-11-80.
Parkway Estates Exxon, 7920 S. Parkway, Huntsville, Ala.; 3-12-80.
Pruett's Texaco, 5170 Navy Rd., Millington, Tenn.; 3-12-80.
Millington Texaco, 7837 Hwy. 51 South, Millington, Tenn.; 3-12-80.
Harvell's Exxon, Hwy 51 and Navy Rd., Millington, Tenn.; 3-12-80.
Dorthy's Mize Grocery, Rt. 2, P.O. Box 424, Atoka, Tenn.; 3-12-80.
Scalliens Texaco, 3706 M. Watkins, Memphis, Tenn.; 3-12-80.
Lowell R. Kirkpatrik, 2424 W. Vine, Kissimmee, Fla.; 3-12-80.
Jim Brown's Standard, Rt. 1, Box 60-A, Pike Road, Ala.; 3-13-80.
Douglas May's Gulf, 102 S. Prairie, Union Springs, Ala.; 3-13-80.
Hwy 431 South, Rt. 4, Box 25, Eufaula, Ala.; 3-13-80.
Hanlins Standard, 2206 Dauphin Island Pkwy., Mobile, Ala.; 3-13-80.
Hood's Shell Service, 2015 Aloma Ave., Winter Park, Fla.; 3-13-80.
M & D Service Center, 1350 N. Mills St., Orlando, Fla.; 3-13-80.
Brannon's Exxon, 5818 Jefferson, Newport News, Va.; 3-13-80.
Orange Exxon, 2211 South Orange, Orlando, Fla.; 3-14-80.
Bailey's Smokehouse Bar B Q, Rt. 2, Box 69A, Eufaula, Ala.; 3-14-80.
Taylors Texaco Service, U.S. 1 and New Haven Ave., Melbourne, Fla.; 3-14-80.
Moore's Gulf, 1816 S. Harbor City Blvd., Melbourne, Fla.; 3-14-80.
Rudy's Exxon, 600 Lee Rd., Orlando, Fla.; 3-17-80.
Lee Road Texaco, 610 Lee Rd., Orlando, Fla.; 3-17-80.
Wynn's Standard, 300 S. Three Notch, Troy, Ala.; 3-17-80.
Jim McConnell Auto Service, 2325 Orange Blossom, Orlando, Fla.; 3-17-80.
College Park Gulf, 2301 Edgewater Dr., Orlando, Fla.; 3-17-80.
Strickland Chevron, Route 3, Eufaula, Ala.; 3-18-80.
Thomas 82 Service Sta., U.S. Hwy 82 East, Union Springs, Ala.; 3-18-80.
Stough Chevron, P.O. Box 376, Eufaula, Ala.; 3-18-80.
Georgetown Gulf Serv. Sta., Box 55, Georgetown, Ga.; 3-18-80.
Mac's Market, Rt. 151, Roseland, Va.; 3-19-80.
Union Springs Chevron, 101 Baskin St., Union Springs, Ala.; 3-19-80.
Thomas D. Smith, 1970 Moores Mill Rd., Atlanta, Ga.; 3-20-80.
5 Points Union 76, 1100 W. King St., Cocoa, Fla.; 3-20-80.
H & L Auto Service, 6 South U.S. 1, Cocoa, Fla.; 3-20-80.
Memphis Yacht Club, P.O. Box 3099, Memphis, Tenn.; 3-24-80.
Interstate Standard, I-65 & U.S. 31, Clinton, Ala.; 3-24-80.
Deaver Hansford, 2041 W. Broad, Athens, Ga.; 3-27-80.
Lenny's Texaco, 1722 N. Federal Hwy., Hollywood, Fla.; 3-29-80.
Slacks Chevron, 12301 Biscayne Blvd., N. Miami, Fla.; 3-31-80.
Horsepen Rd. Exxon, 6306 Horsepen Rd., Richmond, Va.; 3-5-80.
Riley's Holiday Gulf, 1810 Delaware Ave., McComb, Miss. 39648; 3-13-80.
Steven W. Thoren Chevron, I-55 & Union St., Brookhaven, Miss.; 3-14-80.
Ragan's 66 Service Center, 909 Hollywood, Jackson, Tenn. 38301; 3-18-80.
Doug's Chevron, 305 S. Jackson St., Brookhaven, Miss. 39601; 3-18-80.
Williams & Son Amoco, 1792 & Lakemary Blvd., Sanford, Fla. 32771; 3-18-80.
Pates Service Station, 1000 15th St., Tuscaloosa, Ala.; 3-19-80.
Dugger's Gulf, 629 Old Hickory Blvd., Nashville, Tenn.; 3-19-80.

Foster's Chevron, East Monticello St., Brookhaven, Miss. 39601; 3–19–80.
McCall Automotive, 1136 NY Ave., St. Cloud, Fla.; 3–19–80.
Union 76 Truck Stop, Rt. 10, P.O. Box 378A, Lebanon, Tenn.; 3–20–80.
Harold Brumfield's Chevron, 1817 Delaware Ave., McComb, Miss.; 3–25–80.
Chapel Hill Standard, 4845 Flat Shoals, Decatur, Ga.; 3–20–80.
Williams Shell Serv., 1449 W. King St., Cocoa, Fla.; 3–20–80.
Cape 76, 8100 Astronaut Blvd., Cape Canaveral, Fla.; 3–20–80.
Spaceport Chevron, 3580 Chaney Hwy., Titusville, Fla.; 3–20–80.
Billy Loggins, 853 W. Broad St., Gainesville, Ga.; 3–26–80.
Verner L. Kidd, I–85 and U.S. 441, Commerce, Ga.; 3–26–80.
Floyd T. Butler, 990 Prince Ave., Athens, Ga.; 3–26–80.
G. T. Kesler, 290 Alps Rd., Athens, Ga.; 3–27–80.
George B. Smith, 2495 Jefferson Rd., Athens, Ga.; 3–27–80.
Scott Blvd. Chevron, 1726 Scott Blvd., Decatur, Ga.; 3–31–80.
Maple Leaf Chevron, 900 N. Federal Highway, Hollywood, Fla. 33020; 3–27–80.
Ray Pagano, 1380 N. Federal Highway, Boca Raton, Fla. 33432; 3–27–80.
Evans Chevron, 2343 Alexandria Pike, Highland Heights, Ky. 41076; 3–25–80.
Barbara Service Ctr., 4100 E. 41st St., Hialeah, Fla. 33013; 3–25–80.
Gordon's Chevron Sv., 8063 U.S. Hwy. 42, Florence, Ky. 41042; 3–28–80.
Gulf Stream Car Wash, 19255 Biscayne Blvd., N. Miami Beach, Fla. 33160; 3–28–80.
Dave's Standard, 4102 E. 4th Ave., Hialeah, Fla. 33012; 3–28–80.
Miramar Exxon, 6201 S.W. 29th St., Miramar, Fla. 33023; 3–29–80.
Charles R. Orlandi, 9601 N.E. 2nd Ave., Miami Shores, Fla. 33138; 3–29–80.
Ted Sokolowski, 1900 N.E. 123rd St., North Miami, Fla. 33161; 3–29–80.

Issued in Atlanta, Georgia, on the 17th day of June 1980.

James C. Easterday,

District Manager.

Concurrence:

Leonard F. Bittner,

Chief Enforcement Counsel.

[FR Doc. 80–19706 Filed 6–30–80; 8:45 am]

BILLING CODE 6450–01–M

Action Taken on Consent Order

AGENCY: Economic Regulatory Administration.

ACTION: Notice of Settlement.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives Notice that a Consent Order was entered into between the Office of Enforcement, ERA, and the firm listed below during the month of June 1980. The Consent Order represents resolution of an outstanding compliance investigation by the DOE and the firm and involves the firms failure to file required forms in accordance with the Federal Energy guidelines. This Consent Order is concerned exclusively with the firms agreement to file the required forms for the period of time specified in order.

For further information regarding this Consent Order, please contact James C. Easterday, District Manager of Enforcement, Southeast District, Economic Regulatory Administration, 1655 Peachtree Street, NE., Atlanta, Georgia 30367, telephone number (404) 881–2396.

Firm name and address	Settlement terms	Period covered
Saxon Petroleum Company, Dallas, Texas.	Agreement to file forms for specified period.	May 1977–February 1980.

Issued in Atlanta, Georgia, on the 18th day of June 1980.

James C. Easterday,

District Manager of Enforcement.

Concurrence.

Leonard F. Bittner,

Chief Enforcement Counsel.

[FR Doc. 80–19708 Filed 6–30–80; 8:45 am]

BILLING CODE 6450–01–M

Eldon Spencer, Inc.; Proposed Remedial Order

Pursuant to 10 CFR Section 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to Eldon Spencer, Inc.

This Proposed Remedial Order charges Spencer with pricing violations in the amount of $183,401, in sales of motor gasoline and middle distillates during the time period November 1, 1973, through March 31, 1975.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from William D. Miller, District Manager of Enforcement, 324 East 11th Street, Kansas City, Missouri 64106. Within 15 days of publication of this notice, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 M Street, N.W., Washington, D.C. 20461, in accordance with 10 CFR Section 205.193.

Issued in Kansas City, Missouri, on the 16th day of June 1980.

William D. Miller,

Central Enforcement District.

[FR Doc. 80–19707 Filed 6–30–80; 8:45 am]

BILLING CODE 6450–01–M

[ERA Case No. 63006–9140–03, 05–81]

General Services Administration (GSA), (West Heating Plant, 29th and K Streets, N.W., Washinton, D.C.); Issuance of Proposed Prohibition Orders Pursuant to Sections 302 and 701 of the Powerplant and Industrial Fuel Use Act of 1978

The Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice pursuant to Section 701(b) of the Powerplant and Industrial Fuel Use Act of 1978 (FUA), 42 U.S.C. 8301 *et seq.*, the issuance of the following proposed prohibition orders which would prohibit the installations named below from burning natural gas or petroleum as their primary energy source.

Proposed Prohibition Orders

Pursuant to the authorities granted it by Section 302(a) of FUA, ERA issues these proposed prohibition orders to the following installations owned by the United States General Services Administration (GSA):

ERA No.	Facility	Installation	Size	Location
63006–9140–03–81	GSA—West heating plant	Unit 3	275 MMBtu/hr	Washington, D.C.
63006–9140–05–81	GSA—West heating plant	Unit 5	275 MMBtu/hr	Washington, D.C.

These units will be referred to hereafter as West 3 and 5 or "the installations.

Section 403(a)(1) of FUA provides that a Federal Agency operating an installation must comply with FUA provisions to the same extent as would be the case if the installation was owned or operated by a non-governmental person.

Statement of Basis and Rationale for Proposed Prohibition Orders

ERA has issued interim rule applicable to existing facilities 10 CFR Part 506 (interim rule), to implement the prohibitions contained in Section 302(a) of Title III of FUA. § 506.2 of the interim rule sets forth the basis upon which ERA will propose to prohibit by order the use of natural gas or petroleum as a primary energy source by an installation where ERA finds that the installation has or previously had the technical capability

to use an alternate fuel as a primary energy source.

According to the most recent fuel statistics available to ERA, ERA estimates that West 3 and 5 each consume 280 barrels of oil equivalent daily (100,000 barrels annually). Therefore, ERA anticipates that approximately this quantity will be displaced by the conversion of West 3 and 5 to coal or another alternate fuel as their primary energy source.

Finding of Techinical Capability

In accordance with Section 302(a) of Title II of FUA, these proposed orders are based on a finding by ERA that West 3 and 5 have or previously had the technical capability to use an alternate fuel (coal) a a primary energy source.

This finding is based upon information provided by GSA to the Federal Energy Administration on Form FEA C–602–S–O, "Major Fuel Burning Installation Coal Conversion Report", dated June 2, 1975, which indicates that both West 3 and 5 were originally designed and constructed to burn coal as their primary energy source. Form FEA–C–602–S–O further indicates that the two units did burn coal until 1972 which was their last full year of coal-fired operation.

The technical capability finding is made in accordance with the requirements of §506.2 of the interim rule, taking into consideration the ability of the installations, from the point of fuel intake, to physically sustain combustion of coal and maintain heat transfer as evidenced by the burning of coal at West 3 and 5 up to 1972. This finding also recognizes, in accordance with § 506.2, that West 3 and 5 are capable of burning coal, notwithstanding the fact that minor adjustments must be made to the units before they may burn an alternate fuel (coal) as their primary energy source, or that pollution control equipment may be required to meet air quality requirements.

Other Required Findings

Section 302(a) of FUA states that prior to the issuance of final prohibition orders ERA must also find that (1) the installations have the technical capability to use coal or another alternate fuel as a primary energy source, or they could have such capability without (A) substantial modification of the installations or (B) substantial reduction in the rated capacity of the installations; and (2) it is financially feasible for GSA [West Heating Plant] to use coal or another alternate fuel as the primary energy source in West 3 and 5.

Proposed Prohibitions Under Title III of FUA

Subject to the other required findings that ERA must make, ERA hereby proposes to prohibit West 3 and 5 from burning petroleum or natural gas as their primary energy source.

Description of Prohibition Order Proceedings

Pursuant to Section 302 of FUA, ERA has promulgated regulations applicable to the issuance of prohibition orders to existing facilities, a summary of which follows:

(1) ERA has performed its initial information gathering with respect to the question of technical capability to burn alternate fuels (coal) and has informed GSA that it is considering issuance of proposed prohibition orders to West 3 and 5. ERA has also had informal discussions with GSA concerning the issuance of the proposed prohibition orders.

(2) ERA has made a finding that West 3 and 5 have or previously had the technical capability of using coal as their primary energy source. ERA is publishing this finding and propose prohibition orders in the **Federal Register** as required by Section 701(b) of FUA. In accordance with Section 302(a) of FUA, the proposed prohibition orders are not required to contain, at this point in the proceeding, the other pertinent findings that ERA must make before final prohibition orders can be issued. These are: (1) that the installations have the technical capability to use coal or another alternate fuel as their primary energy source, or they could have such capability without (A) substantial physical modification of the installations, or (B) substantial reduction in the rated capacity of the installations; and (2) that it is financially feasible for GSA West Heating Plant to use coal or another alternate fuel as the primary energy source in West 3 and 5.

(3) In accordance with § 501.52(b)(3) of the Regulations, a public comment period of at least three months is to commence after publication of the proposed prohibition orders, during which period GSA will be given an opportunity to challenge ERA's initial finding of technical capability for West 3 and 5, contained in these proposed prohibition orders. During this three month comment period, under § 501.52(b)(3) of the Regulations, GSA is required to furnish ERA with such additional evidence as is necessary to enable ERA to make the other statutory findings set forth above, which are required to be made by ERA prior to issuance of final prohibition orders to West 3 and 5. GSA will also be required during this period to identify, but not to demonstrate its entitlement to, any exemptions for which West 3 and 5 may qualify.

(4) Subsequent to the end of the three month public comment period, ERA will issue a notice of whether ERA intends to proceed with the prohibition order proceeding. Within three months of the issuance of the notice of intention to proceed the owner or operator of the installations that may be subject to the orders may demonstrate, prior to issuance of final prohibition orders, that the installations would qualify for exemptions if the prohibition had been established by rule.

(5) Subsequent to the end of the second three month period, ERA will, if it intends to issue final prohibition orders, prepare and publish a Notice of Avialability of a Tenative Staff Decision.

(6) Under the provisions of Section 701(d) of FUA, any interested person may request a public hearing on the proposed prohibition orders. Interested persons wishing a hearing must request a hearing within 45 days after publication of the notice of availability of the tentative staff decision. If a hearing is requested, ERA shall provide interested persons with an opportunity to present oral data, views, and arguments at a public hearing held in accordance with Subpart C of 10 CFR Part 501.

(7) At the hearing, if any, interested persons will have the opportunity to question the parties about ERA's proposed orders and tentative staff decision, GSA West Heating Plant's showing on exemptions and rebuttal of ERA's proposed orders, and ERA's rebuttal to any showing of potential qualification for exemption.

(8) After the hearing, if any, and the second three month comment period, ERA shall determine whether final prohibition orders will be issued, based upon ERA's review of the entire administrative record. Copies of final prohibition orders, if issued, together with a summary of the basis therefor, will be published in the **Federal Register.** Such orders shall not take effect earlier than 60 days after publication.

Comment and Public Hearing Procedures

ERA hereby also gives notice of the opportunity to submit written comments, views, and arguments by interested persons regarding these proposed prohibition orders. Comments need not be limited to ERA's technical capability

finding, but may include a discussion of all three statutory findings.

The intial comment period shall remain open for a period of three months after publication of the proposed orders in the **Federal Register** unless reduced at the request of the recipient of the proposed orders pursuant to 10 CFR Part 501.52(b)(8). Notice of any change during the time for public comment will be published in the **Federal Register.** Comments should make reference to the docket numbers set forth in this notice and proposed orders. Comments should address the adequacy and validity of the findings and any other aspects or impacts of the proposed Prohibition orders believed to be relevant. Written comments on the proposed prohibition orders should be directed to Public Hearing Management (Case Nos. 63006–9140–03, 05–81), U.S.. Department of Energy, Box 4629, Room 3214, 2000 M Street, N.W., Washington, D.C. 20461, and should be received before 4:30 p.m. on (3 months from date of publication of proposed prohibition orders).

In accordance with 10 CFR 501.34, any interested person may request a public hearing on the proposed orders. The request must include a description of the person's interest in the proposed prohibition orders, an outline of the anticipated content of the presentation to be made at the public hearing, and an address and telephone number where the person requesting the public hearing may be reached.

Comments and other documents submitted to DOE Public Hearing Management should be identified on the outside of the envelope in which they are transmitted and on the document itself with the designation "Proposed Prohibition Orders for GSA-West Heating Plant, Washington D.C." Fifteen copies should be submitted. All written comments, all oral presentations, and all other relevant information submitted to or available to ERA will be considered by ERA. Any information or data considered to be confidential by the person furnishing it must also be so identified in writing and filed in accordance with 10 CFR 501.7(f). ERA reserves the right to determine the confidentiial status of the information or data and to treat it in accordance with that determination.

For further information contact:

William L. Webb (Office of Public Information), Economic Regulatory Administration, Department of Energy, 2000 M Street, N.W., Room B–110, Washington, D.C. 20461, (202) 653–4055.

Robert L. Davies (Office of Fuels Conversion), Economic Regulatory Administration, Department of Energy, 2000 M Street, N.W., Room 3128–L, Washington, D.C. 20461, (202) 653–3649.

Walter A. Romanek (Federal Facilities Branch), Economic Regulatory Administration, Department of Energy, 2000 M Street, N.W., Room 3214–D, Washington, D.C. 20461, (202) 653–3669.

Marya A. Rowan (Office of General Counsel), Department of Energy, Forrestal Building, Room 6–G–087, Washington, D.C. 20585, (202) 252–2967.

(Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.;* Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 *et seq.;* E.O. 12009 (42 FR 46267)).

Issued in Washington, D.C., June 25, 1980.

Robert L. Davies,

Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 80-19702 Filed 6-30-80; 8:45 am]

BILLING CODE 6450-01-M

[ERA Case Nos. 52007-1626-01-82; 52007-1626-02-82; 52007-1626-03-82]

New England Electric System, Westborough, Mass.; Extension of Public Comment Period on Proposed Prohibition Orders Issued Pursuant to Sections 301 and 701 of the Powerplant and Industrial Fuel Use Act of 1978

The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice, pursuant to Section 710(b) of the Powerplant and Industrial Fuel Use Act of 1978 (FUA), 42 U.S.C. 8301 *et seq.*, and 10 CFR § 501.31, that the initial three month public comment period relating to three Proposed Prohibition Orders published April 3, 1980 (45 FR 22183), is extended to November 1, 1980.

Basis for Extending the Public Comment Period

The notice of Proposed Prohibition Orders issued to three powerplant units (Salem Harbor 1, 2 and 3) owned by New England Power Company, of the New England Electric System (Utility), provided a public comment period of at least three months. By letters dated May 9 and 27, 1980, the Utility has requested and set forth the following reasons for extending the public comment period:

1. A response within the original three month period would necessarily be based upon the Massachusetts State Implementation Plan [1] (SIP). The current SIP does not address coal burning at Salem Harbor, and the Utility asserts that it presents a compliance requirement which could not be met practically if the subject units were converted to coal.

2. The Utility believes that certain modifications in the SIP are feasible but extensive air quality modeling will be required to provide a basis for discussion with environmental agencies. It anticipates that sufficient modeling can be completed in approximately three months.

3. The Utility needs additional time to prepare the financial and technical data required to address the statutory findings under FUA, since the engineering requirements associated with another coal conversion project (Brayton Point) are currently at a peak, and the Utility is very concerned about its capacity to respond adequately to the pertinent issues at Salem Harbor while maintaining efforts to implement the Brayton Point conversion.

Schedule Submitted by the Utility

The Utility, in response to ERA's request, has also proposed the following schedule during the extended comment period:

(a) Complete basic modeling analysis, September 1, 1980;

(b) Review modeling results with environmental agencies during September 1980;

(c) Respond to evidentiary requirements relating to the statutory findings under FUA, November 1, 1980.

Extension of Comment Period

In view of the Utility's request, ERA, exercising its discretion pursuant to 10 CFR § 501.31, hereby extends the initial comment period with respect to the Proposed Prohibition Orders for Salem Harbor Units 1, 2 and 3 until November 1, 1980.

For further information contact:

William L. Webb (Office of Public Information), Economic Regulatory Administration, Department of Energy, 2000 M Street, NW., Room B–110, Washington, D.C. 20461, (202) 653–4055.

Robert L. Davies (Office of Fuels Conversion), Economic Regulatory Administration, Department of Energy, 2000 M Street, NW., Room 3128L, Washington, D.C. 20461, (202) 653–3649.

James Renjilian (Office of General Counsel), Department of Energy, 1000 Independence Avenue, SW., Room 6G–087, Washington, D.C. 20585, (202) 252–2967.

Issued in Washington, D.C., June 25, 1980.

Robert L. Davies,

Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 80-19703 Filed 6-30-80; 8:45 am]

BILLING CODE 6450-01-M

[1] State Implementation Plan describes how State will regulate air pollutants in order to achieve standards under the Clean Air Act of 1970, as amended (42 U.S.C. 7401 *et seq.*).

Proposed Remedial Orders

Pursuant to 10 CFR Section 205.192(c), the Economic Regulatory Administration of the Department of Energy hereby gives Notice that the following Proposed Remedial Orders have been issued. These Proposed Remedial Orders allege violations of the Mandatory Petroleum Price Regulations.

A copy of the Proposed Remedial Orders, with confidential information deleted, may be obtained from Thomas M. Holleran, Program Manager for Product Retailers, 2000 M Street, NW, Washington, DC 20461, phone 202/653-3569. On or before July 16, 1980, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 M Street, N.W., Washington, D.C. 20461, in accordance with 10 CFR Section 205.193.

Issued in Washington, DC, on the 25th day of June 1980.

James J. Fenton,

Acting Director, Enforcement Program Operations Division, Economic Regulatory Administration.

Proposed Remedial Orders Issued, Northeast District, May 1980

Station name and address	Date	Violation amount	Cents per gallon in violation
Farmingdale Amoco, 1050 Broadhollow Rd., Farmingdale, NY	5/28/80	$583	3.1
Northport Exxon, Rt. 25A & Laurel Rd., Northport, NY	5/28/80	54,916	18.7
Bayshore Exxon, Fifth Ave. and Sunrise Highway, Bayshore, NY	5/28/80	27,573	18.7
Commack Exxon, Jericho Turnpike and Veterans Highway, Commack, NY	5/28/80	41,021	22.7
Sayville Amoco, 188 Montauk Highway, Sayville, NY	5/28/80	441	5.4
West Islip Amoco, 540 Sunrise Highway, West Islip, NY	5/28/80	3,789	11.3
Commack Amoco, 2211 Jericho Turnpike, Commack, NY	5/28/80	7,152	15.3
R&C Auto Diagnostic Clinic, Rockaway Turnpike and West Broadway, Lawrence, NY	5/9/80	40,738	17.1
Damours Service Station, 291 Oakland St., Springfield, MA	3/13/80	4,616	1.7
Fred Walentynowicz (ARCO), 460 Elmwood Ave., Buffalo, NY	5/22/80	803	2.6
Raoul's Service Station, 234 E. Merrick Rd., Freeport, NY	4/8/80	3,258	9.4
1907 Service Station, 1907 Cropsey Ave., Brooklyn, NY	4/8/80	1,691	3.8
Johnie's Exxon, 3 Neponset Ave., Dorchester, MA	4/4/80	NA	[1]
Chrikels Grove, Main Street, Kingston, NH	4/18/80	274	5.7

[1] Discriminatory practices.

Central District, May 1980, PRO

Firm name and address	Date	Highest cents per gallon violation
Robert J. Kutinac Shell, 4801 W. Roosevelt Rd., Cicero, IL 60650	5/20/80	$0.0340
Village Standard Service, 1501 Busse Road, Elk Grove Village, IL 60007	5/27/80	.0360

Western District: PRO's

Firm name and address	Audit date	Violation amount	Highest cents per gallon violation
John DeLaveaga Chevron, 21320 San Ramon Valley Rd., San Ramon, CA 94583	5/9/80	$11,621.93	7.9
Richard Thompson Chevron, 7007 San Ramon Valley Rd., Dublin, CA 94566	5/5/80	2,158.06	3.9
Hal Abel Chevron, 3177 Danville Blvd., Alamo, CA 94507	5/9/80	15,856.36	10.5
Mayer Chevron, 5276 Broadway, Oakland, CA 94618	4/23/80	1,008.26	6.9
Starr Union Service, 106 E. Tehachapi Blvd., Tehachapi, CA 93961	4/27/80	6,773.51	8.7
Smith's Chevron, 401 N. Mill St., Tehachapi, CA 93961	5/8/80	2,547.94	8.8
Grapevine Texaco, I. 5 and Grapevine, Lebec, CA 93243	5/8/80	21,389.59	6.0
Allen Union, 1903 Doolittle Dr., San Leandro, CA 94577	5/20/80	2,793.79	8.2
Tom's Union, 1690 Contra Costa Blvd., Pleasant Hill, CA 94523	3/26/80	1,602.33	7.2
McDowell Exxon, 301 South McDowell Blvd., Petaluma, CA 94952	4/9/80	6,968.40	10.0
Art's Chevron, 16675 San Pablo, San Pablo, CA 94896	4/9/80	9,582.37	9.2
Marina Chevron, 2301 Lombard St., San Francisco, CA 94123	4/29/80	4,484.87	4.0
Britton Chevron, 1722 Fourth Street, San Rafael, CA 94901	3/30/80	5,361.41	9.3
Mitchell's Hilltop Chevron, 4251 Hilltop Drive, Richmond, CA 94803	4/3/80	6,976.99	11.2
El Portal Shell, 14290 San Pablo Ave., San Pablo, CA 94806	5/28/80	3,957.93	6.1
Jim Campbell Shell, 3201 Lakeshore Ave., Oakland, CA 94610	3/13/80	551.88	3.3
Union Shell, 1551 W. 7th Street, Los Angeles, CA 90017	5/22/80	344.68	5.2
Tom's Shell, 13261 Riverside Drive, Sherman Oaks, CA 91403	5/22/80	1,431.58	6.6
Olympic Shell, 955 S. Alvarado Street, Los Angeles, CA 90006	5/22/80	1,287.49	5.1
Robbins Shell, 16205 Devonshire Street, Granada Hills, CA 91344	5/22/80	867.39	4.7
North Oak Shell, 19223 Soledad Cyn, Saugus, CA 91350	5/22/80	1,096.01	6.1
Ken's No. 2 Shell, 3155 S. Cahuega Blvd., Los Angeles, CA 90028	5/22/80	630.05	5.6
Ventura Shell, 21347 Ventura Blvd., Woodland Hills, CA 91364	5/22/80	845.35	6.3
Len & Cleve's Exxon, 2841 South 188th, Tacoma, WA 98444	5/15/80	1,923.00	2.2

[FR Doc. 80-19704 Filed 6-30-80; 8:45 am]

BILLING CODE 6450-01-M

Mike Satterwhite; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice of a Proposed Remedial Order which was issued to Cross Roads Grocery, Leeds, Alabama on March 26, 1980.

This Proposed Remedial Order charges Cross Roads Grocery with selling gasoline in excess of the Maximum Lawful Selling Price in violation of 10 CFR 212.93. It was determined that Cross Roads Grocery violated the Federal Energy Pricing Guidelines by selling above the maximum lawful selling price in the amounts of 5.4¢ per gallon for Regular Leaded and 6.4¢ for Regular Unleaded. Additionally, Cross Roads Grocery failed to properly maintain required records in accordance with 10 CFR 210.92 and 212.93.

Pursuant to 10 CFR 205.192, Cross Roads Grocery is required by the Proposed Remedial Order to reduce its prices at the pump to the maximum lawful selling price for each grade to be in compliance with the Federal Energy pricing regulations.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from James C. Easterday, District Manager of Enforcement, Southeast District, Office of Enforcement, 1655 Peachtree Street, N.E., Atlanta, Georgia 30367, Telephone number (404) 881-2396. Within 15 days of publication of this Notice, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 M Street, N.W. Washington, D.C. 20461, in accordance with 10 CFR 205.193.

Issued in Atlanta, Georgia, on the 17th day of June 1980.

James C. Easterday,

District Manager.

Concurrence:

Leonard F. Bittner,

Chief Enforcement Counsel.

[FR Doc. 80-19666 Filed 6-30-80; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. RA80-44]

Arizona fuels Corp.; Filing of Petition For Review Under 42 U.S.C. 7194

Issued June 25, 1980.

Take notice that Arizona Fuels corporation on May 12, 1980, filed a

Petition for Review under 42 U.S.C. § 7194(b) (1977 Supp.) from an order of the Secretary of Energy.

Copies of the petition for review have been served on the Secretary, Department of Energy, and all participants in prior proceedings before the Secretary.

Any person desiring to be heard with reference to such filing should on or before July 9, 1980 file a petition to intervene with the Federal Energy Regulatory Commission, 825 North capitol Street, N.E., Washington, D.C. 20426, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8). Any person wishing to become a party or to participate as a party must file a petition to intervene. Such petition must also be served on the parties of record in this proceeding and the Secretary of Energy through John McKenna, Office of General Counsel, Department of Energy, Room 5142, 12th and Pennsylvania Ave., N.W., Washington, D.C. 20461. Copies of the petition for review are on file with the commission and are available for public inspection at Room 1000, 825 North Capitol St., N.E., Washington, D.C. 20426.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-19629 Filed 6-30-80; 8:45 am]

BILLING CODE 6450-85-M

[Projects Nos. 3095, 3096, 3097, 3098, 3099, and 3100]

Arkansas Electric Cooperative Corp.; Applications for Preliminary Permit

June 23, 1980.

Take notice that six applications were filed for preliminary permits on March 24, 1980, under the Federal Power Act, 16 U.S.C. Sections 791(a)–825(r), by the Arkansas Electric Cooperative Corporation (AECC) for the projects described below. Correspondence with the applicant on these projects should be addressed to: Louis Fish, Assistant General Manager, Arkansas Electric Cooperative Corporation, 8000 Scott Hamilton Drive, Little Rock, Arkansas 72209.

Dequeen Hydroelectric Project No. 3095 would be located at the U.S. Army Corps of Engineers' Dequeen Lake flood control project, on the Rolling Fork River near Dequeen, in Sevier County, Arkansas.

Gillhman Hydroelectric Project No. 3096 would be located at the U.S. Army Corps of Engineers' Gillham Dam and Lake flood control project, on the Cossatot River near Gillham, in Howard County, Arkansas.

Dierks Hydroelectric Project No. 3097 would be located at the U.S. Army Corps of Engineers' Dierks Dam and Lake flood control project, on the Saline River near Dierks, in Howard County, Arkansas.

Nimrod Hydroelectric Project No. 3098 would be located at the U.S. Army Corps of Engineers' Nimrod Lake flood control project, on the Fourche LaFave River near Danville, in Perry County Arkansas.

Blue Mountain Hydroelectric Project No. 3099 would be located at the U.S. Army Corps of Engineers' Blue Mountain Lake flood control project, on the Petit Jean River near Danville, in Yell County, Arkansas.

Millwood Hydroelectric Project No. 3100 would be located at the U.S. Army Corps of Engineer's Millwood Lake flood control project, on the Little River near Ashdown, in Hempstead County, Arkansas.

Purposes of Projects—Energy produced at the above described AECC projects would be utilized primarily within AECC's own system by member cooperatives, and any excess energy would be sold to local utility companies for use by customers in their respective service areas.

Proposed Scope and Costs of Studies under Permits—Applicant seeks issuance of six preliminary permits, each for a period of three years, during which time it would perform for each proposed project, data collection, site reconnaissance, hydrological studies, preliminary design and economic feasibility studies, and as appropriate, prepare applications for FERC licenses, including environmental reports. Applicant estimates the cost of feasibility studies under each permit would be $50,000.

Project Descriptions—The six proposed projects would each utilize an existing U.S. Army Corps of Engineers' (Corps) dam and reservoir.

Project No. 3095 would consist of: (1) a new powerhouse, about 35-feet long and 25-feet wide, at the east (left) abutment immediately downstream from the dam, (2) conduits and flow control devices to divert water from the existing outlet works to the powerhouse containing a 1500 kW turbine-generator unit. (3) a 34.5-kV transmission line approximately 3-miles long, (4) a step-up substation, and (5) other appurtenances. Applicant estimates the annual generation would average about 7,400,000 kWh.

Project No. 3096 would consist of: (1) a new powerhouse, about 75-feet long and 75-feet wide, immediately downstream from the dam, (2) conduits and flow control devices to divert water from the existing outlet works to the powerhouse containing a 5000 kW turbine-generator unit, (3) a 69-kV or 115-kV transmission line approximately 4-miles long, (4) a step-up substation, and (5) other appurtenances. Applicant estimates the annual generation would average about 22,000,000 kWh at a net head of 120 feet.

Project No. 3097 would consist of: (1) a new powerhouse, about 35-feet long and 20-feet wide, (2) conduits and flow control devices to divert water from the existing outlet works to the powerhouse containing a 1500 kW turbine-generator unit, (3) a 69-kV or 115-kV transmission line approximately 5-miles long, (4) a step-up substation, and (5) other appurtenances. Applicant estimates the annual generation would average 7,000,000 kWh at a net head of 113 feet.

Project No. 3098 would consist of: (1) a new powerhouse, about 75–feet long and 75-feet wide, (2) conduits and flow control devices to divert water from the existing outlet works to the powerhouse containing a 3500 kW turbine-generator unit, (3) a 115-kV transmission line about 1 mile long, (4) a step-up substation, and (5) other appurtenances. Applicant estimates the annual generation would average about 17,000,000 kWh at a net head of 54 feet.

Project No. 3099 would consist of: (1) a new powerhouse, about 30-feet long and 25-feet wide, (2) conduits and flow control devices to divert water from the existing outlet works to the powerhouse

containing a 2500 kW turbine-generator unit, (3) a 115-kV or 161-kV transmission line about 1 mile long, (4) a step-up substation, and (5) other appurtenances. Applicant estimates the annual generation would average about 11,500,000 kWh at a net head of 26 feet.

Project No. 3100 would consist of: (1) a new powerhouse, about 200-feet long and 75-feet wide, (2) conduits and flow control devices to divert water from the existing outlet works to the powerhouse containing three 5 MW turbine-generator units, (3) a 115-kV transmission line about 1 mile long, (4) a step-up substation, and (5) other appurtenances. Applicant estimates the annual generation would average about 84,000,000 kWh at a net head of 62 feet.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other necessary information for inclusing in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described applications for preliminary permits. (A copy of each application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of permits and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before August 22, 1980, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than October 21, 1980. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c), (*as amended* 44 FR 61328, October 25, 1979). A competing application must conform with the requirements of 18 CFR, 4.33 (a) and (d), (*as amended*, 44 FR 61328, October 25, 1979).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protests about these applications should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the Requirements of the Commission's rules of practice and procedure, 18 CFR, § 1.8 or 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in Section 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comment, protest, or petition to intervene must be filed on or before August 22, 1980, and must specify which of the above applications is being addressed. The Commission's address is: 825 North Capitol Street N.E., Washington, D.C. 20426. The applications are on file with the Commission and are available for public inspection.

Lois D. Cashell

Acting Secretary.

[FR Doc. 80-19630 Filed 6-30-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RA80-38]

Bellevue Texaco; Filing of Petition for Review Under 42 U.S.C. 7194

Issued June 25, 1980.

Take notice that Bellevue Texaco on May 27, 1980, filed a Petition for Review under 42 U.S.C. 7194(b) (1977 Supp.) from an order of the Secretary of Energy.

Copies of the petition for review have been served on the Secretary, Department of Energy, and all participants in prior proceedings before the Secretary.

Any person desiring to be heard with reference to such filing should on or before July 9, 1980 file a petition to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with the Commission's rules of practice and procedure (18 CFR 1.8). Any person wishing to become a party or to participate as a party must file a petition to intervene. Such petition must also be served on the parties of record in this proceeding and the Secretary of Energy through John McKenna, Office of General Counsel, Department of Energy, Room 5142, 12th and Pennsylvania Ave., N.W., Washington, D.C. 20461. Copies of the petition for review are on file with the Commission and are available for public inspection at Room 1000, 825 North Capitol St., N.E., Washington, D.C. 20426

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-19631 Filed 6-30-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 2806]

City of Carlyle; Application for Major License

June 23, 1980.

Take notice that the City of Carlyle (Applicant) filed on April 1, 1980, an application for major license under the Federal Power Act, 16 U.S.C. Sections 791(a)–825(r) for its proposed Carlyle Reservoir Project, FERC No. 2806, located at the U.S. Corps of Engineers' Carlyle Dam and Reservoir on the Kaskaskia River in Clinton County, Illinois. The proposed project would affect approximately 4 acres of lands of the United States under the Jurisdiction of the Corps of Engineers. Correspondence with the Applicant should be directed to: Mr. Charles F. Wheatley, Jr., Wheatley and Wollesen, 1112 Watergate Office Building, 2600 Virginia Avenue, N.W., Washington, D.C. 20037.

The proposed project would consist of: (1) a rectangular inlet basin, approximately 60 feet by 56.5 feet; (2) two 12.5-foot diameter, 60-foot long penstocks extending through a concrete monolith section of the existing Corps dam; (3) a powerhouse about 80 feet long and 53 feet wide containing 2 horizontal axis generating units, each with a rated capacity of 4,375 kW; (4) a tailrace channel, approximately 165 feet long; (5) a 3,000-foot long, 4,160 volt transmission line connected to Applicant's existing substation; (6) a proposed visitors area; and (7) appurtenant facilities.

The Applicant proposes to distribute the energy generated by the project to its own retail customers, and to sell an excess energy to other utilities.

Competing Applications.—Anyone desiring to file a competing application must submit to the Commission, on or before August 1, 1980, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than December 1, 1980. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c), (*as amended* 44 FR 61328, October 25, 1979). A competing application must conform with the requirements of 18 CFR 4.33 (a)

and (d), (*as amended*, 44 FR 61328, October 25, 1979.)

Comments, Protests, or Petitions to Intervene.—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the commission's rules of practice and procedure, 18 CFR 1.8 or 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in Section 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the commission's rules. Any comments, protest, or petition to intervene must be filed on or before August 1, 1980. The Commission's address is: 825 North Capitol Street, N.E., Washington, D. C. 20426. The application is on file with the Commission and is available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-19632 Filed 6-30-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-466]

Georgia Power Co.; Proposed Change in Rate Schedule

June 24, 1980.

The filing Company submits the following:

Take notice that on June 19, 1980, Georgia Power Company (Georgia) tendered for filing a proposed Interchange Contract with Crisp County Power Commission (Crisp) to supersede the existing agreement between the parties which expires June 30, 1980, Georgia rate Schedule FPC No. 791. Georgria states that the proposed change in rate schedule continues the interconnected operation of the parties' systems and provides for emergency assistance, short-term capacity and economy energy interchange service.

Georgia requests waiver of the Commission's notice requirements to allow an effective date of July 1, 1980, to be assigned to the proposed modification. Georgia also states its withdrawal of the Notice of Cancellation of service to Crisp filed in Docket No. ER 80-308, and requests termination of that Docket.

Georgia states that copies of the filing have been mailed to Crisp.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Section 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 15, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-19633 Filed 6-30-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-458]

Green Mountain Power Corp.; Notice of Filing

June 24, 1980.

The filing Company submits the following:

Take notice that on June 16, 1980, Green Mountain Power Company (GMPC) submitted for filing contracts between GMPC and two Vermont municipal electric systems—Village of Readsboro Electric Light Department and Village of Jacksonville Electric Department. The purpose of the contracts is to provide transmission capacity for the wheeling of power from the Power Authority of the State of New York.

Pursuant to § 35.11 of the Commission's regulations, Green Mountain requests waiver of the 60-day notice requirement and an effective date of January 1, 1980. The request for waiver, Green Mountain states, is in order to provide a rate for transmission of power on the company's facilities which has been purchased by the two utilities from the New York Power Authority through the Public Service Board of the State of Vermont, which purchase has an effective date of January 1, 1980.

The company states that the rate under which the service is to be rendered is substantially the same as that provided for in its FERC rate schedule filed under FERC Docket No. ER78-33, which was noticed by the Commission on October 19, 1977.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, D.C., 20426, in accordance with Sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All such petitions or protests should be filed on or before July 15, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-19634 Filed 6-30-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-459]

The Hartford Electric Light Co.; Notice of Filing

June 24, 1980.

The filing Company submits the following:

Take Notice that on June 18, 1980, The Hartford Electric Light Company (HELCO) tendered for filing as an initial rate schedule of an exchange agreement (the "Agreement") between HELCO, The Connecticut Light and Power Company (CL&P) and Central Vermont Public Service Corporation (CVPS). The Agreement, dated as of November 14, 1979, provides for HELCO and CL&P to exchange capacity and energy in certain gas turbine generating units for capacity and energy from CVPS's entitlement in Merrimack Unit #2, a coal-fired base load type generating unit located at Merrimack Station in Bow, New Hampshire.

The Agreement provides that the parties will determine prior to 12:01 a.m. on Monday of each week during the term of the Agreement whether it is economically advantageous to the parties that an exchange, pursuant to the Agreement, shall take place during that week.

HELCO and CL&P will pay capacity charges to CVPS in an amount equal to $0.006/kilowatthour times the kilowatthours delivered during each week. HELCO and CL&P will pay energy charges to CVPS at a cost of $0.016/kilowatthour subject to adjustment to reflect changes in the fuel price at Merrimack. CVPS will pay HELCO and CL&P's incremental cost of providing

any energy taken by CVPS pursuant to the Agreement.

HELCO requests an effective date of November 14, 1979 for the Agreement.

CL&P and CVPS have filed certificates of concurrence in this docket.

The Agreement has been executed by HELCO, CL&P and by CVPS and copies have been mailed to each of them.

HELCO further states that the filing is in accordance with Section 35 of the Commission's Regulations.

Any persons desiring to be heard or to protest said filing should file a petition to intervene or protest to the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, D.C. 20426 in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 15, 1980. Protests will be considered by the Commission in determining appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-19635 Filed 6-30-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 2543]

Montana Power Co; Notice of Complaint

June 25, 1980.

The Montana Department of Fish and Game has filed a complaint concerning the operation of the Milltown Project, FERC Project No. 2543, operated by the Montana Power Company. The project is located on the Clarks Fork River in Missoula County, Montana.

The complaint alleges that the periodic flushing of the Milltown Project reservoir adversely affects downstream fish life. The Licensee has been directed to respond to the complaint. Any person who wishes to comment on this matter should forward its comments to Kenneth F. Plumb, Secretary, 825 N. Capital St., N.E. Washington, D.C. 20426 no later than July 31, 1980. The complaint is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-19636 Filed 6-30-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RP80-11]

Natural Gas Pipeline Company of America; Proposed Changes in FERC Gas Tariff

June 25, 1980.

Take notice that on June 23, 1980, Natural Gas Pipeline Company of America (Natural) tendered for filing the below listed tariff sheets to its FERC Gas Tariff, Third Revised Volume No. 1:

Substitute Fourth Revised Sheet No. 118
Original Sheet No. 118-A
Original Sheet No. 118-B

Natural states the purpose of the filing is to comply with the Commission's letter order of March 27, 1980 in Docket No. RP78-78. The Commission's letter order required Natural to file revised tariff sheets to reflect the continuation of the sales Btu change provisions which commenced on December 1, 1978 in Natural's tariff sheets filed to implement incremental pricing filed in Docket No. RP80-11.

Copies of this filing were served upon the company's customers, interested state commissions, and intervenors in Docket No. RP80-11.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatry Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Section 1.8 and 1.10 of the Commission's rules of practice and procedures (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 10, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-19637 Filed 6-30-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3139]

Northern Wasco County People's Utility District; Application for Preliminary Permit

June 23, 1980.

Take notice that Northern Wasco County People's Utility District (Applicant) filed on May 14, 1980, an application for preliminary permit for proposed Project No. 3139 to be known as White River Hydroelectric Project located on the White River in Wasco County, Oregon. Correspondence with the Applicant should be directed to: International Engineering Company, Inc., Attention: Mr. Paul J. Collins, 180 Howard Street, San Francisco, California 94105.

Project Description—The proposed project would consist of: (1) an existing concrete overflow dam (proposed to be rehabilitated), 8 feet high and 226 feet long, creating an 8 acre-foot pond; (2) an intake structure; (3) a 2,520-foot long, 8-foot diameter concrete lined horseshoe tunnel; (4) a 280-foot long 6-foot diameter steel lined penstock serving; (5) a powerhouse to contain three vertical Francis-type turbine-generator units having a total rated capacity of 8.1 MW; and (6) a new 2,000-foot long, 69-kV transmission line to be constructed between the powerhouse and Applicant's existing 69-kV transmission line.

Purpose of Project—The power generated at the project would be used to supply the energy requirements of the Applicant's customers in Wasco County, Oregon. Any excess energy would be sold to the Bonneville Power Administration. Applicant estimates the project would be capable of producing an annual output of about 33 million kWh.

Proposed Scope and Cost of Studies under Permit—The Applicant has conducted some preliminary engineering investigation of the site. The Applicant now seeks issuance of a preliminary permit for a period of 18 months during which it would prepare a definitive project report that would include preliminary designs, engineering and environmental data, cost estimate, and economic analysis. The costs of these activities, the preparation of an environmental report, obtaining agreements with various Federal, State, and local agencies, and preparation of an FERC license application are estimated by the Applicant to be about $120,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the

application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—This application was filed as a competing application to Tygh Valley Power Plant Project on the White River, Project No. 3005, under 18 CFR 4.33 (*as amended*, 44 FR 61328, Oct. 25, 1979), and, therefore, no further competing applications or notices of intent to file a competing application will be accepted for filing.

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's rules of practice and procedure, 18 CFR 1.8 or 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in Section 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's rules. Any comments, protest, or petition to intervene must be filed on or before July 31, 1980. The Commission's address is: 825 North Capitol Street, N.E., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-19638 Filed 6-30-80; 8:45 am]

BILLING CODE 6450-85

[Docket No. ER80-460]

Oklahoma Gas and Electric Co.; Notice of Filing

June 24, 1980.

The filing Company submits the following:

Take notice that on June 19, 1980, Oklahoma Gas and Electric Company (OGE) submitted for filing the following agreement.

OGE, Letter of notification from Middle South Services, Inc., as Agent for Arkansas Power & Light Company, dated November 6, 1975.

OGE, requests waiver of the sixty day notice requirements and further requests an effective date of the end of the exchange year ending November, 1979.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C., 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All such petitions or protests should be filed on or before July 15, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-19639 Filed 6-30-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER 80-461]

Oklahoma Gas and Electric Co.; Notice of filing

June 24, 1980.

The filing Company submits the following:

Take notice that on June 19, 1980, Oklahoma Gas and Electric Company (OGE) submitted for filing the following agreement.

Middle South Services, Inc., as Agent for Arkansas Power & Light Company, letter of notification to Empire District Electric Company, dated November 6, 1975.

OGE requests waiver of the sixty day notice requirements and further requests an effective date of the end of the exchange year ending November, 1979.

Any person desiring to be heard or to pretest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, D.C., 20426, in accordance with Sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All such petitions or protests should be filed on or before July 15, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-19640 Filed 6-30-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No ER80-462]

Oklahoma Gas and Electric Co.; Notice of Filing

June 24, 1980.

The filing Company submits the following:

Take notice that on June 19, 1980, Oklahoma Gas and Electric Company (OGE) submitted for filing the following agreement.

Middle South Services, Inc., as Agent for Arkansas Power & Light Company, letter of notification to Southeastern Electric Power Company, dated November 6, 1975.

OGE requests waiver of the sixty day notice requirements and further requests an effective date of the end of the exchange year ending November, 1979.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, D.C., 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All such petitions or protests should be filed on or before July 15, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-19641 Filed 6-30-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-463]

Oklahoma Gas and Electric Co.; Notice of Filing

June 24, 1980.

The filing Company submits the following:

Take notice that on June 19, 1980, Oklahoma Gas and Electric Company (OGE) submitted for filing the following agreement.

OGE, letter of notification to Kansas Gas and Electric Company, dated November 19, 1975.

OGE requests waiver of the sixty-day notice requirements and further requests an effective date of the end of the exchange year ending November, 1979.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, D.C., 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All such petitions or protests should be filed on or before July 15, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-19642 Filed 6-30-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-464]

Oklahoma Gas and Electric Co.; Notice of Filing

June 24, 1980.

The filing Company submits the following:

Take notice that on June 19, 1980, Oklahoma Gas and Electric Company (OGE) submitted for filing the filing agreement.

Gulf States Utilities Company, Letter of notification from Middle South Services, Inc., as Agent for Louisiana Power and Light Company, to Gulf States Utilities Company and Central Louisiana Electric Company, Inc., dated November 6, 1975.

OGE requests waiver of the sixty day notice requirements and further requests an effective date of the end of the exchanged year ending November, 1979.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C., 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.18 or 1.10). All such petitions or protests should be filed on or before July 15, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but wull not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-19643 Filed 6-30-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-465]

Oklahoma Gas and Electric Co.; Notice of Filing

June 24, 1980.

The filing Company submits the following:

Take notice that on June 19, 1980, Oklahoma Gas and Electric Company (OGE) submitted for filing the following agreement.

Public Service Company of Oklahoma, Letter of notification from Southwestern Electric Power Company, dated November 6, 1975.

OGE requesta waiver of the sixty day notice requirements and further requests an effective date of the end of the exchange year ending November, 1979.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All such petitions or protests should be filed on or before July 15, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petiton to intervene. Copies of this application are on file with the Commission and are available for public inspection.

[FR Doc. 80-19644 Filed 6-30-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. GP79-2; GP79-9; GP79-10; GP79-11]

Patrick Petroleum Corporation of Michigan; Notice of Withdrawal

Issued: June 24, 1980.

Take notice that on April 10, 1979, Cabot Corporation (Cabot), Post Office Box 1473, Charleston, West Virginia, 25325, filed in the subject dockets a protest pursuant to section 154.94(h)(8) of the Commission's Regulations. Petitioner requests that the Commission deny the application of Patrick Petroleum Corporation for interim collection of stripper well prices as determined by section 108 of the Natural Gas Policy Act of 1978 (NGPA) for Patrick's Pochahontas Kroll No. 2 well (GP79-2 & GP79-11), R. E. Morgan No. 1 well (GP79-9), and Pocahontas C-2 well (GP79-10).

Cabor objected to Patrick's application to receive interim collections for two reasons:

(1) no arrangements for collection under escrow, surety bond or release have been initiated or arranged; and

(2) there is no contractual authority to escalate the price to the rate requested.[1]

On April 20, 1979, Cabot amended its protest pursuant to Section 1.11 of the Commission's rules of practice and procedure to withdraw its protest as to Patrick's contractual authority to escalate prices to the stripper well rate. On April 28, 1980, Cabot filed a notice of withdrawal pursuant to § 1.11(d) of the Commission's regulations stating it had resolved the matter and no longer objected to Patrick Petroleum's application.

Any person desiring to be heard or to make any protest with reference to said position should on or before July 24, 1980 file with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C., 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 C.R.R. 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-19645 Filed 6-30-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3174]

Ptarmigan Resources and Energy, Inc.; Application for Preliminary Permit

June 24, 1980.

Take notice that Ptarmigan Resources and Energy, Inc., (Applicant) filed on May 8, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.. §§ 791(a)-

[1] The contract clause in dispute reads as follows: "If the Federal Power Commission or its successor in governmental authority and jurisdiction, shall at any time increase the major producer applicable area rate for such gas, the price shall be increased accordingly, effective as of the date of collection of such increased rate is authorized."

825(r)] for proposed Project No. 3174 to be known as the Vallecito Reservoir Project located on the Los Pinos River and utilizing the existing Vallecito Dam and Reservoir in La Plata County; Colorado. The project would occupy lands of the United States (SE/4 SE/4 Section 13 and NE/4 NE/4 Section 24, Township 36 North, Range 7 West, SW/4 SW/4 Section 18 Township 36 North, Range 6 West N.M.P.M.) The existing dam was constructed by the United States Water and Power Resources Service and is operated by the Pine River Water Conservancy District.

Project Description.—The project would utilize an existing dam and would consist of a powerhouse with one or more generating units having a total rated capacity of 6.43 MW capable of generating 21,600,000 kWh annually which would save the equivalent of 35,500 barrels of oil or 10,000 tons of coal. The Water and Power Resources Service's existing dam and reservior include a 162-foot high, 4,010-foot long earth and rock-fill dam and a reservoir with a storage capacity of 125,000 acre-feet at the normal maximum water surface elevation of 7,665 feet m.s.l.

Purpose of Project.—Power generated by the project would be sold to the local utility or a local municipality.

Proposed Scope and Cost of Studies under Permit.—The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies, Applicant would decide whether to proceed with more detailed studies and the preparation of an application for license to construct and operate the project. Applicant estimates that the cost of the work to be performed under the preliminary permit would be $47,500.

Purpose of Preliminary Permit.—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications.—Anyone desiring to file a competing application must submit to the Commission, on or before August 21, 1980, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than October 20, 1980. A notice of intent must conform with the requirements of 18 C.F.R. 4.33(b) and (c), (as amended, 44 Fed. Reg. 61328, October 25, 1979). A competing application must conform with the requirements of 18 CFR, 4.33(a) and (d), (a amended, 44 Fed. Reg. 61328, October 25, 1979.)

Comments, Protests, or Petitions to Intervene.—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's rules of practice and procedure, 18 CFR § 1.8 or § 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in Section 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's rules. Any comments, protest, or petition to intervene must be filed on or before August 21, 1980. The Commission's address is: 825 North Capitol Street, NE., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-19646 Filed 6-30-80; 8:45 am]

BILLING CODE 6450-85-M

[Project Nos. 3032 and 3144]

Riceland Electric Cooperative Inc., et. al.; Application for Preliminary Permits

June 24, 1980.

Take notice that Riceland Electric Cooperative, Inc. and C&L Electric Cooperative, Inc. (RCL) and the Arkansas Power & Light Company (AP&L) filed, on February 1, 1980, and on April 18, 1980, respectively, competing applications [pursuant to the Federal Power Act, 16 U.S.C. sections 791(a)—825(r)] for preliminary permits for the proposed hydroelectric power projects, each to be known as the No. 4 Power Project, FERC Projects Nos. 3032 and 3144, respectively, that would be located on the Arkansas River, in Jefferson County, near the City of Pine Bluff, Arkansas. Correspondence with RCL should be directed to: Mr. Joe R. Moody, Benham—Holway Power Group, Suite 1150, #1 Union Plaza, Little Rock, Arkansas 72201, and Mr. Jim Bennett, Project Manager, c/o Riceland Electric Cooperative, Inc., P.O. Box 906, Stuttgart, Arkansas 72160. Correspondence with AP&L should be addressed to: Mr. W. Harvey Jones, Manager, Civil Engineering, Arkansas Power & Light Company, P.O. Box 551, Little Rock, Arkansas 72203.

Purpose of Project.—Project energy developed from Project No. 3032 would be wheeled through the Arkansas Electric Cooperative Corporation's transmission system to RCL substations for distributions to its members. Project energy developed from Project No. 3144 would be used by AP&L to meet its present and future load requirements.

Proposed Scope and Cost of Studies under Permit.—Each Applicant seeks issuance of a preliminary permit for a period of three years, during which time each Applicant proposes that it would perform surveys and geologic investigations, reach final agreement on sale of project power, secure financing commitments, consult with Federal, State, and local government agencies concerning the potential environmantal effects of the project, and prepare an application for FERC license, including an environmental report. RCl estimates that the costs of the studies under the permit would be between $20,000 and $50,000. AP&L estimates the costs at $40,000.

Project Description.—Each Applicant would utilize the existing Lock and Dam No. 4 under the jurisdication of the Corps of Engineers. RCL intends to construct: 1) four turbine/generators rated at 5.0 MW each operating under a head of 12 feet and using the flow that now passes through the dam's seventeen taintor gates; 2) a new powerhouse 160 feet long and 75 feet wide located on the eastern bank of the river; 3) a new 2.5-mile long 69 or 115-kV transmission line; and 4) a new step-up substation and two existing substations. RCL estimates that annual generation would average 120,000,000 kWh.

AP&L intends to construct: 1) turbine/generators with a total rating between

10 and 15 MW; 2) a new powerhouse; and 3) a new 2.0-mile long 115-kV transmission line. AP&L estimates that annual generation would average 90,000 kWh.

Purpose of Preliminary Permit.—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priorty of application for license while the Permittee undetakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments.—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications.—Anyone desiring to file a competing application must submit to the Commission, on or before August 25, 1980, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than October 24, 1980. A notice of intent must conform with the requirements of 18 CFR 4.33(b) and (c), (as amended 44 Fed. Reg. 61328, October 25, 1979). A competing application must conform with the requirements of 18 CFR, 4.33(a) and (d), (as amended, 44 Fed. Reg. 61328, October 25, 1979.)

Comments, Protests, or Petitions to Intervene.—Anyone desiring to be heard or to make any protests about these applications should file a petition to intervent or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's rules of practice and procedures, 18 CFR, § 1.8 or § 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in Section 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comment does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protests, or petition to intervene must be filed on or before August 25, 1980. The Commission's address is: 825 North Capitol Street N.E., Washington, D.C. 20426. The applications are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-19647 Filed 6-30-80; 8:45 am]

BILLING CODE 6450-85-M

[Project Nos. 3042 and 3145]

Riceland Electric Cooperative, Inc. and Arkansas Power & Light Co.; Applications for Preliminary Permits

June 24, 1980

Take notice that the Riceland Electric Cooperative, Inc. and C&L Electric Cooperative, Inc. (RCL) and the Arkansas Power & Light Company (AP&L) filed, on February 13, 1980, and on April 18, 1980, respectively, competing applications [pursuant to the Federal Power Act, 16 U.S.C. Sections 791(a)—825(r)] for preliminary permits for proposed hydroelectric power projects, each to be known as the Lock and Dam No. 5 Power Project, that would be located on the Arkansas River, in Jefferson County, near the City of Pine Bluff, Arkansas. Correspondence with RCL should be directed to: Mr. Joe R. Moody, Benham-Holway Power Group, Suite 1150, #1 Union Plaza, Little Rock, Arkansas 72201, and Mr. Jim Bennett, Project Manager, c/o Riceland Electric Cooperative, Inc., P.O. Box 906, Stuttgart, Arkansas 72160. Correspondence with AP&L should be addressed to: Mr. W. Harry Jones, Manager, Civil Engineering, Arkansas Power & Light Company, P.O. Box 551, Little Rock, Arkansas 72203.

Purpose of Project.—Project energy developed from Project No. 3042 would be wheeled through the Arkansas Electric Cooperative Corporation's transmission system for distribution to RCL's members. Project energy developed from Project No. 3145 would be used by AP&L to meet its present and future load requirements.

Proposed Scope and Cost of Studies under Permit.—Each Applicant seeks issuance of a preliminary permit for a period of three years, during which time each Applicant proposes that it would perform surveys and geologic investigations, reach final agreement on sale of project power, secure financing commitments, consult with Federal, State, and local government agencies concerning the potential environmental effects of the project, and prepare an application for FERC license, including an environmental report. RCL and AP&L estimate the costs of studies under the permit would be approximately $50,000.

Project description.—Each Applicant would utilize the existing Corps of Engineers' Lock and Dam No. 5.

RCL intends to construct: (1) five turbine/generators rated at 6.0 MW each operating under a head of 15 feet and using the water that is now discharged through the dam's 15 Taintor gates; (2) a new powerhouse 200 feet long and 75 feet wide located on the western bank of the river; (3) a new one-mile long 115-kV transmission line; and (4) a new step-up substation. The Applicant estimate that annual generation would average 157,000,000 kWh.

AP&L intends to construct: (1) a powerhouse containing turbine/generators with a potential capacity of 10–15 MW and (2) a 3.0-mile long, 115-kV transmission line. AP&L estimates that annual generation would average 84,000,000 kWh.

Purpose of Preliminary Permit.—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments.—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications.—Anyone desiring to file a competing application must submit to the Commission, on or before August 25, 1980, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than

October 24, 1980. A notice of intent must conform with the requirements of 18 CFR 4.33(b) and (c), (*as amended* 44 *Fed. Reg.* 61328, October 25, 1979). A competing application must conform with the requirements of 18 CFR, 4.33(a) and (d), (*as amended,* 44 *Fed. Reg.* 61328, October 25, 1979.)

Comments, Protests, or Petitions to Intervene.—Anyone desiring to be heard or to make any protests about these applications should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's rules of practice and procedure, 18 CFR, § 1.8 or § 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's rules. Any comments, protest, or petition to intervene must be filed on or before August 25, 1980. The Commission's address is: 825 North Capitol Street, N.E., Washington, D.C. 20426. The applications are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-19648 Filed 6-30-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3155]

Sellers Manufacturing Company, Inc.; Application for Preliminary Permit

June 23, 1980.

Take notice that Sellers Manufacturing Company, Inc. (Applicant) filed on April 23, 1980, and supplemented on May 27, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)—825(r)] for proposed Project No. 3155 to be known as the Carbonton Dam Project located on the Deep River in Chatham, Lee, and Moore Counties, North Carolina. Correspondence with the Applicant should be directed to: Mr. John M. Jordan, Sellers Manufacturing Company, Inc., P.O. Box 128, Saxapahaw, North Carolina 27340.

Project Description.—The proposed project would consist of: (1) an existing stone masonry dam, approximately 250 feet long and 14 feet high; (2) an inoperative existing brick and concrete powerhouse, where it is proposed to install a new turbine/generator with an installed capacity of 1,350 kW: (3) a reservoir with a surface area of two acres; and (4) appurtenant facilities. The average annual energy generation is estimated to be 3,000 MWh.

Purpose of Project.—Sellers Manufacturing Company proposes to develop the hydroelectric potential of the project and sell the power output to nearby towns such as Carbonton, North Carolina, or Carolina Power and Light Company.

Proposed Scope and Cost of Studies under Permit.—The Applicant seeks issuance of a preliminary permit for a period of 36 months. During this time the significant legal, institutional, engineering, environmental, marketing, economic, and financial aspects of the project will be defined, investigated and assessed to support an investment decision. The report of the proposed study will address whether or not a commitment to implementation is warranted, and, if the findings are positive, describe the steps required for implementation. The report will be prepared so that the information presented will be useful in preparing an application for license for the project. The Applicant's estimated total cost for performing a feasibility study is $25,000.

Purpose of Preliminary Permit.—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments.—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications.—Anyone desiring to file a competing application must submit to the Commission, on or before August 25, 1980, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later then October 24, 1980. A notice of intent must conform with the requirements of 18 C.F.R. 4.33(b) and (c), (*as amended,* 44 *Fed. Reg.* 61328, October 25, 1979). A competing application must conform with the requirements of 18 CFR, 4.33(a) and (d), *as amended,* 44 *Fed. Reg.* 61328, October 25, 1979.)

Comments, Protests, or Petitions to Intervene.—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's rules of practice and procedure, 18 CFR, § 1.8 or § 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's rules. Any comments, protest, or petition to intervene must be filed on or before August 25, 1980. The Commission's address is: 825 North Capitol Street, N.E., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Lois D. Cashell

Acting Secretary.

[FR Doc. 80-19649 Filed 6-30-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3157]

Sellers Manufacturing Company, Inc.; Application for Preliminary Permit

June 24, 1980.

Take notice that Sellers Manfacturing Company, Inc. (Applicant) filed on April 23, 1980 and supplemented May 21, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)–825(r)] for proposed Project No. 3157 to be known as the Milburnie Dam Project located on the Neuse River in Wake County, North Carolina. Correspondence with the Applicant should be directed to: John M. Jordan, Sellers Manufacturing Company, Inc., Post Office Box 128, Saxapahaw, North Carolina 27340.

Project Description.—The proposed project would consist of: (1) an existing

460-foot long dam containing a 200-foot long ungated spillway section; (2) an existing powerhouse integral with a dam with a proposed capacity of 1,135 kW; (3) a 2-acre reservoir with a gross storage capacity of 15 acre-feet at a normal maximum elevation of 170 feet m.s.l., and (4) appurtenant facilities.

The proposed project would generate an estimated average annual output of 2,400 MWh.

Purpose of Project.—Sellers Manufacturing Company proposes to develop the hydroelectric potential of the project and sell the power output to nearby towns, such as Milburnie, or Carolina Power and Light.

Proposed Scope and Cost of Studies under Permit.—The Applicant seeks issuance of a preliminary permit for a period of 36 months. During this time the significant legal, institutional, engineering, environmental, marketing, economic and financial aspects of the project will be defined, investigated and assessed to support an investment decision. The report of the proposed study will address whether or not a commitment to implementation is warranted, and, if the findings are positive, describe the steps required for implementation. The report will be prepared so that the information presented will be useful in preparing an application for license for the project. The Applicant's estimated total cost for performing a feasibility study is $30,000.

Purpose of Preliminary Permit.—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for the power, and all other information necessary for inclusion in an application for a license.

Agency Comments.—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications.—Anyone desiring to file a competing application must submit to the Commission, on or before August 25, 1980, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than October 24, 1980. A notice of intent must conform with the requirements of 18 CFR 4.33(b) and (c), (*as amended* 44 *Fed. Reg.* 61328, October 25, 1979). A competing application must conform with the requirements of 18 CFR, 4.33(a) and (d), (*as amended,* 44 *Fed. Reg.* 61328, October 25, 1979).

Comments, Protests, or Petitions to Intervene.—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's rules of practice and procedure, 18 CFR, § 1.8 or § 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's rules. Any comments, protest, or petition to intervene must be filed on or before August 25, 1980. The Commission's address is: 825 North Capitol Street, NE., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary,

[FR Doc. 80-19650 Filed 6-30-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3159]

Sellers Manufacturing Company, Inc.; Application for Preliminary Permit

June 24, 1980

Take notice that Sellers Manufacturing Company, Inc. (Applicant) filed on April 23, 1980, and supplemented on May 23, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)–825(r)] for proposed Project No. 3159 to be known as the Lockville Dam Project located on the Deep River in Chatham and Lee Counties, North Carolina.

Correspondence with the Applicant should be directed to: Mr. John M. Jordan, Sellers Manufacturing Company, Inc., P.O. Box 128, Saxapahaw, North Carolina 27340.

Project Description—The proposed project would consist of: (1) an existing dam, including embankments and gate structures, with a height of 15 feet and an overall length of 950 feet; (2) an existing powerhouse with a proposed installed capacity of 2,100 kW; (3) an existing 20-acre reservoir with a gross storage capacity estimated at 150 acre-feet; and (4) appurtenant facilities. The average annual energy generation is estimated to be 5,500 MWh

Purpose of Project—Sellers Manufacturing Company proposes to develop the hydroelectric potential of the project and sell the power output to nearby towns such as Lockville and Moncure or Carolina Power and Light.

Proposed Scope and Cost of Studies under Permit—The Applicant seeks issuance of a preliminary permit for a period of 36 months. During this time the significant legal, institutional, engineering, environmental, marketing, economic, and financial aspects of the project will be defined, investigated and assessed to support an investment decision. The report of the proposed study will address whether or not a commitment to implementation is warranted, and, if the findings are positive, describe the steps required for implementation. The report will be prepared so that the information presented will be useful in preparing an application for license for the project. The Applicant's estimated total cost for performing a feasibility study is $20,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before August 25, 1980, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than October 24, 1980. A notice of intent must conform with the requirements of 18 CFR 4.33(b) and (c), (*as amended*, 44 *Fed. Reg.* 61328, October 25, 1979). A competing application must conform with the requirements of 18 CFR, 4.33(a) and (d), (*as amended*, 44 *Fed. Reg.* 61328, October 25, 1979.)

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's rules of practice and procedure, 18 CFR, § 1.8 or § 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedrues specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's rules. Any comments, protest, or petition to intervene must be filed on or before August 25, 1980. The Commission's address is: 825 North Capitol Street, N.E., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-19651 Filed 6-30-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3163]

Sellers Manufacturing Company, Inc.; Application for Preliminary Permit

June 24, 1980.

Take notice that Sellers Manufacturing Company, Inc., (Applicant) filed on April 23, 1980, and supplemented on May 27, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)—825(r)] for proposed Project No. 3163 to be known as the Randolph Mills Dam No. 2 Project located on the Deep River in Randolph County, Franklinville Township, North Carolina. Correspondence with the Applicant should be directed to: Mr. John M. Jordan, Sellers Manufacturing Company, Inc., P.O. Box 128, Saxapahaw, North Carolina 27340.

Project Description—The proposed project would consist of: (1) an existing stone masonry overflow dam approximately 250 feet lone; (2) an existing headrace canal approximately 800 feet long and 20 feet wide; (3) an existing powerhouse, which presently contains a single generating unit with an estimated capacity of 500 kW; (4) an existing reservoir with a surface area of approximately 10 acres and gross storage capacity of 50-acre feet; and (5) appurtenant facilities. The generating unit is not operating and would require modifications. The average annual energy generation is estimated to be 1,200 MWh.

Purpose of Project—Sellers Manufacturing Company proposed to develop the hydroelectric potential at the site of an existing dam on the Deep River in Franklinville Township. The potential customers for the power generated by this project include nearby towns such as Franklinville or Duke Power Company.

Proposed Scope and Cost of Studies under Permit—The Applicant seeks issuance of a preliminary permit for a period of 36 months. During this time the significant legal, institutional, engineering, environmental, marketing, economic, and financial aspects of the project will be defined, investigated and assessed to support an investment decision. The report of the proposed study will address whether or not a commitment to implementation is warranted, and if the findings are positive, describe the steps required for implementation. The report will be prepared so that the information presented will be useful in preparing an application for license for the project. The Applicant's estimated total cost for performing a feasibility study is $25,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. a permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before August 25, 1980, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than October 24, 1980. A notice of intent must conform with the requirements of 18 C.F.R. 4.33(b) and (c), (*as amended*, 44 *Fed. Reg.* 61328, October 25, 1979). A competing application must conform with the requirements of 18 CFR, 4.33(a) and (d), (*as amended*, 44 *Fed Reg.* 61328, October 25, 1979.)

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a proetest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's rules of practice and procedure, 18 CFR, § 1.8 or § 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's rules. Any comments, protest, or petition to intervene must be filed on or before August 25, 1980. The Commission's address is: 825 North Capitol Street, N. E., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-19652 Filed 6-30-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP80-17]

United Gas Pipeline Co.; Informal Conference

June 25, 1980.

Take notice that an informal conference will be held in the above-referenced proceeding on July 15, 1980 at 9:30 a.m. in a hearing room at the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-19653 Filed 6-30-80; 8:45 am]

BILLING CODE 6450-85-M

[ERA Docket No. 80-13-NG]

Great Lakes Gas Transmission Co.; Application for Amendment to Import Authorization, and Invitation To Submit Petitions To Intervene

AGENCY: Department of Energy, Economic Regulatory Administration.

ACTION: Notice of Application for Amendment to Import Authorization, and Invitation to Submit Petitions to Intervene.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice of receipt of the application of Great Lakes Gas Transmission Company (Great Lakes) to amend its current authorization to increase the volume of natural gas it may import for resale by the amount of 1.324 billion cubic feet (Bcf) annually. Great Lakes will purchase the gas from TransCanada Pipelines Limited (TransCanada). This volume of gas has been authorized previously for import by Great Lakes for use as compressor fuel and for other company uses, but presently cannot be imported for resale because of restrictions in TransCanada's export license and Great Lakes' import authorizations. The application if filed with ERA pursuant to Section 3 of the Natural Gas Act and the Secretary of Energy's Delegation Order No. 0204-54. Petitions to intervene are invited.

DATES: Petitions to intervene: To be filed on or before July 30, 1980.

FOR FURTHER INFORMATION CONTACT:

Timothy J. French (Division of Natural Gas), Economic Regulatory Administration, 2000 M Street NW., Room 7108, Washington, D.C. 20461, (202) 653-3286.

Martin S. Kaufman (Deputy Assistant General Counsel for International Trade and Emergency Preparedness), Department of Energy, 1000 Independence Ave. SW., Forrestal Building, Room 5E064, Washington, D.C. 20585, (202) 252-2900.

SUPPLEMENTARY INFORMATION: By its application of May 15, 1980, Great Lakes requests approval to amend its import authorization in Docket No. CP71-223, issued June 1, 1971 (45 FPC 1037), to allow Great Lakes to import from TransCanada for resale to customers in the United States 1.324 Bcf of natural gas annually in addition to volumes already authorized to be sold to customers. Great Lakes proposes to sell the volumes to an existing customer, Natural Gas Pipeline Company of America (Natural), at the rate of 3,618 Mcf per day. These volumes are a part of the volumes which have been authorized previously to be imported for non-resale purposes, such as compressor fuel or other company use, but are not required now for such uses because Great Lakes has installed loop pipeline on its pipeline system thereby conserving significant quantities of gas. This looping is expected to reduce the amount of fuel gas required by the company in rendering its transportation and sales services by 1.324 Bcf annually.

TransCanada has advised Great Lakes that it will be filing an application with the National Energy Board of Canada (NEB) to amend its Export License No. GL-43 in order to reflect this proposed sale arrangement. Approval of that amendment will not allow any increase in the overall amount of gas TransCanada is authorized to export, but will allow the exportation of the 1.324 Bcf of natural gas expected to be saved annually due to the looping program for the purpose of sale to U.S. customers by Great Lakes.

Approval of this amendment will allow Great Lakes to import the additional gas commencing with the first date of the month following the date on which all requisite U.S. and Canadian regulatory approvals have been received.

The border price for the proposed imports is the current price of $4.47 per MMBtu. The entry point is Great Lakes' existing interconnection with TransCanada on the International boundary near Emerson, Manitoba.

Great Lakes has also filed an application with the Federal Energy Regulatory Commission pursuant to Section 7(c) of the Natural Gas Act to sell the gas for which it has applied to ERA for authorization to import.

OTHER INFORMATION: The ERA invites petitions for intervention in the proceeding. Such petitions are to be filed with the Economic Regulatory Administration, Room 7108, 2000 M Street, N.W., Washington, D.C. 20461, in accordance with the requirements of the rules or practice and procedure (18 CFR 1.8 and 1.10). Such petitions for intervention will be accepted for consideration if filed no later than 4:30 p.m., on the 30th day after the date of publication of this notice in the **Federal Register.**

Any person wishing to become a party to the proceeding or to participate as a party in any hearing which may be convened herein must file a petitions to intervene. Any person desiring to make any protest with reference to the application should file a protest with the ERA in the same manner as indicated above for petition to intervene. All protests filed with ERA will be considered by it in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding.

A formal hearing will not be held unless a motion for such hearing is made by any party or intervener and is granted by ERA, or if the ERA on its own motion believes that such a hearing is required. If such a hearing is required, due notice will be given.

A copy of Great Lakes' petition is available for public inspection and copying in Room B-120, 2000 M Street, N.W., Washington, D.C. 20461, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, D.C. on June 25, 1980.

F. Scott Bush,

Assistant Administrator, Regulations and Emergency Planning, Economic Regulatory Administration.

[FR Doc. 80-19665 Filed 6-30-80; 8:45 am]

BILLING CODE 6450-01-M

Office of Hearings and Appeals

Issuance of Decisions and Orders; Week of April 28 through May 2, 1980

Notice is hereby given that during the week of April 28 through May 2, 1980, the Decisions and Orders summarized below were issued with respect to Appeals and Applications for Exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions which were dismissed by the Office of Hearings and Appeals and the basis for the dismissal.

Copies of the full text of these Decisions and Orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B-120,

2000 M Street, N.W., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., e.d.t., except Federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

Melvin Goldstein,

Director, Office of Hearings and Appeals.

June 24, 1980.

Appeal

Planco, Inc., Dallas, Tex., BFA–0274, freedom of information

Planco, Inc. filed an Appeal for a partial denial by the Deputy Director of the DOE Office of Procurement Operations of a Freedom of Information Request. In its Appeal, Planco, Inc. sought the release of a portion of a winning technical proposal which was withheld pursuant to Exemption 4. In considering the Appeal, the DOE found that the Deputy Director's response did not provide specific reasons for withholding this material. Accordingly, the DOE remanded the matter for further consideration.

Requests for Exception

Arnold Orloske, Shell Service, Belfair, Wash., BEO–0693, motor gasoline

Arnold Orloske Shell Service filed an Application for Exception from the provisions of 10 CFR Part 211 in which the firm sought an increased base period allocation of motor gasoline. In considering the request, the DOE found that the firm had failed to demonstrate that the residents of its marketing area were experiencing an unfair distribution of the burdens resulting from the shortage of motor gasoline. Accordingly, exception relief was denied.

Dalee Oil Co. Inc., Okawville, Ill., BEO–1138, motor gasoline

Dalee Oil Company, Inc. filed an Application for Exception from the provisions of 10 CFR 211.102 in which the firm requested the assignment of a lower priced supplier for a portion of its base period use of motor gasoline. In considering the request, the DOE found that although a significant price disparity existed in one month it had been substantially reduced in subsequent months and did not result in serious financial or operating difficulties for the firm. The DOE therefore determined that the firm has failed to meet the standards for exception relief on price disparity grounds. Accordingly, exception relief was denied.

Chester F. Dolley: Atlantic Oil Co., Los Angeles, Calif. DEE–1020 and DEE–1032, crude oil

Chester F. Dolley and Atlantic Oil Company filed Applications for Exception from the provisions of 10 C.F.R., Part 212, Subpart D, in which they sought retroactive price exception relief which would have the effect of relieving them of the obligation to repay $162,826.76 in overcharges caused by the erroneous classification of five crude oil producing properties as stripper well leases between November 1973 and the end of 1976. In considering the requests, the DOE rejected the firms'claims of gross inequity and serious financial hardship. The DOE also rejected the firms' challenges to the DOE's policy on retroactive exception relief. Accordingly, exception relief was denied.

Elmar's Chevron Service, Gardena, Calif., BEO–0721, motor gasoline

Elmar's Chevron Service filed an Application for Exception from the provisions of 10 C.F.R. Part 211 in which the firm sought an increase in it base period allocation of motor gasoline. In considering the request, the DOE found that the firm had failed to establish that it had changed its business practices prior to the new base period or that it was suffering a financial hardship. Accordingly, exception relief was denied.

Harry's Brake and Alignment Service, Hartford, Conn., BEO–1022, motor gasoline

Harry's Brake and Alignment filed an Application for Exception from the provisions of 10 C.F.R. Part 211 in which the firm sought an increased base period allocation of motor gasoline. In considering the request, the DOE found that the firm had failed to demonstrate that the residents of its marketing area were experiencing an unfair distribution of the burdens resulting from the shortage of motor gasoline. Accordingly exception relief was denied.

Keep Happy Marketing, Inc., Bossier City, La., BEO–0117, motor gasoline

Keep Happy Marketing, Inc. filed an Application for exception from the provisions of 10 C.F.R. Part 211 in which the firm sought an increase in its base period allocation of motor gasoline. In considering the request, the DOE found that the firm was not suffering a hardship as a result from its base period allocation. Accordingly, exception relief was denied.

Long Island Gasoline Retailers Association, Inc., Jericho, N.Y., DEE–5858, motor gasoline

Long Island Gasoline Retailers Association, Inc. (LIGRA) filed an Application for Exception from the provisions of 10 C.F.R. Part 211 in which it sought an increased allocation of motor gasoline for 69 retail outlets located in five eastern Long Island, New York townships. In its submission, LIGRA maintained that the five townships were incurring a hardship and bearing a disproportinate share of the burdens caused by the shortage of motor gasoline. LIGRA also stated that the loss of the gasoline allocations of the townships stations had created serious financial difficulties for the communities involved since their economies are heavily dependent upon tourism.

In considering the request, the DOE found that LIGRA had failed to demonstrate that the market areas involved in the exception request had experienced a sufficient decrease in motor gasoline supplies to warrant the diversion of motor gasoline to them from other areas of the country. Further, LIGRA had failed to demonstrate that an actual shortage of gasoline in the area resulted in a significant reduction in tourism. Accordingly, exception relief was denied.

Palm Beach Gulf Station, Palm Beach, Florida, BEO–0306, motor gasoline

Palm Beach Gulf Station filed an Application for Exception from the provisions of 10 CFR Part 211 in which the firm sought an increase in its base period allocation of motor gasoline. In considering the request, the DOE found that the firm failed to establish that the community in which it is located is suffering a gross inequity due to a shortage of motor gasoline. Accordingly, exception relief was denied.

Rally Oil Company, Mobil Oil Corporation, New York, New York, DEE–2542, BEA–0191, BES–0191, BST–0191, motor gasoline

Rally Oil Company (Rally) filed an Application for Exception from the provisions of 10 CFR Part 212 in which the firm sought the assignment of a new lower-priced supplier of motor gasoline to replace one of the firm's base period suppliers. In considering the request, the DOE found that exception relief was necessary to alleviate the serious hardship, gross inequity and unfair distribution of burdens Rally was experiencing. A subsequent Appeal filed by the Mobil Oil Corporation of the assignment order issued by the DOE was denied.

Burleigh Tibbetts, Westfield, Indiana, BEO–0095, motor gasoline

Burleigh Tibbetts filed an Application for Exception from the provisions of 10 CFR Part 211 in which the firm sought an increased base period allocation of motor gasoline. In considering the request, the DOE found that the firm had failed to demonstrate that it was suffering a severe financial hardship as a result of DOE regulations. Accordingly, exception relief was denied.

Tower Park, Lodi, California, BEO–0422, motor gasoline

Tower Park filed an Application for Exception from the provisions of 10 C.F.R. Part 211, in which the firm sought an increase in its base period allocation of motor gasoline. In considering the request, the DOE found that the firm had failed to demonstrate that any hardship it was experiencing was primarily attributable to the DOE allocation regulations. The DOE also found that the firm had not demonstrated that the approval of exception relief would further any of the objectives of the Emergency Petroleum Allocation Act of 1973. Three important issues were discussed in the Decision and Order. With regard to certain renovations that were completed by the firm during the early portions of the new base period, the DOE concluded that there was a sufficient period of time during the remaining months of the base period and the growth adjustment period when the owners could have increased the firm's purchases and sales of motor gasoline. With regard to the renovations that occurred subsequent to the imposition of the new base period, the DOE held that the firm had ample opportunity to weigh the effect of the updating of the base period upon its plans to execute such renovations. Finally, the DOE held the firm had not demonstrated that the approval of exception relief would make a significant contribution to the policy objective set forth in the EPPA of maintenance of public services.

University Gulf, Huntsville, Alabama, BEO–0224, motor gasoline

University Gulf filed an Application for Exception from the provisions of 10 C.F.R. Part 211 in which the firm sought an increase in its base period allocation of motor gasoline. In considering the request, the DOE found that the firm had made an investment subsequent to the imposition of the new base period and therefore was not adversely affected by that updated base period. Accordingly, exception relief was denied.

Walls' Standard Service, St. Louis, Missouri, BEO–0382, motor gasoline

Walls' Standard Service filed an Application for Exception from the provisions of 10 C.F.R. § 211.102 in which the firm sought an increase in its base period allocation of motor gasoline. In considering the request, the DOE determined that the firm was not experiencing a serious financial hardship. The DOE also found that the residents of the market area served by the firm were not experiencing a gross inequity or an unfair distribution of burdens. Accordingly, exception relief was denied.

Requests for Temporary Exception

Commonwealth Oil Refining Co., Inc., San Antonio, Texas, BIL–0048, imports

Commonwealth Oil Refining Co., Inc. (Corco) filed an Application for Temporary Exception from the provisions of Presidential Proclamation 4744, the Petroleum Import Adjustment Program. In considering the Corco request, the DOE found that the requirement that Corco post bond for payment of the gasoline conservation fee prior to the importation of crude oil would cause the firm to suffer a severe financial injury, the DOE also found that Corco was likely to succeed on the merits of its Application for Exception (Case No. BIE–1089). Accordingly, Corco's Application for Temporary Exception was granted.

Ohio Independents for Survival, Ohio, BEL–1075, crude oil

The Ohio Independents for Survival (OIS) filed an Application for Temporary Exception from the provisions of 10 C.F.R Parts 211 and 212 in which the association sought the issuance of an order by the DOE to equalize retail prices for motor gasoline within the State of Ohio. The mechanism suggested by the applicant would impose additional entitlements purchase obligations on the Standard Oil Company of Ohio (Sohio) and thereby add to the amount of cost increases available to Sohio for passthrough in the form of price increases. This particular form of exception relief was suggested because Sohio had allegedly been receiving unwarranted benefits under the Entitlements Program by virtue of its large volume of runs to stills of Alaska North Slope crude oil. OIS further requested the Office of Hearings and Appeals to require Sohio to pass through all costs associated with the entitlements obligation imposed and to apply gasoline tilt and regional pricing flexibility regulations to further increase gasoline prices in the State of Ohio. In considering the request, the DOE determined that severe market dislocations and injury to independent marketers was occurring in the State of Ohio and that temporary exception relief was therefore appropriate. Under the mechanism for implementing the relief chosen, Sohio was directed to purchase additional entitlements in the amount of $14,050,000 per month. This order was, however, rescinded by the Deputy Secretary of Energy.

Supplemental Order

Kickapoo Oil Company, Inc., Hillsboro, Wisconsin, BEX–0048, motor gasoline

On March 28, 1980, Kickapoo Oil Company, Inc., filed an Application for Supplemental Order which, if granted, would modify a Decision and Order issued to the firm on February 26, 1980, in which the firm was granted exception relief. *Kickapoo Oil Company, Inc.*, 5 DOE ¶ ————, DEE–8220 (February 26, 1980). In considering the request, the DOE determined that as a result of a change in the circumstances which warranted the approval of exception relief in the February 26, 1980, Decision and Order, the relief afforded was no longer necessary. Accordingly, the DOE issued a Supplemental Order rescinding the Decision and Order for months subsequent to April 1980.

Interlocutory Order

Atlantic Richfield Company, Washington, D.C., BRZ–0024
Gulf Oil Corporation, Washington, D.C., BRZ–0025
Louisiana Land and Exploration Company, Washington, D.C., BRZ–0026
Marathon Oil Company, Washington, D.C., BRZ–0027
Texaco, Inc., Washington, D.C., BRZ–0028
Standard Oil Company of California, Washington, D.C., BRZ–0029
The Standard Oil Company (Ohio), Cleveland, Ohio, BRZ–0030, crude oil

Atlantic Richfield Company, Gulf Oil Corporation, Louisiana, Land and Exploration Company, Marathon Oil Company, Texaco, Inc., Standard Oil Company of California, and the Standard Oil Company (Ohio) ("respondents") filed a joint motion to take the depostitions of 24 individuals in connection with six enforcement actions brought by the DOE Special Counsel for Compliance (Case Numbers DRO–0193 through 0197 and DRO–0199). The depositions were requested to enable the respondents to explore allegations of improper document destruction by DOE officials. In considering the motion, the DOE concluded that the respondents should be allowed to depose one individual concerning one instance of alleged document destruction but determined that the remainder of the requested depositions would unduly delay the enforcement proceedings. However, the DOE permitted the respondents to submit interrogatories to the 24 requested deponents. Accordingly, the respondents' motion was granted in part.

Interim Orders

The following firms were granted Interim Exception relief which implements the relief which the DOE proposed to grant in an order issued on the same date as the Interim Order:

Company Name, Case No., and Location

Passport Marina, DEN–0027, Panama City Beach, FL

Protective Orders

The following firms filed Applications for Protective Orders. The applications, if granted, would result in the issuance by the DOE of the proposed Protective Order submitted by the firm. The DOE granted the following applications and issued the requested Protective Order as an Order of the Department of Energy:

Name, Case No., and Location

Pride Ref., Inc./Marathon Oil Co., BEJ–0083, Washington, DC
Sun Oil Co. of Penna./Chronister Oil Co., BEJ–0084, Washington, DC

Petitions Involving the Motor Gasoline Allocation Regulations

The following firms filed Applications for Exception, Temporary Exception, Stay, and/or Temporary Stay for the provisions of the Motor Gasoline Allocation Regulations. The requests, if granted, would result in an increase in the firms' base period allocation of motor gasoline. The DOE issued Decisions and Orders which determined that the requests be granted.

Company Name, Case No., and Location

Brace's Service Station, BEE–0393, Wellsville, MO

Petitions Involving the Motor Gasoline Allocation Regulations

The following firms filed Applications for Exception, Temporary Exception, Stay, and/or Temporary Stay from the provisions of the Motor Gasoline Allocation Regulations. The requests, if granted, would result in an increase in the firm's base period allocation of motor gasoline. The DOE issued Decisions and Orders which determined that the rquests be dismissed without prejudice to a refiling at a later date.

Company Name, Case No., Location

Donde's Texaco, BEO–0969, Phila., PA

Petitions Involving the Motor Gasoline Allocation Regulations

The following firms filed Applications for Exception, Temporary Exception, Stay, and/or Temporary Stay from the provisions of the Motor Gasoline Allocation Regulations. The requests, if granted, would result in an increase in the firms' base period allocation of motor gasoline. The DOE issued Decisions and Orders which determined that the requests be denied.

Company Name, Case No., and Location

B & B Garage, BEO–1122, Springfield, NB
Bart's Exxon, BEO–1093, Westerville, OH
Betterview Cablevision, BEO–0562, Myrtle Creek, OR
Channell's Gulf, DEE–7012, Athens, GA
Chas. L. R. Wood Oil, BEO–1057, Leavenworth, KS
Continental Tel. Co. of the West, BEO–0569, Phoenix, AZ
Copeland Grocery, BEO–0679, Woodland, WA
D. A. Hart, Inc., BEO–0796, Orange, CA
Dipilato Bros. Gulf, DEE–5738, Worcester, MA
E. N. Johnson, BEO–0575, Magnolia, AR
Frank's Arco, BEO–0753, Chicago, IL

Hawthorne Lane Shell, DEE–7403, Charlotte, NC
Jerry's Exxon, DEE–2680, Phila., PA
King Petroleum Co., DEE–3609, Wash., DC
Mardiros Torikian d.b.a. A & M Chevron, BEO–0421, Anaheim, CA
P & L Shell S.S., DEE–7207, Welch, WV
Queenstown Exxon, BEO–0260, Hyattsville, MD
Smith Shell Mart, BEO–0096, Redington Beach, FL
Tadlock Country Store, BEO–0275, Montgomery, AL

Dismissals

The following submissions were dismissed without prejudice to refiling at a later date:

Name, Case No.

Burek Oil Co., DEE–2891; DES–2891; DST–2891
Cando Oil & Gas, DEE–6430
Chas. F. Manahan & Son, DEE–7057
Chester F. Dolley Atlantic Oil Co., BRS–0038
Dobar Pet. Co., DEE–4149
Janis T. Fritts, BMR–0033
Lauver Oil Co., BEE–0882
Mayor Brands Dist. Co., BEE–0533
McDaniel Oil Co., BEE–0550
Miley's Texaco, DES–6791; DST–6791
Nordstrom Oil Co., BEE–0837
R & R Texaco, BXE–0904
Sun Oil Co. of PA, DRO–0204
Union Carbide Corp., DEE–8288
Witmer's Gulf, BEA–0149

[FR Doc. 80–19701 Filed 6–30–80; 8:45 am]

BILLING CODE 6450–01–M

Objection To Proposed Remedial Orders Filed Weeks of April 14 Through April 25, 1980

Notice is hereby given that during the weeks of April 14 through April 25, 1980, the Notices of Objection to Proposed Remedial Orders listed in the Appendix to this notice were filed with the Office of Hearings and Appeals of the Department of Energy.

On or before July 21, 1980, any person who wishes to participate in the proceeding which the Department of Energy will conduct concerning the Proposed Remedial Orders described in the Appendix to this notice must file a request to participate pursuant to 10 CFR 205.194 (44 FR 7926, February 7, 1979). On or before July 31, 1980, the office of Hearings and Appeals will determine those persons who may participate on an active basis in this proceeding, and will prepare an official service list which it will mail to all persons who filed requests to participate. Persons may also be placed on the official service list as non-participants for good cause shown. All requests regarding this proceeding shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461. Issued in Washington, D.C.

June 24, 1980.

Melvin Goldstein,

Director, Office of Hearings and Appeals.

Proposed Remedial Order

Rice Oil Company, Minot, North Dakota, BRO–1164, Motor Gasoline, Diesel Fuel

On April 21, 1980, Rice Oil Company, headquartered at 3010 South Broadway, Minot, North Dakota, 58701 filed a Notice of Objection to a Proposed Remedial Order which the DOE Rocky Mountain District Office of Enforcement issued to the firm on March 18, 1980. In the PRO the Rocky Mountain District found that during the period November 1, 1973, through April 30, 1974, Rice charged prices to its customers in excess of applicable DOE ceiling prices covering the sale of motor gasoline and diesel fuel products. According to the PRO the Rice Oil Company violation resulted in $22,382.31 of overcharges.

Proposed Remedial Order

Rice-Lindquist, Inc., Minot, North Dakota, BRO–1164, Motor Gasoline, Diesel Fuel

On April 21, 1980, Rice-Lindquist, Inc. located at 3010 South Broadway, Minot, North Dakota, 58701 filed a Notice of Objection to a Proposed Remedial Order which the DOE Rocky Mountain District Office of Enforcement issued to the firm on March 18, 1980. In the PRO the Rocky Mountain District found that during the period November 12, 1973, through April 30, 1974, RLI charged prices to its customers in excess of applicable DOE ceiling prices covering the sale of motor gasoline and diesel fuel products. According to the PRO the RLI violation resulted in $202,524.51 of overcharges.

[FR Doc. 80–19663 Filed 6–30–80; 8:45 am]

BILLING CODE 6450–01–M

Issuance of Decisions and Orders, Week of April 21 through April 25, 1980

Notice is hereby given that during the week of April 21 through April 25, 1980, the Decisions and Orders summarized below were issued with respect to Appeals and Applications for Exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions which were dismissed by the Office of Hearings and Appeals and the basis for the dismissal.

Copies of the full text of these Decisions and Orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B–120, 2000 M Street, N.W., Washigton, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., e.s.t., except Federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

June 24, 1980.

Melvin Goldstein,

Director Office of Hearings and Appeals.

Appeals

Exxon Company, U.S.A., Houston, Texas, BFA–0295 Freedom of Information

Exxon Company, U.S.A. filed an Appeal from a denial by the Disclosure Officer of the Office of Special Counsel for Enforcement of a request for information that the firm submitted pursuant to the Freedom of Information Act. In considering the Appeal, the DOE found that the matter should be remanded for a more complete justification for the denial of the firm's request for information. Important issues that were considered in the Decision and Order were the adequacy of description of documents in the determination and the adequacy of the determination itself.

Lenzner, Terry F., Washington, D.C., BFA–0292, Freedom of Information

Terry F. Lenzner filed an Appeal from a partial denial by the Director, Office of Natural Gas Regulations, Economic Regulatory Administration (NGR Director), of a Request for Information which the firm had submitted under the Freedom of Information Act (FOIA). In considering the Appeal, the DOE found that portions of three of the documents which were initially withheld under Exemption 5 of the FOIA contained segregable facts that should be released to the public.

Peter H. Clark, Inc., Pawtucket, Rhode Island, BEA, BES–0094, motor gasoline

Peter H. Clark, Inc. filed an Appeal and an Application for Stay of a November 21, 1979 order implementing exception relief which was issued to the firm by the ERA Region I Office of Petroleum Operations. The firm had been granted exception relief by the Office of Hearings and Appeals in Decisions issued on June 20, 1979, July 26, 1979, and October 22, 1979, in which the Region I Office was directed to establish a base period allocation for the Clark outlet on the basis of the operations conducted by all similar retail outlets in its marketing area. In its Appeal, Clark contended that the November 21 order was erroneous because it did not assign the firm the same amount of gasoline as was established for the firm on an interim basis by its base period supplier and because it would be unable to sustain its operations with the amount of gasoline established by the order. In considering the firm's contentions, the DOE concluded that the order was not erroneous because it complied with the directions and purpose set forth in the June 20 and subsequent Decisions issued to Clark by the OHA. The DOE also found that Clark would not suffer a serious hardship at the level of allocation established by the order, but that it would suffer a serious hardship if it were forced to refund to its supplier the amounts furnished during the interim period that were in excess of the amounts established by the November 21 order. Accordingly, Clark's Appeal of the order was denied except that it was excused from the pay-back provisions of the order. Since the Appeal represented a final

determination of the issues, the firm's Application for Stay was dismissed.

Vickers Petroleum Corporation, Tulsa, Oklahoma, DEA–0480, motor gasoline

Vickers Petroleum Corporation filed an Appeal from an Order for the Redirection of Product issued to the firm by DOE's Office of Fuels Regulation Region VI. In considering the Appeal, the DOE determined that the Redirection Order was defective in that it did not contain findings to establish the factual and legal basis of the Region's decision to order a redirection of product. Vickers' Appeal was therefore granted.

Requests for Exception

Ables Chevron Service Station, Tuscaloosa, Alabama, BEO–0544, motor gasoline

Ables Chevron Service Station filed an Application for Exception from the provisions of 10 CFR 211.102 in which the firm sought an increase in its base period allocation of motor gasoline. In considering the request, the DOE found that the firm's current allocation of motor gasoline under the DOE Allocation Regulation was representative of its normal operating posture. The DOE also found that Ables would not experience a serious financial hardship in the absence of exception relief. Accordingly, exception relief was denied.

Dave's Marathon, Kenia, Ohio, BEO–1027, motor gasoline

Dave's Marathon filed an Application for Exception from the provisions of 10 CFR Part 211 in which the firm sought an increase in its base period allocation of motor gasoline. In considering the request, the DOE found that the firm had failed to demonstrate that it was suffering a gross inequity as a result of the DOE Allocation Regulation. Accordingly, exception relief was denied.

Eastern Shore Oil Company, Fruitland, Maryland, DEE–7886, Motor Gasoline

Eastern Shore Oil Company filed an Application for Exception from the provisions of 10 CFR Part 211 in which the firm sought an increase in its base period allocation of unleaded motor gasoline to enable the firm to produce gasohol. After considering the request, the DOE issued a Proposed Decision and Order in which it tentatively determined that Exxon Company, U.S.A. and BP Oil, Inc. should supply Eastern on a monthly basis with additional volumes of unleaded motor gasoline. Upon consideration of a Statement of Objections to the issuance of the Proposed Decision in final form filed by Exxon, The DOE found that exception relief was in fact necessary because Eastern's inability to obtain additional volumes of unleaded gasoline as a result of the allocation regulations was frustrating the national objective of developing diversified energy sources. Accordingly, the Eastern Application was granted.

Ed Marteusz Arco, Vallejo, California, BEO–0651, motor gasoline

Ed Marteusz Arco filed an Application for Exception from the provisions of 10 CFR Part 211 in which the firm sought an increase in its base period allocation of motor gasoline. In considering the request, the DOE found that the firm had failed to demonstrate that it was suffering a serious financial hardship as a result of the DOE regulations. Accordingly, exception relief was denied.

Fill-It- Car Wash, Lauderhill, Florida, BEO–0249, motor gasoline

Fill-It Car Wash filed an Application for Exception from the provisions of 10 CFR Part 211 in which the firm sought an increase in its base period allocation of motor gasoline. In considering the request, the DOE found that the firm had failed to demonstrate that the exception relief granted in the Proposed Decision and Order was insufficient or that it would suffer a severe financial hardship if additional exception relief was denied. Accordingly, exception relief was granted in part.

King Brand Food Products, Inc., Miami, Florida, BEO–0161, motor gasoline

On August 24, 1979, King Brand Food Products, Inc. filed an Application for Exception from the provisions of 10 CFR Part 211 in which the firm sought an increase in its base period allocation of motor gasoline. In considering the request, the DOE found that the firm's increased need for motor gasoline was not attributable to any significant change in the firm's business practices. Accordingly, exception relief was denied.

Progress West Texaco, Maryland Heights, Missouri, BEO–0713, motor gasoline

Progress West Texaco filed an Application for Exception from the provisions of 10 CFR Part 211 in which the firm sought an increase in its base period allocation of motor gasoline. In considering the request, the DOE found that the firm had failed to demonstrate that it was suffering a serious financial hardship as a result of DOE regulations. Accordingly, exception relief was denied.

State of Alaska Atlantic Richfield Co., Washington, D.C., Houston, Texas, DMR–0067, DXE–7864, crude oil

Atlantic Richfield Company filed an Application for Exception from the provisions of 10 CFR Part 212, Subpart D. Exception relief was granted to permit Arco to sell at upper tier ceiling prices 36.95 percent of the crude oil produced from Platform Spark.

W. E. Schroeder, Houston, Texas, BEE–0088, crude oil

W. E. Schroeder filed an Application for Exception from the provisions of 10 CFR Part 212, Subpart D. Exception relief was granted to permit W. E. Schroeder to sell at upper tier ceiling prices 53.82 percent of the curde oil produced from the J. B. Ferguson Lease.

Westwood Car Wash, San Antonio, Texas, BEO–0225, motor gasoline

Westwood Car Car Wash filed an Application for Exception from the provisions of 10 CFR Part 211 in which the firm sought an increase in its base period allocation of motor gasoline. In considering the request, the DOE found that the exception relief which was granted in the Proposed Decision and Order was sufficient to alleviate the financial hardship which the firm was experiencing as a result of DOE regulations. Accordingly, exception relief was granted in part.

U.S. Virgin Islands Energy Office, St. Thomas, Virgin Islands, BEE–1014, grant program

The U.S. Virgin Islands Energy Office filed an Application for Exception from the provisions of 10 CFR § 450 and 455 in which it requested permission to include buildings equipped with "through-the-wall" air-conditioning units as institutional buildings eligible for federal assistance under the Institutional Buildings Grant Program. In considering the exception request, the DOE found that a majority of the otherwise-eligible buildings in the Virgin Islands do no qualify for grants since "through-the-wall" air-conditioning units do not meet the regulatory definition of "cooling system." The DOE concluded that the situation imposed a gross inequity on the Virgin Islands. Accordingly, exception relief was granted.

Request for Temporary Exception

Sun Oil Company of Pennsylvania, Washington, D.C. BEL–0047, gasohol

The Sun Oil Company of Pennsylvania filed an Application for Temporary Exception from the provisions of 10 CFR 212.83 in which the firm sought to treat gasohol as a separate category and grade of motor gasoline for cost passthrough purposes. In considering the request, the DOE found that exception relief was necessary to permit Sun to produce and market gasohol. Accordingly, temporary exception relief was granted.

Remedial Order

CNG Producing Company, Clarksburg, West Virginia, DRO–0137, crude oil

CNG Producing Company objected to a Proposed Remedial Order which the New Orleans District Office of the ERA issued to the firm on October 11, 1978. In the PRO, the District Office found that CNG sold crude oil to Murphy Oil Corporation at unlawful prices. The District Office concluded that CNG should be required to refund to Murphy $185,458.26 plus interest. In considering CNG's objections, the DOE determined that by charging a special storage fee to Murphy, CNG was in fact charging twice for the same service, since expenses relating to the storage of curde oil were already reflected in the May 1973 posted price applicable to the underlying sales. The DOE also determined that CNG's contractural agreement with Murphy relating to the Hell Hole Bayou Field did not constitute a posted price within the meaning of 10 CFR 212.73. The DOE additionally determined that CNG had failed to properly cumulate its production deficiencies. Finally, the DOE rejected CNG's contention that the PRO was invalid because it was not issued in accordance with guidelines contained in the DOE *Enforcement Manual*. The DOE therefore concluded that the PRO should be issued as a final Order.

Request for Stay

Sun Oil Company of Pennsylvania, Philadelphia, Pennsylvania, BES–0397, motor gasoline

The Sun Oil Company of Pennsylvania filed an Application for Stay from the requirement that it immediately supply the Geib Oil Company with 54,000 gallons of unleaded gasoline per month pursuant to an

Interim Order issued to Geib on February 15, 1980. (10 CFR Part 211). In considering the Application, the DOE determined that Sun had failed to demonstrate that it would suffer an irreparable injury in the absence of a stay. In addition the DOE found that Sun had failed to show that it would be undesirable for public policy reasons to grant immediate relief to Geib. Sun's stay request was therefore denied.

Motion for Discovery

Belcher Oil Company, Washington, D.C., DRD–0097, fuel oil

Belcher Oil Company filed a Motion for Discovery in connection with its objections to a Proposed Remedial Order. Belcher's Motion related primarily to contemporaneous constructions of DOE regulations, the meaning of which was disputed by Belcher in the PRO proceeding. In considering Belcher's request, the Office of Hearings and Appeals determined that discovery of contemporaneous constructions of regulatory requirements was appropriate where a showing is made that the regulatory language at issue is susceptible to more than one reasonable interpretation and is not given a more definite meaning through official, publicly available agency or congressional documents. On the basis of a finding that Belcher had partially met this standard, the decision granted in part Belcher's request for discovery of contemporaneous constructions of various regulations. The OHA's decision also addressed requests for discovery aimed at showing that the DOE abused its prosecutorial discretion in the course of the Belcher audit. The OHA concluded that discovery was appropriate on the basis of such a claim only where a strong preliminary showing of abuse had been made and that Belcher had failed to make such a showing.

Supplemental Order

Highway Oil, Inc., Topeka, Kansas, BEX–0049, motor gasoline

On December 10, 1979, a Decision and Order was issued to Highway Oil, Inc. in which the DOE approved Highway's request that a separate allocation of unleaded gasoline be established for the firm for use in its gasohol blending and marketing operations. On April 25, 1980, the DOE issued an Order requiring Highway to show cause why the relief granted in the prior exception proceeding should not be revoked, in view of indications that the firm may have significantly reduced, or curtailed entirely, its gasohol blending and marketing activities.

Protective Orders

The following firms filed Applications for Protective Orders. The applications, if granted, would result in the issuance by the DOE of the proposed Protective Order submitted by the firm. The DOE granted the following applications and issued the requested Protective Order as an Order of the Department of Energy:

Name, Case No., and Location

Pride Ref., Inc./Texaco, Inc., BEJ–0076, Washington, D.C.

Interim Orders

The following firms were granted Interim Exception relief which implements the relief which the DOE proposed to grant in an order issued on the same date as the Interim Order:

Company Name, Case No., and Location

Estrellita Estates Co., BEN–0025, Weaverville, CA
Recreation Plus, Inc., BEN–0024, Trinity Center, CA

Petitions Involving the Motor Gasoline Allocation Regulations

The following firms filed Applications for Exception, Temporary Exception, Stay, and/or Temporary Stay from the provisions of the Motor Gasoline Allocation Regulations. The requests, if granted, would result in an increase in the firms' base period allocation of motor gasoline. The DOE issued Decisions and Orders which determined that the requests be granted.

Company name, Case No., and Location

Anderson's Exxon, DEE–2127, Baltimore, MD

Petitions Involving the Motor Gasoline Allocation Regulations

The following firms filed Applications for Exception, Temporary Exception, Stay, and/or Temporary Stay from the provisions of the Motor Gasoline Allocation Regulations. The requests, if granted, would result in an increase in the firms' base period allocation of motor gasoline. The DOE issued Decisions and Orders which determined that the requests be denied.

Company name, Case No., and Location

Bellevue Texaco, BEO–0301, Nashville, TN
Clean Linen Service, BEO–1023, Wash., DC
Drum Hill Gulf, DEE–5635, Belmont, ME
Fritz Ashland Service Station, BEO–0559, BEH–0059, Greenup, KY
Keaton's Shell Service, BEO–0068, Chicago, IL
Kenilworth Amoco, DEE–3661, Wash., DC
Lakeview Texaco, BEO–0413, Lakewood, CO
Rabehl Oil Co., BEO–0717, Fox Lake, WI
Ray's Service Center, BEO–0669, Mt. Vernon, NY
Vanguard Companies, BEO–1085, Cucamonga, CA
Washington Garage, BEO–0788, Bergenfield, NJ

Dismissals

The following submissions were dismissed without prejudice to refiling at a later date:

Name, Case No.

Calfee's Minute Market, DXE–5982
Canyon Marinas, Inc., BRO–0566
Continental Service, Inc., BRO–0160
General Gas and Oil Co., DEE–7640
Highway Oil, Inc., DEE–4833
Jim Wafer Oil Co., DEE–4215; DES–4215; DST–4215
L. M. Petroleum, BST–0374
Lasalle Oil Co., DEA–0571
Little Reb Auto Corp., BRW–0033
Lynwood 66 Service, DEE–4393
Metropolitan Dade County, Fla., BRO–1102
Newman Oil Co., DEE–5984
Northrup Oil Co., DEE–5938
Patterson Oil Co., Inc., DEE–6581
Phillips and Munzell Shell, BXE–0300
Storey Oil Co., BES–0072; BST–0072
Sun Oil Co. of Pennsylvania, BED–0082; BEJ–0082
West Main Mini-Market, DEE–4661; DES–4661

[FR Doc. 80–19662 Filed 6–30–80; 8:45 am]

BILLING CODE 6450–01–M

Issuance of Decisions and Orders by the Office of Hearings and Appeals; Week of May 19 through May 23, 1980

Notice is hereby given that during the week of May 19 through May 23, 1980 the Decisions and Orders summarized below were issued with respect to Appeals and Applications for exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions which were dismissed by the Office of Hearings and Appeals and the basis for the dismissal.

Appeals

Al's Citgo Service, BEA–0223; Bernie's Happy Gas, BEA–0222; Richard Cerk, BEA–0219; Exxon Co., U.S.A., BEA–0210; GAA Oil Co., Inc., BEA–0221; George's Texaco, BEA–0352; Heywood Automotive, BEA–0217; August Mancuso, BEA–0218; Village of Antioch, BEA–0215; West End Service & Mini Mart, BEA–0214; Ray's Shell Service, Antioch, Illinois, BEA–0353

Al's Citgo Service and ten other entities filed Appeals of an Assignment Order issued by the Region V Office of Petroleum Operations of the Economic Regulatory Administration on January 7, 1980. The January 7 order assigned Setco Products Ltd. as the supplier of specified volumes of gasoline for a retail outlet owned by Service Oil, Inc. In their Appeals, the firms contended that the order was erroneous in fact and in law and was inequitable because it would have a severe competitive impact on the existing retail outlets in the market area. In considering the firms' Appeals, the DOE found that the January 7 order was legally deficient because it did not contain an adequate statement of the facts underlying the determination of the volumes to be assigned to the new outlet. In addition, the DOE held that the order's finding that there would be no adverse competitive impact was without any basis in the record. The DOE therefore determined that the January 7 order should be remanded to the ERA for further proceedings and that it should be rescinded effective June 30, 1980. The firms' Appeals were therefore granted.

Bracewell & Patterson, Washington, D.C., BFA–0330, freedom of information

Bracewell & Patterson filed an Appeal from a partial denial by the Deputy Assistant Administrator for Enforcement of a Request for Information which the firm had submitted under the Freedom of Information Act. In considering the Appeal, the DOE found that although a final version of the document sought by the Appellant existed, the Deputy

Assistant Administrator's determination pertained only to a prior draft of that document. Accordingly, the matter was remanded for consideration of the final document and for reconsideration of the applicability of Exemption 5 of the Freedom of Information Act to the draft document.

Exxon Company, U.S.A., Houston, Texas, DEA–0558, motor gasoline

Exxon Company, U.S.A. filed an Appeal of a Temporary Assignment Order which was issued to the firm by the DOE Economic Regulatory Administration. The DOE found that the Temporary Assignment Order was defective because it did not conform to the requirements of § 205.39, which provide that a Temporary Assignment Order contain a complete explanation of the dire circumstances facing the applicant firm as well as a finding that it was not feasible to issue an assignment order conforming to the DOE guidelines. Accordingly, the DOE rescinded the Temporary Assignment Order and granted Exxon's Appeal.

Getty Refining and Marketing Company, Los Angeles, California, BEA–0141, Motor Gasoline

Getty Refining and Marketing Company filed an Appeal from an Assignment Order that was issued to it by the Economic Regulatory Administration on December 17, 1979. The Order directed Getty to supply Schapeler Oil Company with 197,752 gallons of motor gasoline during the period from December 1979 through August 1980. In considering the Appeal, the DOE found that the Assignment Order was factually correct and that the Order had been issued in conformance with the applicable procedural regulations. Accordingly, the Appeal was denied.

Robert K. Huffman, Washington, D.C., BFA–0331, freedom of information

Robert K. Huffman, Esq. filed an Appeal from a partial denial by the Acting Assistant General Counsel for Interpretations and Rulings of the Department of Energy of a request for information that Mr. Huffman had submitted under the Freedom on Information Act. In considering the Appeal, the DOE found that the Acting Assistant General Counsel had correctly determined that the withheld documents were exempt from mandatory public disclosure under Exemption 5 and that release of those documents would be contrary to the public interest. However, the DOE ordered a further search for responsive documents.

Mike's Shell Service, Anderson, BEA–0224
Sonny Helping Texaco, Anderson, BEA–0225
Nioio Interstate Marathon, Anderson, BEA–0226
Chesterfield Amoco, Chesterfield, BEA–0227
Gross Service Station, Daleville, BEA–0228
Gary's Standard, Daleville, BEA–0229
Story's Truckstop, Daleville, BEA–0230
Leo's Interstate 66, Daleville, BEA–0231
Buzz's Indy 5, Chesterfield, BEA–0232
Paul Whitworth Interstate Standard, Anderson, BEA–0233
Allen Huffman Interstate Standard, Daleville, BEA–0234
Frank's Marathon, Chesterfield, BEA–0235
Roger's Certified, Daleville, Indiana, BEA–0236

Thirteen firms filed Appeals from an assignment order issued by the ERA Region V office on December 7, 1979. In that order, the ERA assigned a base period volume and supplier to a new Speedway Petroleum retail sales outlet. The assigned base period volume of motor gasoline was the approximately 3 times greater than the average base period volume of the existing outlets within the delineated market area. In considering the Appeals, the DOE determined that the December 7 order was erroneous because the ERA failed to consider whether the assignment would result in an "unfair advantage" in favor of Speedway over existing outlets as contemplated by 10 CFR, § 211.12(e)(4). The DOE further determined that the ERA order appeared not to have considered similar outlets in closer proximity to the proposed site than the outlet selected as comparable. The Appeals were therefore granted and the Assignment Order remanded for further proceedings consistent with the principles discussed in the Decision and Order.

Shell Oil Company, Houston, Texas, DEA–0603, motor gasoline

Shell Oil Company filed an Appeal of a Temporary Assignment Order which was issued to the firm by the DOE Economic Regulatory Administration. The DOE found that the Temporary Assignment Order was defective because it did not conform to the express requirements of § 205.39, which provide that a Temporary Assignment Order contain a complete explanation of the dire circumstances facing the applicant firm as well as a finding that it was not feasible to issue an assignment order conforming to DOE guidelines. Accordingly, the DOE rescinded the Temporary Assignment Order and granted Shell's Appeal.

Remedial Orders

Englewood Getty Service, Inc., Englewood, New Jersey, DRO–283, motor gasoline

Englewood Getty Service, Inc. objected to an Interim Remedial Order for Immediate Compliance (IROIC) which the New Jersey Department of Energy issued to the firm on July 5, 1979. In the IROIC, the New Jersey Department of Energy found that Englewood had failed to maintain the required records to support the lawfulness of its selling price and that on June 12, 1979 Englewood charged prices for motor gasoline which exceeded the maximum lawful selling price which the firm was permitted to charge under the DOE regulations. Englewood failed to file a Statement of Objections to the IROIC, and the DOE therefore determined that the IROIC should be issued as a final order the DOE.

Shell 17, Inc. (1), DRO–0321;
Shell 17, Inc. (2), DRO–0328;
Northview, Inc., South Side Getty, Paramus, New Jersey, DRO–0329; motor gasoline

On August 8, 1979, Mr. Ronald Wermuth filed Notices of Objection to four Interim Remedial Orders for Immediate Compliance (IROICs) which the New Jersey Department of Energy issued on July 24, 1979 to four retail service stations which he operated in Paramus, New Jersey. The IROICs found that Shell 17, Inc. (1), Shell 17, Inc. (2), Northview, Inc., and South Side Getty had violated 10 CFR 212.93 by charging prices for motor gasoline which exceeded their maximum lawful selling prices and had violated 10 CFR 210.92 and 212.93 by failing to maintain records to support the lawfulness of its selling prices for motor gasoline at the time of the audits. Mr. Wermuth failed to file Statements of Objection within the time period prescribed by the DOE Procedural Regulations. Therefore, his Objections to the IROICs were dismissed and the four Interim Remedial Orders for Immediate Compliance were issued as final Remedial Orders for Immediate Compliance.

Requests for Exception

City of Elberton Natural Gas System, Elberton, Georgia, BEE–0083, natural gas

The City of Elberton Gas System filed an Application for Exception from the provisions of Section 13(b) of the Federal Energy Administration Act of 1974 in which the firm sought to be relieved of any obligation to prepare and submit Form EIA–149 ("Natural Gas Supply, Requirements, Curtailments and Usage"). In considering the request, the DOE found that the firm had failed to demonstrate that filing that the form would be unduly burdensome. Accordingly, exception relief was denied.

Continental Oil Company, Houston, Texas, DXE–2081: 2082, crude oil

Continental Oil Company filed an Application for Exception in which it sought an extension of the exception relief previously granted to it which permitted the firm to continue to sell certain quantities of the crude oil which it produces from the McCroskey and McNee Leases at upper tier ceiling prices. The firm's request was granted with respect to 24.96 and 32.62 percent of the crude oil produced and sold from the McCroskey and McNee Leases, respectively.

Dominick's Shell, New Orleans, Louisiana, BEO–0951, motor gasoline

Dominick's Shell filed an Application for Exception from the provisions of the Mandatory Petroleum Allocation Regulations in which the firm sought an increase in its base period allocation of motor gasoline. In considering the request, the DOE found that the firm was not experiencing a serious hardship, gross inequity, or unfair distribution of burdens as a result of the DOE allocation regulations. Accordingly, exception relief was denied.

East End ARCO Market, Wilkes-Barre, Pennsylvania, DEE–6130, petroleum gasoline

East End Arco Market filed an Application for Exception from the provisions of 10 CFR Part 211 in which the firm sought an increase in its base period allocation of motor gasoline. In considering the request, the DOE found that the firm had failed to demonstrate that it would suffer a serious hardship or gross inequity in the absence of exception relief. Accordingly, exception relief was denied.

Edgington Oil Company, Washington, D.C., DXE-1980, crude oil

Edgington Oil Company filed an Application for Exception from the provisions of 10 CFR 211. 67 in which the firm sought relief from its obligation to purchase entitlements during the period December 1978 through May 1979. In considering Edgington's request, the DOE found that the entitlements purchase obligation would prevent the firm from attaining either its historical profit margin or its historical return on invested capital. The DOE grant Edgington exception relief amounting to $321,515 per month during the three month period December 1978 through February 1979, and $1,271,945 per month during the three month period March 1979 through May 1979. The total amount of exception relief granted to Edgington would enable the firm to maintain its hitorical profit margin.

Kern County Refining, Inc., Bakersfield, California, DXE-1904, crude oil

Kern County Refining, Inc. filed an Application for Exception from the provisions of 10 CFR 211.67 in which the firm sought relief from its obligation to purchase entitlements during the period December 1978 through May 1979. In considering Kern's request, the DOE found that the entitlements purchase obligation would prevent Kern from attaining either its historical profit margin or its historical return on invested capital. The DOE granted Kern exception relief amounting to $913,565 per month for the three month period December 1978 through February 1979, and $707,743 per month for the three month period March 1979 through May 1979. In evaluating Kern's profit margin, the DOE excluded the revenues and costs associated with increases in the firm's resale transactions so that the effect of those transactions on the firm's profit margin would be eliminated.

Laurel Gulf, Laurel, Maryland, BEO-0747, motor gasoline

Laurel Gulf filed an Application for Exception from the provisions of 10 CFR, Part 211 in which the firm sought an increased base period allocation of motor gasoline. In considering the request, the DOE found that any operating difficulties which the firm was experiencing were the result of its discretionary business decisions and were not attributable to DOE regulations. Accordingly, exception relief was denied.

Long Island Lighting Company, Mineola, New York, BEE-0929, reporting requirements

On March 3, 1980, the Long Island Lighting Company (LILCO) filed an Application for Exception from the reporting requirements set forth in Form EIA-149 ("Natural Gas Supply, Requirements, Curtailments and Usage"). In its exception application the firm requested that it be granted an extension of time in which to file Part IV of Form EIA-149. In considering the request the DOE found that LILCO had failed to demonstrate that it would be unable to complete this form within the designated period of time. Accordingly, exception relief was denied.

Lowell Auto Wash, Lowell Indiana, BEO-0055, motor gasoline

On July 9, 1979, Lowell Auto Wash, Inc., filed an Application for Exception from the provisions of 10 CFR Part 211 in which the firm sought an increase in its base period allocation of motor gasoline. In considering the request, the DOE found that the firm had met the standards set forth in *Leo Anger, Inc.*, 4 DOE Par. 81,037 (1979) and that exception relief was therefore necessary to enable the firm to realize the intended benefits of its investment in its retail gasoline sales outlet. Accordingly, exception relief was granted.

Mardian Construction Company, Phoenix, Arizona, BEO-0810, motor gasoline

On October 22, 1979, the Mardian Construction Company filed an Application for Exception in which the firm sought an increase in its base period allocation of motor gasoline. In considering the request, the DOE found that the applicant was not presently suffering a serious hardship, gross inequity or unfair distribution of burdens as a result of the DOE allocation regulations. Accordingly, exception relief was denied.

Mobil Oil Corporation, Ventura County, California, DEE-2210, crude oil

Mobil Oil Corporation filed an Application for Exception from the provisions of 10 CFR Part 212, Subpart D. The exception request, if granted, would permit Mobil to sell at upper tier ceiling prices a portion of the crude oil produced from the Miley-Top-Intermediate Zone, Feguson Lease, located in Ventura County, California. On May 21, 1980, the DOE issued a Decision and Order which determined that the exception request be granted and that Mobil be permitted to sell 78.42 percent of the crude oil produced from the lease at upper tier ceiling prices.

Moffat Distributing Company, Inc., North Bend, Washington, DEO-0377, motor gasoline

Moffat Distributing Company, Inc. filed an Application for Exception from the provisions of 10 CFR Part 211 in which the firm sought an increase in its base period allocation of motor gasoline. In considering the request, the DOE found that the firm had failed to demonstrate that the residents of the area were suffering a gross inequity as a consequence of the imposition of the updated base period and the current limitations on its motor gasoline supply. Accordingly, exception relief was denied.

Rex Monahan, Sterling, Colorado, BXE-1078, crude oil

Rex Monahan filed an Application for Exception from the provisions of 10 CFR Part 212, Subpart D. Exception relief was granted to permit Rex Monahan to sell at Upper Tier prices 34.26 percent of the crude oil produced from the Springen Ranch Unit Lease.

Nichelini Plastering, Inc., San Rafael, California, BEO-0655, motor gasoline

Nichelini Plastering, Inc. filed an Application for Exception from the provisions of 10 CFR Part 211 in which the firm sought an increased base period allocation of motor gasoline. In considering the request, the DOE found that the firm had failed to demonstrate that it was suffering a serious hardship as a result of DOE regulations. Accordingly, exception relief was denied.

Purmax Oil Company, Lindsay, California, DEE-4089, motor gasoline

Purmax Oil Company filed an Application for Exception from the provisions of 10 CFR Part 211 in which the firm sought an increase in the base period allocation of motor gasoline for a retail outlet that it operates. The outlet, which had received an assignment of a base period allocation in December 1977 before it was constructed, did not open until April 1979. The firm maintained that the volume assigned pursuant to the December 1977 Order was insufficient. In considering the request, the DOE determined that the December 1977 Assignment Order became void with the issuance of the amended allocation regulations, and that the outlet therefore had no assigned base period volume. The DOE found that Purmax should apply for a new assignment for the outlet. Since a new Assignment Order might provide the outlet with a sufficient motor gasoline allocation, the DOE determined that the exception application should be dismissed.

Pyramid Corporation, Inc., Wichita, Kansas, DEE-0843, crude oil

Pyramid Corporation, Inc. filed an Application for Exception from the provisions of 10 CFR Part 212, Subpart D. The firm's exception request, if granted, would have permitted Pyramid to retain revenues which it may have realized during the period September 1973–December 1974 by charging unlawful prices for crude oil it produced and sold from two properties. On October 16, 1978, the DOE issued a Proposed Decision and Order to Pyramid in which it tentatively determined that the firm's request should be denied. On November 20, 1978, Pyramid filed a Statement of Objections to the determination reached in the Proposed Decision. Subsequently, On May 16, 1980, the firm withdrew its Statement of Objections. Accordingly, Pyramid's exception request was denied.

Rainey's, Inc., Decatur, Alabama, BEO-1053, temperature restrictions

Rainey's, Inc. (Rainey's) filed an Application for Exception from the provisions of 10 CFR Part 490 in which the firm sought to raise the maximum room temperature in its facilities above 65°F, and to raise the temperature of the hot water utilized in its operations above 105°F. In considering the request, the DOE found that Rainey's appeared to qualify for an exemption from the hot water temperature restrictions under the general provisions of 10 CFR 490.24(a). Since the firm would not require an exception under these circumstances, that portion of its Application was dismissed. With respect to the restrictions on room temperatures, the DOE determined that Rainey's had not demonstrated that the firm or its customers were more than generally inconvenienced by the application of the Temperature Restrictions. The portion of the Rainey's Application which concerns the 65°F temperature restriction was accordingly denied.

Sittard Service Station, Chicopee, Massachusetts, DEE-7300, motor gasoline

Sittard Service Station filed a Statement of Objections to the issuance in final form of a Proposed Decision and Order in which the

DOE tentatively determined that the firm's request for an increase in its base period allocation of motor gasoline should be denied. In considering the request, the DOE found that the closing of five retail outlets in the vicinity of Sittard Service Stations has not deprived the Chicopee community of substantial volumes of motor gasoline because the supplies formerly purchased by those outlets should be reflected in the volumes purchased by existing retail outlets in Chicopee during the remaining months of the base period and during the unusual growth adjustment period established in 10 CFR 211.104. The DOE further found that the applicant failed to provide evidence that adequate supplies of motor gasoline are not currently available in Chicopee to meet the needs of community residents. Accordingly, exception relief was denied.

Southland Oil Company/VGS Corporation, Washington, D.C., DXE–1903, crude oil

Southland Oil Company filed an Application for Exception from the provisions of 10 CFR 211.67 in which the firm sought relief from its obligation to purchase entitlements during the period December 1978 through May 1979. In considering Southland's request, the DOE found that the entitlements purchase obligation would prevent the firm from attaining either its historical profit margin or its historical return on invested capital. The DOE granted Southland exception relief amounting to $1,811,350 per month during the three month period December 1978 through February 1979, and $1,120,107 per month during the three month period March through May 1979.

Speed & Briscoe Auto/Truckstop, Inc., Ashland, Virginia, DEO–0308, motor gasoline

Speed & Briscoe Auto/Truckstop, Inc., filed an Application for Exception from the provisions of 10 CFR Part 211 in which the firm sought an increase in its base period allocation of motor gasoline. In considering the request, the DOE found that the firm had failed to demonstrate that the unavailability of a leaded regular grade gasoline from its supplier during the first six months of the updated base period had caused its base period volumes to be uncharacteristically low or that the operation of DOE allocation regulations were causing it to experience a gross inequity. Accordingly, exception relief was denied.

Union Oil Company of California, Los Angeles, California, DEE–0120, motor gasoline

Union Oil Company of California filed an Application for Exception from the provisions of the refiner price rule that would permit it to reflect in its maximum allowable selling prices for motor gasoline in the County of Hawaii a two cents per gallon increase in a license tax imposed on that product. The DOE noted that because Union is required by the equal application rule, 10 CFR 212.83(h), to apply the increased costs associated with the County license tax equally among all of its customer classes, the increase will in practice be recovered, if at all, through increases in the prices that it charges all of its customers, including those who do not live in the County. It is inequitable, the DOE held, to require that customers of Union living outside the County of Hawaii be required to bear a portion of the burden of a tax imposed by the County on local sales. The DOE therefore granted the exception relief requested.

Vantage Petroleum Corporation, Bohemia, New York, DEE–7988, gasohol

Vantage Petroleum Corporation filed an Application for Exception from the provisions of 10 CFR Part 211. In its Application, the firm sought to increase its annual base period allocation by nine million gallons of unleaded motor gasoline in order to maintain and expand its gasohol production and marketing activities. In considering the request, the DOE found that Vantage was not in an advantageous position to expand the use of gasohol because it did not have an assured supply of alcohol. The DOE also found that Vantage's base period allocation was sufficient to meet the estimated demand for gasohol in its market area without adversely affecting the firm's non-gasohol operations. Accordingly, exception relief was denied.

Village One-Stop and J.B. Virdell, Llano, Texas, BEO–0355, BEO–0356, motor gasoline

On May 15, 1979, Village One-Stop and J.B. Virdell filed Applications for Exception from the provisions of 10 CFR Part 211 in which the firms sought increases in their base period allocations of motor gasoline. In considering the requests, the DOE found that although the firms had made investments in their outlets with the intent of increasing gasoline sales, they should have been aware of the regulations limiting their allocated supplies of gasoline at the time the investment were made. Accordingly, exception relief was denied to each firm.

Water, Gas & Light Commission of Albany, GA., Albany, Georgia, BEE–0228, reporting requirements

The Water, Gas & Light Commission of Albany, Georgia (The Commission) filed an Application for Exception from the reporting requirements of Form EIA–149, a mandatory questionnaire designed to obtain information on natural gas supply, requirements, curtailments and usage. In considering the request, the DOE found that the Commission's record retrieval and storage system was unable to generate the data required by the questionnaire. The DOE also found that the Commission must manually retrieve and evaluate over 720,000 separate accounts in order to complete the form. The DOE concluded that the completion of the questionnaire by the Commission would make only a marginal contribution to the data collection effort while imposing an unreasonable burden upon the Commission. Accordingly, the Commission was relieved of its obligation to prepare and submit Form EIA–149.

Yellow Cab of Fort Lauderdale, Fort Lauderdale, Florida, BEO–0710, motor gasoline

Yellow Cab of Fort Lauderdale filed an Application for Exception from the provisions of 10 CFR Part 211 in which the firm sought an increase in its base period allocation of motor gasoline. In considering the request, the DOE found that the mere fact that the firm was involved in passenger transportation services did not provide a basis for the approval of its exception request with respect to its taxicab service. The DOE determined, however, that Yellow Cab's van service, which transports a number of people at the same time between the airport and their homes would contribute significantly to the reduction of motor gasoline consumption in Fort Lauderdale. The DOE also found that Yellow Cab's transportation service for elderly and handicapped residents of the county performed an important public service. The DOE found that exception relief was appropriate for these two services on gross inequity grounds. Accordingly, the firm's motor gasoline allocation was increased by the amount that these two services had increased the firm's motor gasoline requirements.

Young Refining Company, Washington, D.C., DXE–1978, crude oil

Young Refining Company filed an Application for Exception from the provisions of 10 CFR 211.67 in which the firm sought relief from its obligation to purchase entitlements during the period December 1978 through May 1979. In considering Young's request, the DOE found that the firm would realize a negative profit margin and a negative return on invested capital in the absence of exception relief. The DOE granted Young entitlement exception relief amounting to $175,347 per month during the three period December 1978 through February 1979, and $180,149 per month during the three month period March 1979 through May 1979. The total amount of relief equals the firm's net entitlement purchase obligation projected for its fiscal year 1978.

Requests for Temporary Exception

Cities Service Company, Tulsa, Oklahoma, BEL–0026, gasohol.

Cities Service Company filed an Application for Temporary Exception which, if granted, would result in the extension of temporary exception relief previously granted to the firm to facilitate its test marketing of gasohol. In considering this request, the DOE determined that the factual basis for the determination in which the DOE originally granted the firm a temporary exception (*Cities Service Company*, 4 DOE Par. 81,249 (1979)) continued to exist and that the findings made in that proceeding were generally applicable to the present proceeding as well. The DOE further determined that Citgo had implemented well defined plans to extend its test marketing program to non-company operated outlets and independent distributors in accordance with the requirements of *Cities Service Company, supra*. The DOE therefore permitted Citgo to continue to supply the 53 outlets previously designated as test outlets with 100 percent of their base period allocation of motor gasoline on an aggregate basis. The DOE also indicated that Citgo may extend the program to other company operated outlets when it has shown that it is not discriminating in favor of these outlets. This temporary exception was granted for a four month period.

McBay Oil & Gas Company, Dallas, Texas, BEL–1126, crude oil

McBay Oil & Gas Company (McBay) filed an Application for Temporary Exception from the provisions of 10 CFR 212.131 in which the firm sought permission to certify the 6,000 barrels of reclaimed crude oil from crude oil waste material as stripper well crude oil. In considering the request, the DOE determined that McBay would, in all likelihood, experience an irreparable injury in the absence of temporary relief. Accordingly, temporary exception relief was granted to alleviate the cash-flow difficulties that have resulted from McBay's inability to resell its reclaimed crude oil.

Requests for Stay

Huntway Refining Company, Los Angeles, California, BES–0037, crude oil

On May 19, 1980, the DOE issued a Decision and Order to Huntway Refining Company staying that firm's obligation to purchase entitlements as required by 10 CFR 211.67 to the extent specified in a Proposed Decision and Order which was issued to the firm on May 8, 1980.

Panasonic Company, Secaucus, New Jersey, BES–1093, test procedures

The Panasonic Company filed an Application for Stay of the energy efficiency test procedures set forth in 10 CFR Part 430, Appendix A which are applicable to four models of small-capacity refrigerators distributed by the firm. In considering the stay request, the DOE determined that Panasonic would be unable to perform the required tests unless the test procedures were modified. Accordingly, stay relief was granted which permits Panasonic to modify the applicable test procedures.

Motion For Discovery

McCulloch Gas Processing Corporation, Los Angeles, California, DRD–0177, natural gas liquids, natural gas liquid products

McCulloch Gas Processing Corporation filed a Motion for Discovery in connection with its Statement of Objections to a proposed Remedial Order issued to the firm by DOE, Region VII, on January 28, 1979. In considering the request, the DOE determined that portions of McCulloch's discovery request, specifically, those relating to the production of auditors' workpapers and responses to specified interrogatories, were necessary to enable the firm to obtain relevant and material evidence with respect to its defense to the PRO. Accordingly, McCulloch's Motion for Discovery was granted in part.

Motion For Evidentiary Hearing

Stanco Petroleum, Inc., Kimball, Nebraska, BRH–0018, crude oil

Stanco Petroleum, Inc. filed a Motion for Evidentiary Hearing in connection with its Statement of Objections to a Proposed Remedial Order that the Central Enforcement District of the Department of Energy issued to it on April 4, 1979. In its Motion, Stanco requested permission to present testimonial evidence in support of the contentions raised in its Statement of Objections regarding the number of crude oil producing wells which existed on four of its crude oil producing properties during January 1972 through December 1975. In considering the request, the DOE determined that Stanco should be permitted to present oral testimony concerning the number of crude oil producing wells at those leases. The DOE also determined that Stanco should be permitted to present oral testimony concerning the destruction of certain crude oil production reports which the Office of Enforcement contends were relevant to the factual issues raised in the Remedial Order proceeding. Accordingly, Stanco's Motion for Evidentiary Hearing was granted.

Supplemental Orders

Sabre Refining Inc., Bakersfield California, DEX–0170, crude oil

On November 13, 1978, the DOE issued a Decision and Order to Sabre Refining, Inc. (Sabre) in which it granted the firm an exception from the provisions of 10 CFR § 211.67 (the Entitlements Program). That Decision had the effect of relieving Sabre of a portion of its entitlements purchase obligation during its 1978 fiscal year. In the present proceeding, the DOE conducted a review of the exception relief granted to Sabre to determine whether it had received an appropriate level of relief. Based on that review, the DOE determined that Sabre was a net seller of entitlements during its 1978 fiscal year and that therefore the firm should not have received exception relief. Sabre was therefore ordered to purchase entitlements having a value of $122,673.

Southwestern Refining Company, Inc., Washington, D.C., BEX–0047, crude oil

On May 21, 1980, the DOE issued a Decision and Order to Southwestern Refining Company, Inc. staying that firm's obligation to purchase entitlements as required by 10 CFR § 211.67 to the extent specified in a Proposed Decision and Order which was issued to the firm on May 19, 1980.

Interim Orders

Getty Refining and Marketing Co., Tulsa, Oklahoma, BEN–0028–0033, Gasohol

Getty Refining and Marketing Co. filed an Application for Exception from the provisions of 10 CFR Part 211 in which the firm sought permission to increase the base period allocation of motor gasoline at six company-operated retail outlets for purposes of test marketing gasohol. In considering the request, the DOE found that exception relief was necessary to permit Getty Refining and Marketing to test market gasohol in a manner that allows the firm to obtain reliable test results. Accordingly, an Interim Decision and Order was issued granting exception relief on an immediate basis.

Interim Orders

The following firms were granted Interim Exception relief which implements the relief which the DOE proposes to grant in an order issued on the same date as the Interim Order:

Company Name, Case No., and Location

Allied Oil Co., DEM–5784, Kalamazoo, MI
School Board of St. Lucie County, BEN–0960, Ft. Pierce, FL
Sexton Oil Co., BEN–0035, Wartburg, TN

Petitions Involving the Motor Gasoline Allocation Regulations

The following firms filed Applications for Exception, Temporary Exception, Stay, and/or Temporary Stay from the provisions of the Motor Gasoline Allocation Regulations. The requests, if granted, would result in an increase in the firms' base period allocation of motor gasoline. The DOE issued Decisions and Orders which determined that the requests be granted.

Company Name, Case No., and Location

James F. Adair, Jr., BEO–1106, Welch, WV
Rousseau's Texaco, DEE–7348, New Haven, CT

Petitions Involving the Motor Gasoline Allocation Regulations

The following firms filed Applications for Exception, Temporary Exception, Stay, and/or Temporary Stay from the provisions of the Motor Gasoline Allocation Regulations. The requests, if granted, would result in an increase in the firm's base period allocation of motor gasoline. The DOE issued Decisions and Orders which determined that the requests be denied.

Company Name, Case No., and Location

Benbrook's Gulf, BEO–0487, Cartago, CA
Bill Young's Park Avenue Service, DEE–5134, Redlands, CA
Bob Lee's Inc., BEO–0632, St. Petersburg, FL
Country Store, BEO–0494, Porterville, CA
East Shore Spirits & Sports, BEO–0536, Westwood, CA
Fox Standard Service, BEO–0080, Spooner, WI
Half Moon Bay, Texaco, BEO–1083, Half Moon Bay, CA
Hamilton Test Systems California, Inc., DEE–5555, Windsor Locks, CT
Marion County Support Services, BEO–0581, Salem, OR
United Sanitation Co., BEO–0646, El Monte, CA
Unviersal Pictures, BEO–0592, Universal City, CA
610 S. Fulton Corp., DEE–4662, Floral Park, NY
739 Corp., BEO–0367, Milford, PA

Dismissals

The following submissions were dismissed without prejudice to refiling at a later date:

Name, Case No.

Calfee Co. of Dalton, Inc., DEE–7383
Greenwood Oil Co., DEE–6232
Phillips Petroleum, BES–0825
Purmax Oil Co., DES–4089; DST–4089
Quik Service, Inc., DEE–4517; DES–4517
Research Fuels, Inc., BEA–0355
Shackelford Bros., Inc., DEE–4985
Shephard Oil, Inc., BEL–1065
Southern Bell Telephone & Telegraph Co., BEH–0011
Tuloil Inc., DES–2996; DST–2996
Yellowstone Park S. S., BEE–0006; BES–0006; BST–0007

Copies of the full text of these decisions and Orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B–120, 2000 M Street, NW., Washington, D.C.

20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., e.s.t., except Federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

June 24, 1980.

Melvin Goldstein,

Director, Office of Hearings and Appeals.

[FR Doc. 80-19661 Filed 6-30-80; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-59027; FRL 1528-8]

Certain Chemicals; Premature Exemption Applications

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1)(A) of the Toxic Substances Control Act (TSCA) requires any person intending to manufacture or import a new chemical substance for a commercial purpose in the United States to submit a premanufacture notice (PMN) to EPA at least 90 days before he commences such manufacture or import. Under Section 5(h) the Agency may, upon application, exempt any person from any requirement of section 5 to permit such person to manufacture or process a chemical for test marketing purposes. Section 5(h)(6) requires EPA issue a notice of receipt of any such application for publication in the **Federal Register.** This notice announces receipt of applications for exemption from the premanufacture reporting requirements for test marketing purposes and requests comments on the appropriateness of granting the exemption.

DATE: The Agency must either approve or deny the application by July 31, 1980. Persons should permit written comments on the applications no later than July 16, 1980.

ADDRESS: Written comments to: Document Control Officer (TS-793), Office of Pesticide and Toxic Substances, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, 202-755-8050.

FOR FURTHER INFORMATION CONTACT:

Mr. David Dull, Premanufacturing Review Division (TS-794), Office of Pesticide and Toxic Substances, Environmental Protection Agency, Washinton, DC 20460, 202-426-2601.

SUPPLEMENTARY INFORMATION: Under Section 5 of TSCA, any person who intends to manufacture or import a new chemical substance for commercial purposes in the United States must submit a notice to EPA before the manufacture or import begins. A "new" chemical substance is any chemical substance that is not on the inventory of existing substances compiled by EPA under Section 8(b) of TSCA. EPA first published the Initial Inventory on June 1, 1979. Notice of availability of the Initial Inventory was published in the **Federal Register** on May 15, 1979 (44 FR 28558). The requirement to submit a PMN for new chemical substances manufactured or imported for commercial purposes became effective on July 1, 1979.

Section 5(a)(1) requires each PMN to be submitted in accordance with section 5(d) and any applicable requirement of chemical substances that are subject to testing rules under section 4. Section 5(b)(2) requires additional information in PMN's for substances which EPA, by rules under section 5(b)(4), has determined may present unreasonable risks of injury to health or the environment.

Section 5(h), "Exemptions," contains several provisions for exemptions from some or all of the requirements of section 5. In particular, section 5(h)(1) authorized EPA, upon application, to exempt persons from any requirement of section 5(a) or section 5(b) to permit the persons to manufacture or process a chemical substances for test marketing purposes. To grant such an exemption, the Agency must find that the test marketing activities will not present any unreasonable risk of injury to health or the environment. EPA must either approve or deny the application within 45 days of its receipt, and the Agency must publish a notice of its disposition in the **Federal Register.** If EPA grants a test marketing exemption, it may impose restrictions on the test marketing activities.

Under section 5(h)(6), EPA must publish in the **Federal Register** a notice of receipt of an application under section 5(h)(1) immediately after the Agency receives the application. The notice identifies and briefly describes the application (subject to section 14 confidentiality restrictions) and gives interested persons an opportunity to comment on it and whether EPA should grant the exemption. Because the Agency must act on the application within 45 days, interested persons should provide comments within 15 days after the notice appears in the **Federal Register.**

EPA has proposed Premanufacture Notification Requirements and Review Procedures published in the **Federal Register** of January 10, 1979 (44 FR 2242) and October 16, 1979 (44 FR 59764) containing proposed premanufacture rules and notice forms. Proposed 40 CFR 720.15 (44 FR 2268) would implement section 5(h)(1) concerning exemptions for test marketing and includes proposed 40 CFR 720.15(c) concerning the section 5(h)(6) **Federal Register** notice. However, these requirements are not yet in effect. In the meantime, EPA has published a statement of Interim Policy published in the **Federal Register** of May 15, 1979 (44 FR 28564) which applies to PMN's submitted prior to promulgation of the rules and and notice forms.

Interested persons may, on or before, July 16, 1980, submit to the Document Control Officer (TS-793), Rm. E-447, Office of Pesticides and Toxic Substances, 401 M St., SW, Washington, DC 20460, written comments regarding these notices. Three copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the document control number "[OPTS-59027]". Comments received may be seen in the above office between 8:00 a.m. and 4:00 p.m., Monday through Friday excluding holidays.

(Sec. 5, 90 Stat. 2012 (15 U.S.C. 2604))

Dated: June 25, 1980.

Warren R. Muir,

Acting Deputy Assistant Administrator for Chemical Control.

TM 80-27

Close of Review Period. July 31, 1980.

Manufacturer's Identity. E. I. du Pont de Nemours and Co., Wilmington, DE 19898.

Specific Chemical Identity. Claimed confidential. Generic name provided: Acidic phenyltetrazole derivative.

The following summary is taken from data submitted by the manufacturer in the test marketing exemption application.

Use. Ingredient in photographic product.

Production Estimates.

First year—50 kilograms (kg).

Second year—75 kg.

Third year—100 kg.

Physical/Chemical Properties.

Melting point—170-173°C.

Appearance—Light yellow crystalline solid.

Solubility—0.1-1.0% in methanol. >10% in DMSO. <0.1% in water.

Toxicity Data.

Skin irritation (rabbits)—Non-irritant.

Approximate lethal dose (ALD) (rats)—17,000 mg/kg.

Eye irritation (rabbits)—Mild irritant.

Primary skin irritation and sensitization (guinea pigs)—no sensitization observed.

Occupational Exposure

Activity and route(s)	No. of potentially exposed workers	Maximum duration of exposure
Manufacturing:		
Dermal	1	8 hr/da; 5 da/yr
Dermal	1	4 hr/da; 5 da/yr
Inhalation	1	1 hr/da; 5 da/yr
Processing:		
Dermal	7	1 hr/da.
Inhalation	7	½ hr/da.

Environmental Release. E. I. du Pont claims that there will be no release to the environment of the PMN substance.

TM 80-28

Close of Review Period. July 31, 1980.

Manufacturer's Identity. E. I. du Pont de Nemours and Co., Wilmington, DE 19898.

Specific Chemical Identity. Claimed confidential. Generic name provided: Nitro acid.

The following summary is taken from data submitted by the manufacturer in the test marketing exemption application.

Use. Captive intermediate.

Production Estimates.

First year—114 kilograms (kg).

Second year—172 kg.

Third year—229 kg.

Physical/Chemical Properties.

Melting point—163–164°C.

Appearance—Yellow crystalline solid.

Solubility—>10% in acetone. >10% in DMSO. <0.1% in water.

Toxicity Data.

Acute oral troxicity (rats)—Slightly toxic.

ALD—3,400 mg/kg.

Skin irritation (rabbits)—Non-irritant.

Primary skin irritation and sensitization (guinea pigs)—Non-irritant; non-sensitizer.

Eye irritation (rabbits)—Slight to mild irritant.

Occupational Exposure

Activity and site	Route(s)	No. of potentially exposed workers	Maximum duration of exposure
Manufacturing.	Inhalation	1	2 hr/da; 5 da/yr
Parlin, NJ.	Dermal	1	5 hr/da; 5 da/yr
Wilmington, DE.	Inhalation	1	2 hr/da; 3 da/yr
	Dermal	1	5 hr/da; 3da/yr

Environmental Release. E. I. du Pont claims there will be no release to the environment of the PMN substance.

TM 80-29

Close of Review Period. July 31, 1980.

Manufacturer's Identity. E. I. du Pont de Nemours and Co., Wilmington, DE 19898.

Specific Chemical Identity. Claimed confidential. Generic name provided: Substituted propane.

The following summary is taken from data submitted by the manufacturer in the test marketing exemption application.

Use. Captive intermediate.

Production Estimates.

First year—1.64 kilograms (kg).

Second year—2.46 kg.

Third year—3.29 kg.

Physical/Chemical Properties. No data submitted.

Toxicity Data.

Skin irritation (rabbits)—Non-irritant.

Acute oral toxicity (rats)—Moderately toxic.

ALD—300 mg/kg.

Eye irritation (rabbits)—Mild irritant.

Primary skin irritation and sensitization (guinea pigs)—Non-irritant; non-sensitizer.

Occupational Exposure

Activity and Site	Route(s)	No. of potentially exposed workers	Maximum Duration of exposure
Manufacturing.	Dermal	1	2 hr/da; 5 da/yr
Parlin, NJ.	Inhalation	1	1.5 hr/da, 5 da/yr
Wilmington, DE.	Dermal	1	2 hr/da, 3 da/yr
	Inhalation	1	1.5 hr/da; 3 da/yr.

Environmenatl Release. E. I. du Pont claims that there will be no release to the environment of the PMN substance.

TM 80-30

Close of Review Period. July 31, 1980.

Manufacturer's Identity. E. I. du Pont de Nemours and Co., Wilmington, DE 19898.

Specific Chemical Identity. Claimed confidential. Generic name provided: Substituted nitroaromatic.

The following summary is taken from data submitted by the manufacturer in the test marketing exemption application.

Use. Captive intermediate.

Production Estimates.

First year—51.3 kilograms (kg).

Second year—76.9 kg.

Third year—102.5 kg.

Physcial/Chemical Properties.

Melting point—164–168°C.

Appearance—Light yellow crystalline solid.

Solubility—>10% in acetone. >10% in DMSO. >0.1% in water.

Toxicity Data.

Primary skin irritation and sensitization (guinea pigs)—Mild to no skin irritation; weak sensitizer.

Eye irritation (rabbits)—Mild irritant.

Acute oral toxicity (rates)—Low.

ALD—7,500 mg/kg.

Occupational Exposure

Activity and site	Route(s)	No. of potentially exposed workers	Maximum duration of exposure
Manufacturing.	Inhalation	1	1 hr/da; 5 da/yr
Parlin, NJ.	Dermal	1	5 hr/da; 5 da/yr.
Wilmington, DE.	Inhalation	1	5 hr/da; 3 da/yr
	Dermal	1	1 hr/da; 3 da/yr.

Environmental Release. E. I. du Pont claims that there will be no release to the environment of the PMN substance.

[FR Doc. 80-19712 Filed 6-30-80; 8:45 am]

BILLING CODE 6560-01-M

[OPTS-51080; FRL 1528-5]

Certain Chemicals; Premanufacture Notices

AGENCY: Environment Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5 (a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Section 5 (d)(2) requires EPA to pubish in the **Federal Register** certain information about each PMN within 5 working days after receipt. This Notice announces receipt of two PMN's and provides a summary of each.

DATES: Written comments by August 4, 1980.

ADDRESS: Written comments to: Document Control Officer (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St., SW, Washington, DC 20460, 202-755-8050.

FOR FURTHER INFORMATION CONTACT: Ms. Ann Radosevich, Premanufacturing Review Division (TS-794), Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St., SW, Washington, DC 20460, 202-426-2601.

SUPPLEMENTARY INFORMATION: Section 5 (a)(1) of TSCA requires any person who intends to manufacture or import a new chemical substance to submit a PMN to EPA at least 90 days before manufacture or import commences. A "new" chemical substance is any substance that is not on the Inventory of existing substances compiled by EPA under

Section 8(b) of TSCA. EPA first published the Initial Inventory on June 1, 1979. Notice of availability of the Initial Inventory was published in the **Federal Register** of May 15, 1979 (44 FR 28558). The requirement to submit a PMN for new chemical substances manufactured or imported for commercial purpose became effective on July 1, 1979.

EPA has proposed premanufacture notification rules and forms in the **Federal Register** issues of January 10, 1979 (44 FR 2242) and October 16, 1979 (44 FR 59764). These regulations, however, are not yet in effect. Interested persons should consult the Agency's Interim Policy published in the **Federal Register** of May 15, 1979 (44 FR 28564) for guidance concerning premanufacture notification requirements prior to the effective date of these rules and forms. In particular, see page 28567 of the Interim Policy.

A PMN must include the information listed in Section 5 (d)(1) of TSCA. Under section 5 (d)(2) EPA must publish in the **Federal Register** nonconfidential information on the identity and use(s) of the substance, as well as a description of any test data submitted under section 5 (b). In addition, EPA has decided to publish a description of any test data submitted with PMN and EPA will publish the identity of the submitter unless this information is claimed confidential.

Publication of the section 5 (d)(2) notice is subject to section 14 concerning disclosure of confidential information. A company can claim confidentiality for any information submitted as part of a PMN. If the company claims confidentiality for the specific chemical identity or use(s) of the chemical, EPA encourages the submitter to provide a generic use description, a nonconfidential description of the potential exposures from use, and a generic name for the chemical. EPA will publish the generic name, the generic use, and the potential exposure descriptions in the **Federal Register.**

If no generic use description or generic name is provided, EPA will develop one and after providing due notice to the PMN submitter, will publish an amended **Federal Register** notice. EPA immediately will review confidentiality claims for chemical identity, chemical use, the identity of the submitter, and for health and safety studies. If EPA determines that portions of this information are not entitled to confidential treatment, the Agency will publish an amended notice and will place the information in the public file, after notifying the submitter and complying with other applicable procedures.

After receipt, EPA has 90 days to review a PMN under section 5 (d)(1). The section 5 (d)(2) **Federal Register** notice indicates the date when the review period ends for each PMN. Under section 5(c), EPA may, for good cause, extend the review period for up to an additional 90 days. If EPA determines that an extension is necessary, it will publish a notice in the **Federal Register.**

Once the review period ends, the submitter may manufacture the substance unless EPA has imposed restrictions. When the submitter begins to manufacture the substance, he must report to EPA, and the Agency will add the substance to the Inventory. After the substance is added to the Inventory, any company may manufacture it without providing EPA notice under section 5 (a)(1)(A).

Therefore, under the Toxic Substances Control Act, summaries of the data taken from the PMN are published herein.

Interested persons may, on or before August 4, 1980, submit to the Document Control Officer (TS–793), Rm. E–447, Office of Pesticides and Toxic Substances, 401 M St., SW, Washington, DC 20460, written comments regarding these notices. Three copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the document control number "[OPTS–51080]" and the specific PMN number. Comments received may be seen in the above office between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding holidays.

(Sec. 5, 90 Stat. 2012 (15 U.S.C. 2604))

Dated: June 25, 1980.

Warren R. Muir,

Deputy Assistant Administrator for Chemical Control.

PMN–129.

Close of Review Period. September 3, 1980.

Manufacturer's Identity. General Printing Ink Co., 631 Central Ave., Carlstadt, NJ 07072. (Parent Co., Sun Chemical Corp.).

Specific Chemical Identity. Claimed confidential. Generic name provided. Poly(amide-ester) resin X2–669.

The following summary is taken from data submitted by the manufacturer in the PMN.

Use. Polymer vehicle component for printing ink.

Production Estimates. Claimed confidential.

Physical/Chemical Properties.

Appearance: Light amber, solid resin in granular form.
Duran's melting point: 120–130° C.
Specific gravity at 25° C: 1.00 (approximate).
Acid value: 2–10 mg KOH/g.
Amine value: 1–4 mg KOH/g.
Viscosity at 25° C: B–F (40% in *n*-propanol). (Gardner Holt)
Molecular weight range: 3000–5000.

Exposure: Manufacturer's site. Two workers may be dermally exposed, 4 hours a day, 27 days a year during the manufacturing process. During processing of the PMN substance in each of the four sites controlled by the manufacturer, two workers may be dermally exposed, two hours per day, 50 days a year.

Environmental Release/Disposal. Manufacturing.

Media: Amount of Chemical Release (kg/yr).
Water: 100–1,000.
Land: 100–1,000.

Waster water discharge is part of the plant effluent to publicly owned treatment works (POTW). Non-usable recovered materials are landfilled as non-hazardous waste.

Processing.

Land: 10–100.
Non-reusable drums or bags will be landfilled.

PMN 80–130.

Close of Review Period. September 3, 1980.

Manufacturer's Identity. General Printing Ink Co., 631 Central Ave., Carlstadt, NJ 07072. (Parent Company: Sun Chemical Corp.).

Specific Chemical Identity: Claimed confidential. Generic name provided: Poly(amide-ester) resin X2–600.

The following summary is taken from data submitted by the manufacturer in the PMN.

Use. Polymer vehicle component for printing ink.

Production Estimates. Claimed confidential.

Physical/Chemical Properties.

Appearance: Light amber, solid resin in granular form.
Duran's melting point: 120–130° C.
Specific gravities at 25° C: 1.00 (approximate).
Acid value: 2–10 mg KOH/g.
Amine value: 1–4 mg KOH/g.
Viscosity at 25° C: B–F (40% in *n*-propanol).

Exposure: Manufacturer's site. Two workers may be dermally exposed, 4 hours a day, 4 days a year during the manufacturing process. During processing of the PMN substance in each of the four sites controlled by the manufacturer, two workers may be dermally exposed, 2 hours per day, 2 days a year.

Environmental Release/Disposal. Manufacturing.

Media: Amount of Chemical Released (kg/yr).

Water: 100–1,000.

Land: 10–100.

Waste water discharge is part of the plant effluent to publicly owned treatment works (POTW). Non-usable recovered materials after crushing are landfilled as non-hazardous waste.

Processing.

Land: Less than 10.

Non-reusable drums or bags will be landfilled.

[FR Doc. 80-19715 Filed 6-30-80; 8:45 am]

BILLING CODE 6560-01-M

[OPTS-51081; FRL 1528-6]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Section 5(d)(2) requires EPA to publish in the **Federal Register** certain information about each PMN within 5 working days after receipt. This Notice announces receipt of two PMN's and provides a summary of each.

DATES: Written comments by:

PMN 80–124; July 28, 1980.

PMN 80–128; August 1, 1980.

ADDRESS: Written comments to: Document Control Officer (TS–793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St., SW, Washington, DC 20460, 202–755–8050.

FOR FURTHER INFORMATION CONTACT: Ms. Ann Radosevich, Premanufacturing Review Division (TS–794), Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St., SW, Washington, DC 20460, 202–426–2601.

SUPPLEMENTARY INFORMATION: Section 5(a)(1) of TSCA requires any person who intends to manufacture or import a new chemical substance to submit a PMN to EPA at least 90 days before manufacture or import commences. A "new" chemical substance is any substance that is not on the Inventory of existing substances compiled by EPA under Section 8(b) of TSCA. EPA first published the Initial Inventory on June 1, 1979. Notice of availability of the Initial Inventory was published in the **Federal Register** of May 15, 1979 (44 FR 28558). The requirement to submit a PMN for new chemical substances manufactured or imported for commercial purposes became effective on July 1, 1979.

EPA has proposed premanufacture notification rules and forms in the **Federal Register** issues of January 10, 1979 (44 FR 2242) and October 16, 1979 (44 FR 59764). These regulations, however, are not yet in effect. Interested persons should consult the Agency's Interim Policy published in the **Federal Register** of May 15, 1979 (44 FR 28564) for guidance concerning premanufacture notification requirements prior to the effective date of these rules and forms. In particular, see page 28567 of the Interim Policy.

A PMN must include the information listed in Section 5(d)(1) of TSCA. Under section 5(d)(2) EPA must publish in the **Federal Register** nonconfidential information on the identity and use(s) of the substance, as well as a description of any test data submitted under section 5(b). In addition, EPA has decided to publish a description of any test data submitted with the PMN and EPA will publish the identity of the submitter unless this information is claimed confidential.

Publication of the section 5(d)(2) notice is subject to section 14 concerning disclosure of confidential information. A company can claim confidentiality for any information submitted as part of a PMN. If the company claims confidentiality for the specific chemical identity or use(s) of the chemical, EPA encourages the submitter to provide a generic use description, a nonconfidential description of the potential exposures from use, and a generic name for the chemical. EPA will publish the generic name, the generic use, and the potential exposure descriptions in the **Federal Register**.

If no generic use description or generic name is provided, EPA will develop one and after providing due notice to the PMN submitter, will publish an amended **Federal Register** notice. EPA immediately will review confidentiality claims for chemical identity, chemical use, the identity of the submitter, and for health and safety studies. If EPA determines that portions of this information are not entitled to confidential treatment, the Agency will publish an amended notice and will place the information in the public file, after notifying the submitter and complying with other applicable procedures.

After receipt, EPA has 90 days to review a PMN under section 5(a)(1). The section 5(d)(2) **Federal Register** notice indicates the date when the review period ends for each PMN. Under section 5(c), EPA may, for good cause, extend the review period for up to an additional 90 days. If EPA determines that an extension is necessary, it will publish a notice in the **Federal Register**.

Once the review period ends, the submitter may manufacture the substance unless EPA has imposed restrictions. When the submitter begins to manufacture the substance, he must report to EPA, and the Agency will add the substance to the Inventory. After the substance is added to the Inventory, any company may manufacture it without providing EPA notice under section 5(a)(1)(A).

Therefore, under the Toxic Substances Control Act, summaries of the data taken from the PMN are published herein.

Interested persons may, on or before the date shown under "DATES" for each specific PMN, submit to the Document Control Officer (TS–793), Rm. E–447, Office of Pesticides and Toxic Substances, 401 M St., SW, Washington, DC 20460, written comments regarding these notices. Three copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the document control number "[OPTS–51081]" and the specific PMN number. Comments received may be seen in the above office between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding holidays.

(Sec. 5, 90 Stat. 2012 (15 U.S.C. 2604))

Dated: June 25, 1980.

Warren R. Muir,

Acting Deputy Assistant Administrator for Chemical Control.

PMN 80–124.

Close of Review Period. August 27, 1980.

Manufacturer's Identity. Claimed confidential.

Specific Chemical Identity. Claimed confidential. Generic name provided: Amine disalts of aliphatic dicarboxylic acids.

The following summary is taken from data submitted by the manufacturer in the PMN.

Use. Lubricant additive for water containing lubricant formulations intended for use in products such as metalworking fluids and hydraulic fluids.

Production Estimates. Claimed confidential.

Physical/Chemical Properties. Claimed confidential.

Toxicity Data.

Estimated oral LD_{50} (rats): 2.1 g/kg.
Primary skin irritation index (rabbits): 0.13
Eye irritation score (rabbits): 1.0, 0.7, 0.0, 0.0 at 24, 48, and 72 hours; 5 and 7 days, respectively.

Occupation Exposure. Claimed confidential.

Environmental Release/Disposal. Claimed confidential.

PMN 80–128.

Close of Review Period. August 31, 1980.

Manufacturer's Identity. Sun Chemical Corp., 631 Central Ave., Carlstadt, NJ 07072.

Specific Chemical Identity. Claimed confidential. Generic name provided: Polyester resin CR1214–1.

The following summary is taken from data submitted by the manufacturer in the PMN.

Use. Polymeric vehicle for printing ink.

Production Estimates. Claimed confidential.

Physical/Chemical Properties.

Viscosity at 25° C—
Gardner, 100% solids: >Z 10.
Brookfield, 100% solids: 17,000 poises.
Color, Gardner: 9.
Solids: 100%.
Solubility: Soluble in xylene and tridecanol.
Acid value: 35–40.
Hydroxy value: 180–220.
Weight/gal.: 9.0.

Toxicity Data. No data submitted.

Exposure. Manufacturer's site. One person may be exposed dermally for 3 hours per day, 10 days a year.

Users' site. In each of the five users' sites, two workers may be exposed dermally for four hours per day, 20 days a year.

Disposal. Manufacturer's site. Ten to one hundred kilograms per year of the PMN substance may be released into the environment (water). Waste water discharged is then released to publicly owned treatment works (POTW).

Users' site. Release into the environment (land), 10–100 kg/yr is expected. Premix equipment is caustic washed which is pretreated and evaporated and sludge is landfilled.

[FR Doc. 80-19714 Filed 6-30-80; 8:45 am]
BILLING CODE 6560-01-M

[OPTS-51082; FRL 152807]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Section 5(d)(2) requires EPA to publish in the **Federal Register** certain information about each PMN within 5 working days after receipt. This Notice receipt of two PMN's and provides a summary of each.

DATE: Written comments by July 5, 1980.

ADDRESS: Written comments to: Document Control Officer (TS–793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St., SW, Washington, DC 20460, 202–755–8050.

FOR FURTHER INFORMATION CONTACT: Ms. Ann Radosevich, Premanufacture Review Division (TS–794), Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St., SW, Washington, DC 20460, 202–426–2601.

SUPPLEMENTARY INFORMATION: Section 5(a)(1) of TSCA requires any person who intends to manufacturer or import a new chemical substance to submit a PMN to EPA at least 90 days before manufacture or import commences. A "new" chemical substance is any substance that is not on the Inventory of existing substances compiled by EPA under Section 8(b) of TSCA. EPA first published the Initial Inventory on June 1, 1979. Notice of availability of the Initial Inventory was published in the **Federal Register** of May 15, 1979 (44 FR 28558). The requirement to submit a PMN for new chemical substances manufactured or imported for commerical purposes became effective on July 1, 1979.

EPA has proposed premanufacture notification rules and forms in the **Federal Register** issues of January 10, 1979 (44 FR 2242) and October 16, 1979 (44 FR 59764). These regulations, however, are not yet in effect. Interested persons should consult the Agency's Interim Policy published in the **Federal Register** of May 15, 1979 (44 FR 28564) for guidance concerning premature notification requirements prior to the effective date of these rules and forms. In particular, see page 29567 of the Interim Policy.

A PMN must include the information listed in section 5(d)(1) of TSCA. Under section 5(d)(2) EPA must publish in the **Federal Register** nonconfidential information on the identity and use(s) of the substance, as well as a description of any test data submitted under section 5(b). In addition, EPA has decided to publish a description of any test data submitted with the PMN and EPA will publish the identity of the submitter unless this information is claimed confidential.

Publication of the section 5(d)(2) notice is subject to section 14 concerning disclosure of confidential information. A company can claim confidentiality for any information submitted as part of a PMN. If the company claims confidentiality for the specific chemical identity or use(s) of the chemical, EPA encourages the submitter to provide a generic use description, a nonconfidential description of the potential exposures from use, and a generic name for the chemical. EPA will publish the generic name, the generic use, and the potential exposure descriptions in the **Federal Register.**

If no generic use description or generic name is provided, EPA will develop one and after providing due notice to the PMN submitter, will publish an amended **Federal Register** notice. EPA immediately will review confidentiality claims for chemical identity, chemical use, the identity of the submitter, and for health and safety studies. If EPA determines that portions of this information are not entitled to confidential treatment, the Agency will publish an amended notice and will place the information in the public file, after notifying the submitter and complying with other applicable procedures.

After receipt, EPA has 90 days to review a PMN under section 5(a)(1). The section 5(d)(2) **Federal Register** notice indicates the date when the review period ends for each PMN. Under section 5(c), EPA may, for good cause, extend the review period for up to an additional 90 days. If EPA determines that an extension is necessary, it will publish a notice in the **Federal Register.**

Once the review period ends, the submitter may manufacture the substance unless EPA has imposed restrictions. When the submitter begins to manufacture the substance, he must report to EPA, and the Agency will add the substance to the Inventory. After the substance is added to the Inventory, any company may manufacture it without providing EPA notice under section 5(a)(1)(A).

Therefore, under the Toxic Substances Control Act, summaries of the data taken from the PMN are published herein.

Interested persons may, on or before July 5, 1980, submit to the Document Control Officer (TS–793), Rm. E–447, Office of Pesticides and Toxic Substances, 401 M St., SW, Washington, DC 20460, written comments regarding

these notices. Three copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the document control number "[OPTS–51082]" and the specific PMN number. Comments received may be seen in the above office between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding holidays.

(Sec. 5, 90 Stat. 2012 (15 U.S.C. 2604))

Dated: June 25, 1980.

Warren R. Muir,

Acting Deputy Assistant Administrator for Chemical Control.

PMN 80–26.

Close of Review Period. August 4, 1980.

Manufacturer's Identity. Claimed confidential.

Specific Chemical Identity. Claimed confidential. Generic name provided: Substituted heteromonocycle derivative of 1,4-hexadiene, polymer with ethene and 1-propene.

The following summary is taken from data submitted by the manufacturer in the PMN.

Use. Lubricant additive.

Production Estimates. Production will range between 225,000 to 2,500,000 kilograms (kg) per year.

Physical/Chemical Properties.

Physical state: Liquid.
Solubility:
Water: Nil.
Hexane: ∞.
Boiling point: > 200° C.
Flash point: > 198° C.

Toxicity Data. (10% by weight oil solution of the chemical substance).

Oral LD_{50} (rats): > 16 g/kg of body weight (bw).
Primary skin irritation index: 0.67.
Eye irritation scores: 2.0, 0, 0, 0, and 0 at 24, 48, and 72 hours, 5 and 7 days, respectively.

Exposure. Manufacturer states that a maximum of ten workers may be exposed to the PMN substance 4 hours a week.

PMN 80–27.

Close of Review Period. August 4, 1980.

Manufacturer's Identity. Claimed confidential.

Specific Chemical Identity. Claimed confidential. Generic name provided: Substituted heteromonocycle derivative of 1,4-hexadiene, polymer with ethene and 1-propene.

The following summary is taken from data submitted by the manufacturer in the PMN.

Use. Intermediate used in the manufacture of lubricant additive.

Production Estimates. Production will range between 225,000 to 2,500,000 kilograms (kg) per year.

Physical/Chemical Properties.

Physical state: Liquid.
Solubility:
Water: Nil.
Hexane: ∞.
Boiling point: > 200° C.
Flash point (PMCC): > 208° C.

Toxicity Data.

Oral LD_{50} (rats): 16 g/kg.
Primary skin irritation index: 1.88.
Eye irritation scores: 11.0, 10.0, 8.7, 3.7, 1.7 at 24, 48, and 72 hours, 5 and 7 days, respectively.

Exposure. The manufacturer states that a maximum of ten workers may be exposed to the PMN substance 4 hours a week.

[FR Doc. 80–19713 Filed 6–30–80; 8:45 am]

BILLING CODE 6560–01–M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS 41002A; FRL 1530–4]

Sixth Report of the Interagency Testing Committee to the Administrator, Environmental Protection Agency: Receipt of the Report and Request for Comments Regarding Priority List of Chemicals; Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: On April 15, 1980, the Interagency Testing Committee (ITC) submitted to EPA its Sixth Report which revised and updated the Committee's priority list of chemicals, and added one category of chemicals for priority consideration by EPA in the promulgation of test rules under section 4(a) of the Toxic Substances Control Act. This report was published in the **Federal Register** of May 28, 1980 (45 FR 35897) and solicited comments. EPA is extending the comment period.

DATE: The extended comment period closes on August 26, 1980.

FOR FURTHER INFORMATION CONTACT:

Mr. Steven Newburg-Rinn, Assessment Division (TS–792), Rm. 229, East Tower, Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St., S.W., Washington, DC 20460, (202–426–0503); or

Mr. John B. Ritch, Jr., Industry Assistance Office (TS–799), Rm. E–429, Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, Toll-free telephone number: 800–424–9065, In Washington: 544–1404.

COMMENTS: EPA invites interested persons to submit comments on the ITC's recommendations as presented in its Sixth Report. All comments received by August 26, 1980 will be considered by the agency in determining whether to propose test rules in response to the Committee's new recommendations.

Comments should bear the identifying notation (OPT–41002A) and should be submitted to:

Document Control Office (TS–793), Rm. 447, East Tower, Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St.,S.W., Washington, DC 20460.

All written comments will be available for public inspection in Rm. 447, East Tower, at the above address, from 8:00 a.m. to 4:00 p.m., weekdays, excluding holidays.

SUPPLEMENTARY INFORMATION: The comment period for the Sixth Interagency Testing Committee Report ended on June 27, 1980. EPA received a request from the Cosmetics, Toiletries and Fragrance Association for a 60-day extension for filing of comments on the Sixth Report of the ITC. That organization is in the process of compiling toxicological test data concerning the phenylenediamines recommended by the ITC for testing. EPA has determined that it would be beneficial to have the results of these activities in determining whether to propose test rules in response to the Committee's new recommendations. Accordingly, EPA has extended the comment period for all interested persons until August 26, 1980.

(Sec. 4, 90 Stat. 2006 (15 U.S.C. 2603))

Dated: June 27, 1980.

Steven D. Jellinek,

Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 80–19849 Filed 6–30–80; 8:45 am]

BILLING CODE 6560–01–M

FEDERAL MARITIME COMMISSION

[Docket No. 80–42]

New York Terminal Conference and Japan/Korea-Atlantic and Gulf Freight Conference; Notice of Filing of Complaint and Assignment

Notice is given that a complaint filed by the New York Terminal Conference against the Japan/Korea-Atlantic & Gulf Freight Conference was served June 24, 1980. The complainant alleges that respondents' recent tariff amendment of its Rule 114(A), which rescinds second and third period demurrage charges, results in violation of sections 15, 16

First, 17 and 18(b)(5) of the Shipping Act, 1916.

This proceeding has been assigned to Administrative Law Judge Paul J. Fitzpatrick. Hearing in this matter, if any is held, shall commence within the time limitations prescribed in 46 CFR 502.61. The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon a proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record.

Francis C. Hurney,

Secretary.

[FR Doc. 80-19600 Filed 6-30-80; 8:45 am]

BILLING CODE 6730-01-M

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for review and approval, if required, 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, 1100 L Street NW., Room 10423; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before July 11, 1980. 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.

Agreement No. T-3910.

Filing Party: Richard J. Szczepaniak, Staff Counsel, Toledo-Lucas County Port Authority, 241 Superior Street, Toledo, Ohio 43604.

Summary: Agreement No. T-3910, between the Toledo-Lucas County Port Authority (Port) and the Toledo Ore Railroad Company (Toledo Ore), provides for the Port's lease to Toledo Ore of certain premises at the Toledo-Lucas County Port Authority, Toledo, Ohio, for the construction of a commercial and distribution facility to be used in the transshipment from vessels to railroad cars of iron ore and other bulk cargoes. The Port agrees to appoint Toledo Ore as its agent to construct and equip the facility, and will finance the cost of the proposed construction by the issuance of port facilities revenue bonds. As compensation, Toledo Ore will pay the Port an amount necessary to service the debt of the bonds, plus additional rent as set forth in the agreement. The term of the lease is thirty years.

By order of the Federal Maritime Commission.

Dated: June 25, 1980.

Francis C. Hurney,

Secretary.

[FR Doc. 80-19601 Filed 6-30-80; 8:45 am]

BILLING CODE 6730-01-M

Notice of Agreements Filed

The Federal Maritime Commission hereby gives notice that the following agreements have 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 each of the agreements and the justifications offered therefor at the Washington Office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10218; or may inspect the agreements at the Field Offices located at New York, N.Y.; New Orleans, Louisiana; San Francisco, California; Chicago, Illinois; and San Juan, Puerto Rico. Interested parties may submit comments on each agreement, including requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before July 21, 1980. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreements and the statement should indicate that this has been done.

Agreements Nos. 90-17, 191-8, 192-7 and 7190-7.

Filing Party: Clarence Morse, Esquire, Warren & Associates, P.C., 1100 Connecticut Avenue, N.W., Washington, D.C. 20036.

Summary: Agreements Nos. 90-17, 191-8, 192-7 and 7190-7 would amend, respectively, the Java/New York Rate Agreement, Java/Pacific Rate Agreement, Deli/Pacific Rate Agreement and Deli/New York Rate Agreement by adding a new clause which would provide the Conference Chairman with valid authority to establish and appoint committees for the purpose of reviewing various matters which come before the Agreement from time to time with directions to study the same and to make recommendations to the Agreeement for proper resolution thereof.

Agreement No. T-3907.

Filing Party: David Ainsworth, Senior Counsel, American President Lines, Ltd., 1950 Franklin Street, Oakland, California 94612.

Summary: Agreement No. T-3907, between American President Lines, Ltd. (APL) and the members of Johnson Scanstar Line (JSL), sets forth the terms by which APL will render container stevedoring and terminal services for JSL at the Port of Seattle, Washington. The agreement is effective for a one year term, with annual renewal options.

Agreement No. T-3908.

Filing Party: H. H. Wittren, Manager, Waterfront Real Estate, Port of Seattle, P.O. Box 1209, Seattle, Washington 98111.

Summary: Agreement No. T-3908, between the Port of Seattle (Port) and Simmons Tugboat Company, Inc. (Simmons) provides for Simmons' one-year lease of certain premises located at Terminal 115 at the Port of Seattle, Washington, to be used for the purpose of mooring, repair and maintenance of Simmons' tugs and barges, and other activities incidental thereto. As compensation, Simmons agrees to pay Port $1,600 per month plus all applicable Port tariff charges.

By order of the Federal Maritime Commission.

Dated: June 25, 1980.

Francis C. Hurney,

Secretary.

[FR Doc. 80-19602 Filed 6-30-80; 8:45 am]

BILLING CODE 6730-01-M

Independent Ocean Freight Forwarder License; Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as independent ocean freight forwarders pursuant to section 44(a) of the Shipping Act, 1916 (75 Stat. 522 and 46 U.S.C. 841(b)).

Persons knowing of any reasons why any of the following applicants should not receive a license are requested to communicate with the Director, Bureau of Certification and Licensing, Federal

Maritime Commission, Washington, D.C. 20573.

Shippers' International Service, Inc., 1067 N. Mason Road, Suite 5, St. Louis, MO 63141.

Officers: Donna June Turney, President/Director, Caesar Carnaghi, Secretary/Treasurer, Frederick F. Rowland, Director.

International Shipping Services, Inc., 4350 Von Karman Avenue, Newport Beach, CA 92660.

Officers: Lawrence L. Rodberg, Chairman of the Board, President, George B. Ryan, Director/Executive Vice President, Kurt I. Carlson, Director/Vice President, Wayne N. Neuman, Director/Secretary/Treasurer, John C. Ashton, Vice President, Thomas F. Murrill, Assistant Secretary.

United States International Shipping Corporation Inc., d.b.a. U.S. Saudi International Shipping Co., 3130 SW Freeway, Suite 419, Houston, TX 77098.

Officers: Ebrahim Safahieh, President, Mohamad Ali Aelei, Secretary/Treasurer.

Cleveland Freight Services International Inc., d.b.a. CFS International, 1682 Carmen Drive, Elk Grove Village, IL 60007.

Officers: Ismail K. Renno, President, Rafael Swift, Executive Vice President, Dennis M. Costin, Executive Vice President.

Pedro M. de la Concepcion, 999 Brickell Avenue, Suite 600, Miami, FL 33131.

Universal Air Freight, Inc., Greater Pittsburgh International Airport, P.O. Box 12427, Pittsburgh, PA 15231.

Officers: Joseph M. Bruzzese, President/Treasurer, Jo Ann Bruzzese, Vice President/Secretary, Don H. Van Auken, Jr., Vice President.

Dated: June 25, 1980.

By the Federal Maritime Commission.

Francis C. Hurney,

Acting Secretary.

[FR Doc. 80-19656 Filed 6-30-80; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Bank Holding Companies; Proposed De Novo Nonbank Acitivities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR § 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce beneifs to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and rquests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than July 24, 1980.

A. *Federal Reserve Bank of Minneapolis* (Lester G. Gable, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. NORTH CENTRAL BANCO, INC., Hutchinson, Minnesota (lending activities; Minnesota): To directly make accommodation loans to its shareholders and also to enable indivuduals to acquire stock ownership and qualify as bank directors. These activities would be conducted from the Applicant's office in Hutchinson, Minnesota, serving portions of McLeod, Meeker, Kandiyohi, Wright, Renville, Carver, Sibley, Scott, Nicollet, Le Sueur, and Hennepin counties in Minnesota.

2. CAPRICE CORPORATION, Red Lake Falls, Minnesota (agricultural credit activities; Minnesota): To engage, through its subsidiary, Red Lake County Agricultural Credit Corporation, in making, servicing, and purchasing for its own loans to finance seasonal agricultural production and marketing needs. These activities would be conducted from an office in Red Lake Falls, Minnesota, serving all of Red Lake County, southwestern Pennington County, and the northcentral portion of Polk County, Minnesota.

B. *Federal Reserve Bank of Kansas City* (Thomas M. Hoenig, Assitant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

MARYVILLE BANCSHARES, INC., Chillicothe, Missouri (commercial lending activities; Missouri): To engage in limited, short term commercial lending activities. These activities will be performed at an office in Chillicothe, Missouri, serving Livingston, Chariton, and Jackson Counties in the State of Missouri.

C. *Federal Reserve Bank of San Francisco* (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

BANKAMERICA CORPORATION, San Francisco, California (financing, servicing and insurance activities; Ohio and Indiana): To continue to emgage. through its indirect subsidiary, FinanceAmerica Credit Corporation, a Delaware Corporation, in the activities of making or acquiring for its own account loans and other extensions of credit such as would be made or acquired by a finance company, and servicing loans and other extensions of credit. Such activities will include, but not be limifed to, purchasing installment sales finance conctracts and offering credit and credit accident and health insurance in connection with extensions of credit made or acquired by FinanceAmerica Credit Corporation. These activities would be conducted from an existing office in Chattanooga, Tennessee, serving the states of Ohio and Indiana.

D. *Other Federal Reserve Banks:* None.

Board of Governors of the Federal Reserve System, June 24, 1980.

Griffith L. Garwood,

Deputy Secretary of the Board.

[FR Doc. 80-19689 Filed 6-30-80; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL TRADE COMMISSION

Early Termination of the Waiting Period of the Premerger Notification Rules

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the waiting period of the premerger notification rules.

SUMMARY: Westinghouse Electric Corporation is granted early termination of the waiting period provided by law and the premerger notification rules with respect to the proposed acquisition of station WRET/TV from R. E. Turner. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by both parties. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: June 12, 1980.

FOR FURTHER INFORMATION CONTACT: Joan S. Truitt, Attorney, Premerger

Notification Office, Bureau of Competition, Room 303, Federal Trade Commission, Washington, D.C. 20580 (202–523–3894).

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. § 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 80–19749 Filed 6–30–80; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 79P–0444/CP]

Tomato Juice Deviating From Identity Standard; Amendment of Temporary Permit for Market Testing

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces the amendment of a temporary permit issued to the Campbell Soup Co. to market test tomato juice from concentrate to which ascorbic acid is added to attain a vitamin C level of 3 milligrams per fluid ounce. This action enables the Campbell Soup Co. to improve the quality of information to be derived from the market test by expanding the number of container sizes available to the consumer.

DATES: This amended permit is effective for 15 months beginning on the date the new food is introduced into or caused to be introduced into interstate commerce, but no later that June 19, 1980. However, the permit may terminate sooner depending upon the final action on FDA's proposal to amend the standard of identity for tomato juice published in the **Federal Register** of May 9, 1978 (43 FR 19864). If the proposal is affirmed, the permit will terminate on the effective date of the final regulation. If the proposal is rejected, the permit will expire 30 days after such negative ruling on the proposal.

FOR FURTHER INFORMATION CONTACT: F. Leo Kauffman, Bureau of Foods (HFF–214), Food and Drug Adminstration, 200 C St. SW., Washington, DC 20204, 202–245–1164.

SUPPLEMENTARY INFORMATION: A temporary permit was issued to the Campbell Soup Co. under 21 CFR 130.17, concerning temporary permits to facilitate market testing of foods deviating from the requirements of the standards of identity promulgated under section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341). Notice of the issuance of the permit was published in the **Federal Register** of March 21, 1980 (45 FR 18482). The permit covered limited interstate marketing tests of tomato juice from concentrate that deviated from the standard of identity prescribed for tomato juice under 21 CFR 156.145. The test product is prepared by adding water to tomato paste that complies with the requirements of § 155.191(a)(1). The finished product contains not less than 5.5 percent by weight of tomato soluble solids, which is equivalent to a single-strength tomato juice normally found in the marketplace. In addition, ascorbic acid is added to attain a level of 3 milligrams per fluid ounce of vitamin C in the finished product. The principal display panel of the label will state the product name as "tomato juice from concentrate." Each of the ingredients used is stated on the label as required by the applicable sections of 21 CFR Part 101, except that the tomato ingredient complying with the requirements of § 155.191(a)(1) is declared as "tomato concentrate".

The permit provided for the temporary marketing of 112,500 cases of twelve 46-ounce cans and 175,000 cases of forty-eight 6-ounce cans of the product to be distributed in the eastern half of the State of Washington; ten counties in western Montana; four counties in northeastern Oregon; three counties in northeastern Pennsylvania; the State of New York, excluding metropolitan New York City; and in the State of Arizona.

The Campbell Soup Co. has requested that the temporary permit issued to it on March 21, 1980, be amended by expanding the number of container sizes available to the consumer. The company indicated that the testing of 112,500 cases of twelve 46-ounce cans and 175,000 cases of forty-eight 6-ounce cans of the test product, as originally provided for by the permit, was insufficient to obtain adequate data to assess the product's acceptability by consumers.

FDA concludes that it will be in the interest of consumers to permit additional market testing of 71,000 cases of twenty-four 12-ounce cans of tomato juice from concentrate in the eastern half of the State of Washington; ten counties in western Montana; four counties in northeastern Oregon; three counties in northeastern Pennsylvania; the State of New York, excluding metropolitan New York City; and in the State of Arizona.

This permit is effective for 15 months, beginning on the date the new food is introduced or caused to be introduced into interstate commerce, but no later than June 19, 1980. However, the permit may terminate sooner, depending upon the final action on FDA's proposal to amend the standard of identity for tomato juice published in the **Federal Register** of May 9, 1978 (43 FR 19864). If the proposal is affirmed, the permit will terminate on the effective date of the final regulation. If the proposal is rejected, the permit will expire 30 days after the negative ruling on the proposal.

Dated: June 23, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80–19673 Filed 6–26–80; 11:22 am]

BILLING CODE 4110–03–M

[FDA–225–80–2000]

Grain Inspection; Memorandum of Understanding With the Federal Grain Inspection Service

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has executed a memorandum of understanding with the Federal Grain Inspection Service (FGIS) of the Department of Agriculture. The purpose of the agreement is to set forth cooperative working arrangements FDA and FGIS will follow is discharging their responsibilities in the inspection and standardization of grain, rice, pulses, and food products.

DATES: The memorandum of understanding became effective April 15, 1980.

FOR FURTHER INFORMATION CONTACT: John M. Taylor, Bureau of Foods (HFF–310), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–245–1186.

SUPPLEMENTARY INFORMATION: Pursuant to the notice published in the **Federal Register** of October 3, 1974 (39 FR 35697) stating that future memoranda of understanding and agreements between FDA and others would be published in the **Federal Register** the agency is

publishing the following memorandum of understanding:

Memorandum of Understanding Between the Federal Grain Inspection Service of the U.S. Department of Agriculture and the Food and Drug Administration of the Department of Health, Education, and Welfare concerning the Inspection of Grain, Rice, Pulses, and Food Products [1]

I. Purpose

The two agencies have certain related objectives in carrying out their respective regulatory and service functions. Therefore, it is in the public interest to set forth, in this Memorandum of Understanding, the working arrangements each agency will follow in discharging their responsibilities in the inspection and standardization of grain, rice, pulses, and food products.

II. Background

The Food and Drug Administration (FDA) of the Department of Health, Education, and Welfare is charged with the enforcement of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 *et seq.*) (FD&C Act). In fulfilling its responsibilities under the FD&C Act, FDA's activities are directed toward protecting the public health of the nation by insuring that foods and feeds are safe and wholesome and that products are honestly and informatively labeled. This is accomplished, in part, by inspecting the processing and distribution of grain, rice, pulses, and food products and examining samples thereof to assure compliance with the FD&C Act. FDA also promulgates, under the FD&C Act, mandatory standards of identity, quality, and fill of container for food products after appropriate notices and hearings.

The Federal Grain Inspection Service (FGIS) of the United States Department of Agriculture, under the authority of (1) the United States Grain Standards Act (7 U.S.C. 71 *et seq.*) and the regulations thereunder (7 CFR Parts 800–810), and (2) the Agricultural Marketing Act of 1946 (7 U.S.C. 6121 *et seq.*) and the regulations thereunder (7 CFR Part 68), carries out certain voluntary and mandatory inspection and weighing services designed to aid in the efficient marketing of agricultural products. These services include developing specifications and standards; furnishing inspection, grading, and weighing services; and issuing certificates of quantity, quality, and condition to producers, processors, shippers, buyers, and other interested parties. The goal of FGIS is to provide objective information concerning the quantity, quality, and condition of agricultural products by means of official certification.

III. Substance of Agreement

FDA will: (1) Request the FGIS inspector or FGIS licensee stationed at a facility receiving FGIS services to accompany the FDA inspector during the inspection of the facility. The FDA inspector will discuss with the FGIS inspector or FGIS licensee any conditions that may result in violations of the FD&C Act.

(2) Request FGIS to furnish information concerning quality determinations of specific lots of products in which action has been initiated or is being considered by FDA and which are known or believed to have been inspected under FGIS authority. FDA will take into consideration the results of official inspection certificates and other available data, unless it has evidence that the product does not meet legal requirements as a food or has deteriorated to such an extent, subsequent to official inspection, that it is unacceptable as food.

(3) Notify FGIS concerning the details of serious objectionable conditions whenever these conditions are found to exist in processing plants, packing plants, grain elevators, or any other facilities where official services are provided.

(4) Notify FGIS of the criteria used by FDA which FDA would consider actionable under the FD&C Act in order to insure that FGIS does not classify a commodity as acceptable that would be considered actionable by FDA.

(5) Upon request of FGIS, review labels, legends, stamps, and other marks on products packed under the various official services for possible conflict with the misbranding provisions of the FD&C Act.

FGIS will: (1) Immediately notify FDA of those facilities subject to withdrawal or suspension of service, termination of contract, or denial of official services because of unsanitary conditions or other processing deficiencies.

(2) Investigate any report from FDA that a processor, packer, merchandiser, or facility operator using official services has not corrected objectionable conditions found by FDA. Upon completion of this investigation, initiate appropriate action and notify FDA.

(3) Refuse to inspect products which have been seized by FDA or which are known to be involved in formal FDA actions. This does not preclude official reinspection of authorized samples if the FDA seizure or other actions involve products which have been officially inspected.

(4) Report to FDA information intended to assist in locating and identifying any product that, upon inspection by FGIS or FGIS licensees, is found likely to meet the FDA criteria for classifying the product as actionable under the FD&C Act.

(5) Furnish FDA, upon request, any pertinent information concerning the grade or quality determination of specific lots officially inspected in which action has been initiated or is being considered by FDA.

It is mutally agreed that:

(1) Each agency will designate a liaison to maintain close working relationships.

(2) Proposed regulations initiated by either agency which affect, establish, or amend food standards or other products covered by this Agreement will be referred to the other agency for review and comment before issuance.

(3) Both agencies will cooperate with industry in improving sanitation and food handling practices in processing plants, packing plants, or other facilities.

(4) Both agencies will exchange data and cooperate in developing sampling plans, methodology, and guidelines for determining natural and unavoidable defects common to products officially inspected.

(5) This Agreement supersedes the Memorandum of Agreement signed by the Agricultural Marketing Service and the Food and Drug Administration on April 2, 1974, and April 6, 1974, respectively, regarding the inspection and grading of grain, rice, and pulses and modifies the Memorandum of Agreement signed by the Agricultural Marketing Service and the Food and Drug Administration on June 25, 1975, and June 9, 1975, respectively, only as it applies to the inspection and grading of food products specifically assigned to FGIS.

IV. Period of Agreement

This Agreement will be effective from the date of signature until superseded and may be modified by mutual consent by both parties or may be terminated by either party upon a 30-day advance written notice to the other.

V. Approval

For the Federal Grain Inspection Service.

Approved:

s/ L. E. Bartelt,

Administrator, Federal Grain Inspection Service.

Date: March 14, 1980.

For the Food and Drug Administration.

Approved:

s/ Joseph P. Hile,

Associate Commissioner for Regulatory Affairs, Food and Drug Administration.

Date: April 15, 1980.

Effective date. This memorandum of understanding became effective April 15, 1980.

Dated: May 20, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-19680 Filed 6-30-80; 8:45 am]

BILLING CODE 4110-03-M

[1] This Memorandum of Understanding applies to only those commodities assigned to the Federal Grain Inspection assigned to the Federal Grain Inspection Service as listed in AMS/FGIS Instruction 101-3.

[Docket No. 79P-0336]

Nicolet Instrument Corp.; Approval of Variance for an Infrared Spectrophotometer

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces that a variance from the performance standard for laser products has been approved by the Bureau of Radiological Health for an infrared spectrophotometer. The product is designed for use by highly skilled, professional personnel in research, analytical, and quality control laboratories in the study of physical properties of materials and spectroscopic analyses.

DATE: The variance became effective May 1, 1980, and ends May 1, 1985.

ADDRESS: The application and all correspondence on the application have been placed on public display in the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Richard S. Sternchak, Bureau of Radiological Health (HFX-460), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3426.

SUPPLEMENTARY INFORMATION: Under the provisions of § 1010.4 (21 CFR 1010.4), Nicolet Instrument Corp., 5225 Verona Rd., Madison, WI 53711, has been granted a variance from the performance standard for laser products (21 CFR 1040.10 and 1040.11) for its Infrared Spectrophotometer, Model MX-1. The specific provision of the standard for which the variance has been granted is the requirement that each laser system classified as a Class II, III, or IV laser product incorporate a beam attenuator (§ 1040.10(f)(6)). Suitable means of radiation protection will be provided by constraints on the physical and optical design of the product and by warnings in the user's manual. The product must bear the Variance Number 76P-0336.

By letter of May 1, 1980, the Director, Bureau of Radiological Health, approved the requested variance which will terminate May 1, 1985.

In accordance with § 1010.4 (21 CFR 1010.4), the application and all correspondence (including the written notice of approval) on this application have been placed on public display in the office of the Hearing Clerk, Food and Drug Administration. This material may be seen from 9 a.m. to 4 p.m., Monday through Friday.

Dated: June 24, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-19681 Filed 6-30-80; 8:45 am]

BILLING CODE 4110-03-M

National Institutes of Health

National Cancer Institute: Meeting

Notice is hereby given that the National Cancer Institute, National Institute on Aging, and National Institute of Child Health and Human Development, in conjunction with the National Center for Health Care Technology, will hold a consensus development conference July 23-25, 1980, at the Masur Auditorium, Bldg. 10, NIH. Topic of the conference is Cervical Cancer Screening: The Pap Smear. The meeting is open to any interested individuals and groups.

More than 30 biomedical scientists, physicians and health professionals from the United States, Canada, and Europe will discuss fundamental questions concerning cervical cancer screening and the efficacy of the Pap smear. Answers will be formulated to the following questions based on an assessment of (1) current knowledge of cancer of the uterine cervix, and (2) screening experience in the United States and other countries:

- Does the adequately performed Pap smear, done at appropriate intervals for screening purposes, affect mortality from cervical cancer?
- Considering benefit and safety, should the Pap smear be used as a routine screening procedure, and if so, how frequently at various ages?
- What probable risk factors in the development of cervical cancer might necessitate modifications of screening recommendations for high or low risk groups?
- What critical factors assure that the Pap smear is a reliable procedure?
- What are diagnostic and therapeutic responsibilities of any cervical cancer screening program?
- Are there other techniques for cervical cancer screening now in the research stage?

A conference panel of nongovernmental experts will develop the consensus statement from information presented at the meeting. Chairman is Dr. Maureen Henderson, Associate Vice President for Health Services, University of Washington Health Sciences Center, Seattle. Members include obstetrician-gynecologists, pathologists, epidemiologists, public health professionals, an attorney, an economist, practicing physicians and consumers.

There is time after every program session for discussion and information exchange between the panel, presenters, and audience.

Requests for information should be directed to Dr. Diane J. Fink, Associate Director for Medical Applications of Research, NCI, Building 31, Room 11A-33, Bethesda, Md. 20205.

Dated: June 23, 1980.

Suzanne L. Fremeau,

Committee Management Officer, NIH.

[FR Doc. 80-19684 Filed 6-30-80; 8:45 am]

BILLING CODE 4110-08-M

Research Manpower Review Committee; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Research Manpower Review Committee, National Heart, Lung, and Blood Institute, on July 16, July 17, and July 18, 1980, Conference Room 8, Building 31, 9000 Rockville Pike, Bethesda, Maryland.

This meeting will be open to the public on July 16, 1980, from 8:00 p.m. to approximately 10:00 p.m., to discuss administative details and to hear reports concerning the current status of the National Heart, Lung, and Blood Institute.

In accordance with the provisions set forth in Section 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92-463, the meeting will be closed to the public from 8:00 a.m. on July 17, and July 18, 1980, until adjournment at 5:00 p.m., for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. York E. Onnen, Chief, Public Inquiries and Reports Branch, NHLBI, NIH, Room 4A21, Building 31, Bethesda, Maryland 20205, phone (301) 496-4236, will provide summaries of the meeting and rosters of the committee members.

Dr. Charles L. Turbyfill, Executive Secretary, NHLBI, NIH, Room 553, Westwood Building, Bethesda, Maryland 20205, phone (301) 496-7351, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.838, Lung Diseases Research, National Institutes of Health. NIH programs are not covered by OMB Circular A-95 because they fit the description of "programs not considered appropriate" in section 8(b)(4) and (5) of that Circular.)

Dated: June 19, 1980.

Suzanne L. Fremeau,

Committee Management Officer, NIH.

[FR Doc. 80-19685 Filed 6-30-80; 8:45 am]

BILLING CODE 4110-08-M

National Institute of Child Health and Human Development; Meeting

Notice is hereby given that the National Institutes of Health Consensus Development Conference on Cesarean Childbirth will be held on September 22-23, 1980 in the Masur Auditorium, Clinical Center, National Institutes of Health, Bethesda, Maryland. The conference is sponsored by the National Institute of Child Health and Human

Development in conjunction with the National Center for Health Care Technology and assisted by the Office for Medical Applications of Research.

The conference will convene at 8:45 a.m. on September 22 and 10:00 a.m. on September 23 and will be open to the public. Attendance will be limited to space available.

One of a series of NIH consensus development conferences, this conference will consider the medical, psychological, ethical, social, legal, and economic issues concerning childbirth by cesarean section as currently practiced; contemporary guidelines for performance of cesarean delivery; and the need for additional research.

A multidisciplinary Task Force on Cesarean Childbirth is preparing a draft report and recommendations on these issues. Advance copies of the draft report will be available from the NICHD (address below) by August 15, 1980. Interested groups or individuals are encouraged to comment on the draft report in writing to the NICHD by September 19 and/or present their views at the conference.

Those planning to make an oral presentation at the conference must file a written statement or detailed summary of their presentation with the NICHD before 5:00 p.m. EDT on September 19. Speakers will be scheduled in order of receipt of their written statement of summary. Whenever statistical data are presented in support of a position, appropriate reference to the scientific literature should be included.

Each speaker will be allotted approximately 5 minutes, although more time may be available depending upon the number of scheduled speakers. It will be the prerogative of the Chairman to extend or terminate oral testimony and to direct interchange between speakers and Task Force members.

The draft report of the Task Force will be presented at the conference on September 22, followed by oral comments and discussion. Written and oral comments and discussion at the conference will be used by the Task Force to prepare a final consensus statement which will be presented orally on September 23, and a final full report for publication by the NICHD. Statements received after the meeting cannot be considered by the Task Force in preparing the final report.

A press summary of the final consensus statement and recommendations will be available on the last day of the conference, and full summaries of the conference will be published in the professional literature.

Inquiries about the conference, requests for Task Force reports, and written statements and summaries should be addressed to Pamela Driscoll or Joan Muller, Office of Research Reporting, NICHD, Building 31, Room 2A–32, Bethesda, Maryland 20205. Telephone number: (301) 496–5133.

Dated: June 23, 1980.

Suzanne L. Fremeau,

Committee Management Officer, NIH.

[FR Doc. 80–19686 Filed 6–30–80; 8:45 am]

BILLING CODE 4110–08–M

Office of the Secretary

White House Conference on Families; White House Conferences

The White House Conference on Families was called by President Carter to, "examine the strengths of American families, the difficulties they face, and the ways in which family life is affected by public policies."

To fulfill the President's mandate, the Conference adopted a process that included seven national hearings attended by more than 4,000 persons; activities in virtually all the states and territories, participated in by more than 100,000 Americans; significant involvement of national organizations; and a National Research Forum.

In order to involve families themselves in the recommendation process, the Conference elected to have three White House Conferences around the nation. The first White House Conference was held in Baltimore, June 5–7, and the second in Minneapolis, June 19–21. The third will be held in Los Angeles, July 10–12. Approximately 650 delegates have participated in each of the first two Conferences, and will participate in the Conference in Los Angeles, to refine, discuss, and vote on Conference recommendations. They will include delegates elected/selected at the state level; at-large delegates; state coordinators; and members of the National Advisory Committee on the White House Conference on Families.

All delegates will have the same status at the Conferences, will be entitled to participate in the work of the Conference, and will be invited to all official Conference sessions.

Provision has been made for both invited official observers and observers from the general public to be part of the White House Conferences. Observers will be welcome at the sessions indicated below, will have no voice or voting privileges, and will be seated in designated areas. Due to severe space limitations in the Conference facilities, the number of observers at each session will be very limited.

All observers must receive credentials at the Registration Desk prior to attending any Conference sessions. Official observers may attend any session open to observers. Observers from the general public will be admitted to sessions on a rotation basis, with preference being given to those who have not yet observed a session. Admission tickets for public observers will be available at the Conference Registration Desk on a first-come, first-serve basis beginning one hour before the session is scheduled to start. (Registration for the opening session will begin at 12:00 Noon). Luncheon tickets may be purchased in the registration area.

The White House Conference on Families will be held at the Los Angeles Hilton on July 10, 11 and 12. Its agenda is shown below.

All sessions will be open to the public except those enclosed in brackets.

Thursday

9:00 Registration.

2:00–3:15 Opening Session: Jim Guy Tucker, Mayor Tom Bradely, Patricia Roberts Harris, Secretary of the Department of Health and Human Services. Slide-Tape Presentation.

3:30–5:00 Topic Sessions (4): Presentations on Major Topics.

5:00–7:00 Delegate Forum.

7:30–9:00 Introduction to Workgroups.

Friday

8:30–12:30 Work Group Sessions (20): Discussion & Decisions on Recommendations.

12:45–2:30 Plenary Lunch. Speaker: Alex Haley, Author of *Roots*.

3:00–6:00 Topic Sessions (4): Review & Vote on Recommendations of Workgroups.

6:00–7:30 Delegate Forum.

[8:00 Special Event].

Saturday

[7:45–9:00 State Meetings].

[9:15–1:00 Plenary Session: Voting on Recommendations. Box Lunch].

[2:00–3:00 Election of National Task Force Members by State Delegations].

3:00–4:00 Closing Session.

Further information may be obtained from the White House Conference on Families, 330 Independence Avenue, S.W., Washington, D.C. 20201; telephone (202) 245–6073.

Jim Guy Tucker,

Chairperson, White House Conference on Families.

[FR Doc. 80–19755 Filed 6–30–80; 8:45 am]

BILLING CODE 4110–12–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Intent To Prepare a Grazing Environmental Impact Statement for the Sonoma-Gerlach Resource Area, Nevada

June 20, 1980.

The Bureau of Land Management, Winnemucca District Office will be preparing a Grazing Environmental Impact Statement for the Sonoma-Gerlach Resource Area, located in Northwestern Nevada, and is scheduling meetings for the purpose of gathering public input. The Bureau's proposed action to be analyzed in the statement is to implement a program of allocating vegetation to cattle, sheep, domestic horses, wild horses and burros, and wildlife. This allocation program will be accomplished through the Bureau of Land Management's Planning System on approximately 4.56 million acres of BLM administered lands.

Potential alternatives to the proposed action presently being considered for analysis include: (1) No Action—This is defined as continuing with the existing authorized grazing use in the Sonoma-Gerlach Resource Area: (2) No Livestock Grazing—This is the exclusion of all domestic livestock grazing from BLM administered public lands in the Sonoma-Gerlach Resource Area; (3) Maximizing Livestock Use—This is the maximum allocation of vegetation to livestock through the development of range improvements wherever they are technically feasible; and (4) Maximizing Wild Horses and Burros in Herd Use Areas on Public Lands—This is the allocation of vegetation for the maximum numbers of wild horses and burros in each herd use area.

The Bureau of Land Management's scoping process for the Sonoma-Gerlach Environmental Impact Statement will include: (1) A preliminary and final identification of issues and alternatives to be addressed in the EIS; (2) Contact of interested individuals, groups and agencies for additional information concerning these issues and alternatives; and (3) An identification of persons within the agency who can answer questions about the alternatives, including the proposed action.

The following steps will be utilized to accomplish the scoping process:

1. A formal planning briefing and scoping meeting will be held between the Bureau of Land Management and the Nevada State Clearinghouse. The briefing will be held at 2:00 p.m. on July 15, 1980, in the Capitol Building, Carson City, Nevada. This meeting will be a briefing of State Agencies concerning their input on the issues of the EIS.

A formal planning briefing and scoping meeting will be held between the Bureau of Land Management and the Nevada State Congressional Delegation. The briefing will be held at 10:00 a.m. on July 16, 1980 at the BLM Nevada State Office, 300 Booth Street in the State Director's Conference Room.

The following official county groups will be briefed and requested to participate in the scoping process:

Washoe County Commissioners, 10:00 a.m. on July 15, 1980 at 1205 Mill Street, Reno, Nevada.

Humboldt County Commissioners, 2:30 p.m. on July 17, 1980 at the Humboldt County Courthouse, Winnemucca, Nevada.

Humboldt County Planning Commission, 7:30 p.m. on August 14, 1980 at the Humboldt County Courthouse, Winnemucca, Nevada.

Pershing County Commissioners, 2:00 p.m. on July 21, 1980 at the Pershing County Courthouse, Lovelock, Nevada.

Open House planning briefings and scoping meetings will be conducted from 1:00 p.m. to 4:30 p.m. and from 7:30 p.m. at the following places and dates:

Gerlach High School, Gerlach, Nevada on July 23, 1980.

Pershing County Courthouse, Lovelock, Nevada on July 24, 1980.

GLM Winnemucca District Office, Winnemucca, Nevada on July 25, 1980.

2. Letters of invitation to participate in the EIS scoping process will be mailed to all affected Federal, State and local agencies, and Indian tribes and other interested persons concerning the issues of the Environmental Impact Statement. Briefing meetings will be held if requested.

The following individuals will be available by appointment to answer questions about the proposed action or to receive information concerning the Environmental Impact Statement: (1) Vaden G. Stickley, acting District Manager, 705 East Fourth Street, Winnemucca, Nevada 89445, Phone (702) 623–3676; (2) Brad Hines, Sonoma-Gerlach Resource Area Manager, 705 East Fourth Street, Winnemucca, Nevada 89445, Phone 623–3676; (3) Gerald Moritz, Sonoma-Gerlach EIS Team Leader, 705 East Fourth Street, Winnemucca, Nevada 89445, Phone 623–3676; (4) Robert Neary, Planning and Environmental Coordination Staff, 705 East Fourth Street, Winnemucca, Nevada 89445, Phone 623–3676; and (5) Mike Walker, Environmental Coordinator, 300 Booth Street, P.O. Box 12000, Reno, Nevada 89520, Phone 784–5602.

A news release regarding the start of the environmental impact statement process will be issued by the Winnemucca District Office following the publication of this notice.

Written comments on the scoping document will be accepted until August 29, 1980. They should be sent to Vaden G. Stickley, Acting District Manager, 705 East Fourth Street, Winnemucca, Nevada 89445.

Dated: June 20, 1980.

Edward F. Spang,

State Director, Nevada.

[FR Doc. 80-19745 Filed 6-30-80; 8:45 am]

BILLING CODE 4310-84-M

National Outer Continental Shelf Advisory Board, Pacific States Regional Technical Working Group Committee; Notice and Agenda for Meeting

AGENCY: Department of the Interior, Bureau of Land Management, Pacific Outer Continental Shelf Office.

ACTION: National Outer Continental Shelf Advisory Board, Pacific States Regional Technical Working Group Committee; Notice and Agenda for Meeting.

This notice is issued in accordance with the provisions of the Federal Advisory Committee Act, Pub. L. 92–463.

The Pacific States Regional Technical Working Group Committee of the Advisory Board will meet during the period 1:00pm to 3:30pm, August 6, 1980 and 9:30am to 3:00pm August 7, 1980 at the Federal Building, Room 8041, 300 North Los Angeles Street, Los Angeles, California.

The agenda for the meeting will cover the following topics:

August 6: (a) Transportation Corridor Siting in the Santa Barbara Channel and San Pedro Bay and (b) Status Report on Year 1 of the Intergovernmental Planning Program.

August 7: (a) Review of Sale 53 Hearing Testimony, (b) Identification of Issues for Sale 53 Secretarial Issue Document, (c) Scoping—Sale 68, and (d) 1982–83 Regional Environmental Studies Plan.

A detailed agenda will be available by July 24, 1980.

The meeting is open to the public. Interested persons may make oral or written presentations to the committee. Such requests should be made no later than July 23, 1980 to: Ellen Aronson, Pacific OCS Office, Bureau of Land Management, 1340 West Sixth Street, Room 200, Los Angeles, California 90017 (213/688–6758). Requests to make oral

statements should be accompanied by a summary of the statement to be made.

Minutes of the meeting will be available for public inspectoin and copying at the following locations:

Pacific OCS Office, Bureau of Land Management, 1340 West Sixth Street, Room 200, Los Angeles, California 90017, and Bureau of Land Management, Department of the Interior, 18th and C Streets, N.W., Washington, D.C. 20240.

Dated: June 23, 1980.

John Fields,

Assistant Manager, Pacific Outer Continental Shelf Office.

[FR Doc. 80-19609 Filed 6-30-80; 8:45 am]

BILLING CODE 4310-84-M

Public Lands; Taos County, N. Mex.

The following described land has been identified as suitable for disposal by sale under Section 203 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716, at no less than the fair market value shown:

Legal description	Acreage	Value
Tract 37, Section 1, T. 28N., R.12E., NMPM	0.35	$125.00

The sale will be made on the 28th day of August, 1980, at 10 a.m., at the Bureau of Land Management, Division of Technical Services, Room 3010, in the Federal and Post Office Building, South Federal Place, Santa Fe, New Mexico. The land will be sold to Adolfo I. and Alice Candelario because improvements have been placed on the lands by the Candelarios and their predecessors in interest in good faith believing they held title to the land. The land has been designated for disposal as a result of detailed land use planning completed by the Albuquerque District. Under the criteria of Section 203(a)(1) of the Act of Congress cited above, the land was found to be difficult and uneconomic to manage as part of the public lands because of its small size and isolation from other public lands.

The terms and conditions applicable to the sale are as follows:

1. The patent will be subject to restrictions pursuant to the authority of Section 3(d) of Executive Order 11988 of May 24, 1977 and Section 203 of the Act of October 21, 1976 regulating the disposal of public lands within the floodplain of a river or stream.

2. The patent will reserve to the United States a right-of-way thereon for ditches and canals constructed by the authority of the United States. Act of August 30, 1980. (26 Stat. 391; 43 U.S.C. 945).

3. The patent will reserve to the United States all mineral deposits in the land, and to it, or persons authorized by it, the right to prospect for, mine and remove such deposits from the same under applicable law.

4. The land will be conveyed subject to existing access road rights-of-way and easements.

Detailed information concerning this action, including the land report, environmental assessment, and other related documents is available for review at the Federal and Post Office Building, Room 3012, South Federal Place, Santa Fe, New Mexico.

On or before July 31, 1980, interested parties may submit comments to the Secretary of the Interior (LLM-320). Any adverse comments will be evaluated by the Secretary of the Interior who may vacate or modify this realty action and issue a final determination. In the absence of any action by the Secretary of the Interior, this realty action will become a final determination of the Department of the Interior and the required payment requested of Mr. and Mrs. Candelario. Such payment, in full, shall be in accordance with 43 CFR 1822.1-2.

Arthur W. Zimmerman,

State Director.

[FR Doc. 80-19743 Filed 6-30-80; 8:45 am]

BILLING CODE 4310-84-M

Fish and Wildlife Service

Endangered Species Permit; Notice of Recipient of Application

Applicant: Ron and Joy Holiday, 7300 Fourteenth St. South, St. Petersburg, Florida 33705.

The applicant requests a permit to export and re-import of one male jaguar (*Panthera onca*) for exhibition within the definition of "Enhance the propagation or survival" given in 50 CFR 17.3. The jaguar was born in the United States in captivity and will be part of a touring animal act which will be followed by a question and answer session with the audience providing information about endangered species of Felidae, including the jaguar.

Humane care and treatment during transport and exhibition has been indicated by the applicant.

Documents and other information submitted with this application are available to the public during normal business hours in Room 605, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish and Wildlife Service (WOP), Washington, D.C. 20240.

This application has been assigned file number RRT 2-6727. Interested persons may comment on this application on or before July 31, 1980 by submitting written data, views, or arguments to the Director at the above address. Please refer to the file number when submitting comments.

Dated: June 25, 1980.

Donald G. Donahoo,

Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc. 80-19762 Filed 6-30-80; 8:45 am]

BILLING CODE 4310-55-M

Geological Survey

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: U.S. Geological Survey, Department of the Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: This notice announces that Marathon Oil Company, Unit Operator of the West Delta Block 79 Federal Unit Agreement No. 14-08-0001-13841, submitted on June 2, 1980, a proposed supplemental plan of development/production describing the activities it proposes to conduct on the West Delta Block 79 Federal Unit.

The purpose of this notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Geological Survey is considering approval of the plan and that it is available for public review at the offices of the Conservation Manager, Gulf of Mexico OCS Region, U.S. Geological Survey, 3301 N. Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: U.S. Geological Survey, Public Records, Room 147, open weekdays 9:00 a.m. to 3:30 p.m., 3301 N. Causeway Blvd., Metairie, Louisiana 70002, phone 837-4720, ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the U.S. Geological Survey makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective on December 13, 1979 (44 FR 53685). Those practice and procedures are set out in a revised Section 250.34 of Title 30 of the Code of Federal Regulations.

Dated: June 23, 1980.

Lowell G. Hammons,

Conservation Manager, Gulf of Mexico OCS Region.

[FR Doc. 80-19608 Filed 6-30-80; 8:45 am]

BILLING CODE 4310-31-M

DEPARTMENT OF THE INTERIOR

Heritage Conservation and Recreation Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the Heritage Conservation and Recreation Service before June 20, 1980. Pursuant to section 1202.13 of 36 CFR Part 1202, written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, Heritage Conservation and Recreation Service, U.S. Department of the Interior, Washington, D.C. 20243. Written comments should be submitted by July 16, 1980.

Ronald M. Greenberg,

Acting Chief, National Register of Historic Places.

CALIFORNIA

Contra Costa County

Hercules, *Hercules Village, Kings,* Railroad, Santa Fe and Hercules Aves., Talley Way, Bay and Pinole Sts.

Napa County

St. Helena, *William Tell Saloon and Hotel,* 1228 Spring St.

GEORGIA

Worth County

Sylvester, *Worth County Local Building,* 118 N. Isabella St.

INDIANA

Blackford County

Hartford City, *Blackford County Courthouse,* Off IN 3.

LaGrange County

Howe, *Williams, Samuel P., House,* 101 South St.

Monroe County

Bloomington, *Old Crescent, The,* Indiana University campus.

St. Joseph County

South Bend, *Chapin, Horatio, House,* 601 Park Ave.

MARYLAND

Baltimore (independent city)

Bankard-Gunther Mansion, 2102 E. Baltimore St.

Baltimore County

Baltimore vicinity, *Bare Hills House,* N of Baltimore at 6222 Falls Rd.

Calvert County

Chesapeake Beach, *Chesapeake Beach Railway Station,* 8005 Bayside Rd.

Harford County

Bel Air, *Liriodendron,* 501 and 502 W. Gordon St.

Joppa vicinity, *McComas Institute,* N of Joppa on Singer Rd.

Montgomery County

Beallsville vicinity, *Hanover Farm House,* E of Beallsville off MD 28.

Kensington, *Kensington Historic District,* Roughly bounded by RR tracks, Kensington Pkwy., Summit Ave., Washington and Warner Sts.

Prince Georges County

Upper Marlboro vicinity, *Pleasant Hills,* 7001 Croom Station Rd.

Talbot County

Oxford, *Jena,* E of Oxford off MD 333

MINNESOTA

Ithasca County

Coleraine, *Carnegie Library,* Off U.S. 169 MN.

Morrison County

Little Falls, *Church of Our Saviour,* 113 4th St., NE.

Olmsted County

Rochester, *Chateau Dodge Theatre,* 15 1st St., SW.

St. Louis County

Buhl vicinity, *Alango School,* N of KKK *Buhl on SR 25 and SR 22.*

Ely, *Carpenter's Hospital,* 204 E. Camp St.

Eveleth, *Eveleth Recreation Building,* Off U.S. 53.

Eveleth, *Slovenian Meetinghall,* 420 Grant St.

Eveleth, *Uranian Hall,* 520 Grant Ave.

St. Louis County

Hibbing, *Anderson House,* 1001 E. Howard St.

Hibbing, *Delvic Building,* 1st Ave. and Howard St.

St. Louis County

Tower, *Old Fire Hall,* MN 169.

MISSISSIPPI

Alcorn County

Corinth, *Coliseum Theatre,* 404 Taylor St.

Forrest County

Hattiesburg, *Hub City Historic District,* U.S. 49 and U.S. 11.

Hancock County

BAY ST. LOUIS MULTIPLE RESOURCE AREA (Partial Inventory). This area includes: Bay St. Louis, *Beach Boulevard Historic District,* Roughly bounded by Beach Blvd., Necaise Ave., Seminary Dr., 2nd and 3rd Sts.; *Elmwood Historic District,* Beach Blvd., *Main Street Historic District,* Main St., Main St., *Sycamore Street Historic District, Sycamore St.; Washington Street Historic District, Washington St., Building at 100 Bay Oaks Court, Building at 104, 105, and 106 Boudin Lane, Building at 115 Julia Street, Building at 211 3rd Street, Building at 242 St. Charles Street, Building at 986 South Beach Boulevard Marv's Body Shop,* 481 Ulman Avenue, *St. Joseph's Chapel,* Blakemore Street, *Taylor School,* 116 Leonard St., *Webb School,* 3rd St.

Lincoln County

Brookhaven *Union Station (Illinois Central Passenger Depot and Freight Office)* S. Whitworth Ave.

NEW HAMPSHIRE

Belknap County

Gilford, *Morrill, John J., Store,* Belknap Mountain Rd.

Carroll County

Moultonborough vicinity, *Swallow Boathouse,* S of Moultonborough.

Grafton County

Bath vicinity, *Goodall-Woods Law Office,* NE of Bath on U.S. 302.

Dorchester, *Dorchester Community Church,* Off NH 118

Rockingham County

Atkinson, *Atkinson Academy School,* Academy Ave.

Portsmouth, *Building at 123 Market Street.*

Sullivan County

Lempster, *Lempster Meetinghouse,* Lempster St.

Meriden vicinity, *Meriden Bridge,* NW of Meriden.

PUERTO RICO

Arecibo vicinity, *Faro de Arecibo (Lighthouse System of Puerto Rico Thematic Resources)* (previously listed in the National Register).

Arecibo vicinity, *Faro de Punta Borinquen (Lighthouse System of Puerto Rico Thematic Resources).*

Arecibo vicinity, *Faro de Punta Higuero (Lighthouse System of Puerto Rico Thematic Resources).*

Cabo Rojo, *Faro de los Morrillos de Cabo Rojo (Lighthouse System of Puerto Rico Thematic Resources).*

Guanica vicinity, *Faro de Guanica (Lighthouse System of Puerto Rico Thematic Resources)* (previously listed in the National Register).

Guayama vicinity, *Faro de Punta de las Figuras (Lighthouse System of Puerto Rico Thematic Resources).*

Guayama vicinity, *Faro de Punta dela Tuna (Lighthouse System of Puerto Rico Thematic Resources).*

Ponce vicinity, *Faro de la Isla de Caja de Muertos (Lighthouse System of Puerto Rico Thematic Resources).*

Ponce vicinity, *Faro del Puerto de Ponce (Lighthouse System of Puerto Rico Thematic Resources).*

San Juan, *Faro de Morro (Lighthouse System of Puerto Rico Thematic Resources).*

San Juan, *Superintendent of Lighthouses' Dwelling (Lighthouse System of Puerto Rico Thematic Resources).*

San Juan vicinity, *Faro de las Cabezas de San Juan (Lighthouse System of Puerto Rico Thematic Resources).*

Culebrita Island

Culebra vicinity, *Faro Isla de Culebritas (Lighthouse System of Puerto Rico Thematic Resources).*

Mona Island

Faro de la Isla de la Mona (Lighthouse System of Puerto Rico Thematic Resources).

Vieques Island

Esperanza vicinity, *Faro de Puerto Ferro (Lighthouse System of Puerto Rico Thematic Resources).*

Esperanza vicinity, *Faro de Punta Mulas (Lighthouse System of Puerto Rico Thematic Resources).*

SOUTH CAROLINA

Saluda County

Saluda, *Whitehall,* Etheredge Rd.

Williamsburg County

Nesmith vicinity, *Black Mingo Baptist Church,* SE of Nesmith.

TENNESSEE

Bedford County

Shelbyville, *First Presbyterian Church,* 600 N. Brittain St.

Jefferson County

Jefferson City, *Newman, Samuel Isaac, House,* Bible Rd.

TEXAS

Bell County

Bartlett, *Bartlett Commercial Historic District,* E. Clark St. (also in Williamson County).

Starr County

Rio Grande City, *de la Pena, Silverio, Drugstore and Post Office,* 423 E. Main St.

WISCONSIN

WILDHAGEN, HENRY, SCHOOLS OF ASHLAND THEMATIC RESOURCES. Reference—see individual listings under Ashland County.

Ashland County

Ashland, *Ashland Middle School (Wildhagen, Henry, Schools of Ashland Thematic Resources)* 1000 Ellis Ave.

Ashland, *Beaser School (Wildhagen, Henry, Schools of Ashland Thematic Resources)* 612 Beaser Ave.

Ashland, *Ellis School (Wildhagen, Henry, Schools of Ashland Thematic Resources)* 310 Stuntz Ave.

Ashland, *Wilmarth School (Wildhagen, Henry, Schools of Ashland Thematic Resources)* 913 3rd Ave. W.

[FR Doc. 80-19350 Filed 6-30-80; 8:45 am]

BILLING CODE 4310-03-M

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. 241; Forty-Second Revised Exemption 129]

Atlanta & Saint Andrews Bay Railway Co., et al.; Exemption Under Mandatory Car Service Rules

To All Railroads: It appearing, That the railroads named herein own numerous forty-foot plain boxcars; that under present conditions, there is virtually no demand for these cars on the lines of the car owners; that return of these cars to the car owners would result in their being stored idle on these lines; that such cars can be used by other carriers for transporting traffic offered for shipments to points remote from the car owners; and that compliance with Car Service Rules 1 and 2 prevents such use of plain boxcars owned by the railroads listed herein, resulting in unnecessary loss of utilization of such cars.

It is ordered, That, pursuant to the authority vested in me by Car Service Rule 19, plain boxcars described in the Official Railway Equipment Register, ICC–RER 6410–D, issued by W. J. Trezise, or successive issues thereof, as having mechanical designation "XM," with inside length 44-ft. 6-in. or less, regardless of door width and bearing reporting marks assigned to the railroads named below, shall be exempt from provisions of Car Service Rules 1(a), 2(a), and 2(b).

Atlanta & Saint Andrews Bay Railway Company. Reporting Marks: ASAB
Boston and Maine Company.[1] Reporting Marks: BM
Chicago, Milwaukee, St. Paul and Pacific Railroad Company. Reporting Marks: MILW
Chicago, West Pullman & Southern Railroad Company. Reporting Marks: CPW
Columbus and Greenville Railway Company. Reporting Marks: CAGY
Delaware and Hudson Railway Company. Reporting Marks: DH
Green Mountail Railroad Corporation. Reporting Marks: GMRC
Illinois Terminal Railroad Company. Reporting Marks: ITC
Louisville, New Albany & Corydon Railroad Company. Reporting Marks: LNAC
Manufacturers Railway Company. Reporting Marks: MRS
Maryland Midland Railway Company. Reporting Marks: MMID
Missouri-Kansas-Texas Railroad Company. Reporting Marks: MKT
Missouri Pacific Railroad Company. Reporting Marks: C&EI–MI–MP–TR
New Hope and Ivyland Railroad Company. Reporting Marks: NHIR
North Stratford Railroad Corporation. Reporting Marks: NSRC
St. Louis Southwertern Railway Company. Reporting Marks: SSW
Southern Pacific Transportation Company. Reporting Marks: SP
Southern Railway Company. Reporting Marks: SOU

[1] Addition.

Effective June 15, 1980, and continuting in effect until further order of this Commission.

Issued at Washington, D.C., June 13, 1980.

Interstate Commerce Commission.

Robert S. Turkington,

Agent.

[FR Doc. 80-19691 Filed 6-30-80; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 29357F]

Burlington Northern, Inc.—Trackage Rights—Union Pacific Railroad Co.—Exemption Under 49 U.S.C. 10505 From 49 U.S.C. 11343–11346

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed exemption.

SUMMARY: The proposed transaction is the acquisition by Burlington Northern Inc. (BN), of trackage rights over Union Pacific Railroad Company (Union Pacific). A Petition was filed with the Interstate Commerce Commission on May 5, 1980, seeking an exemption from 49 U.S.C. 11343–11346, which requires prior approval of the transaction by the Commission.

DATES: Comments must be received on or before July 31, 1980.

ADDRESS: Send comments to: Interstate Commerce Commission 12th & Constitution Ave., N.W. Washington, D.C. 20423.

All written submissions (original and 10, if possible) will be available for public inspection during regular business at the same address. Written submissions should refer to the above docket number.

FOR FURTHER INFORMATION CONTACT: Richard A. Kelly, 202–275–7245.

SUPPLEMENTARY INFORMATION: On May 5, 1980, BN filed a petition under 49 U.S.C. 10505 requesting that its trackage rights agreement with Union Pacific be exempted from the provisions of 49 U.S.C. 11343–11346, on the basis that Commission review of the transaction would serve little or no useful public purpose.

Petitioner claims that the proposed transaction is one of limited scope, and that the application of 49 CFR Part 1111 would impose an unreasonable burden on petitioner. BN maintains that the transportation policy of 49 U.S.C. 10101 does not mandate that the proposed transaction have the prior approval and

close regulation of the Commission. It is submitted that the proposed trackage rights would have no adverse impact on either employees, shippers, or other carriers. Thus, petitioner submits, the proposed transaction meets the conditions of 49 U.S.C. 10505, and requests the Commission to grant the exemption.

These assertions should be addressed in any comments.

The Transaction

If this transaction is consummated, BN would acquire trackage rights over a line owned by the Union Pacific between milepost 56.1 and milepost 56.7 at Sterling, CO, a distance of approximately 3,128 feet. BN is presently operating over this trackage under Service Order No. 1289, served December 13, 1977. By a modification in Amendment No. 3 to that Order, served May 30, 1979, the expiration date was changed to remain in effect until further modified or vacated by Order of the Commission. BN and Union Pacific entered into a trackage rights agreement August 16, 1978. It is for this agreement that BN is presently requesting an exemption from Commission application and approval procedures.

According to the terms of the agreement BN can terminate the agreement after 10 years from its effective date, on 1 year's prior written notice to the Union Pacific. The effective date of the agreement is the date on which BN commenced operations over the trackage, which was August 16, 1978. This agreement also provides for BN to pay to Union Pacific $0.113 per car monthly, for maintenance an use of the facility. These costs were tabulated to reflect wage and price levels for the year 1976. On July 1, of each year, effective July 1, 1978, an annual adjustment may be made, reflecting changes in material prices, wage rates, and supplements, excluding fuel. Either party may, upon 30 days prior written notice, request a review and adjustment of the rate, based on current representative car counts, provided however, that: (1) such requests are limited to one per calendar year; and (2) the existing rate be continued until there is a mutually agreeable new rate.

On May 10, 1979 the BN Board of Directors passed a resolution to adopt the trackage rights agreement.

Petitions contends that the trackage rights would permit BN to operate directly between its Alliance-Brush and Sterling-Lincoln lines as well as any freight movement for which such trackage forms a part of the route, replacing the former Diamond Crossing with the Union Pacific.

Petitioner alleges that the transaction will not adversely affect other carriers, shippers or the public. Petitioner contends that the usual regulatory requirements contained in 49 U.S.C. 11343–11346 would be an undue burden and would serve no useful public purpose.

The Statute

A regulated carrier contemplating the acquisition of trackage rights from another carrier, is required to file a trackage rights application and receive prior approval of the transaction from the Commission under 49 U.S.C. 11343–11346.

The Commission can exempt a matter related to a rail carrier under 49 U.S.C. 10505 when the transaction or service is of limited scope and the Commission finds that the application of the provisions of 49 U.S.C. subtitle IV: (1) is not necessary to carry out the transportation policy of section 10101 of this title; (2) would be an unreasonable burden on a person, class of persons, or interstate and foreign commerce; and (3) would serve little or no useful public purpose.

Before granting an exemption we are required to provide the opportunity for a proceeding. This request for comments on the proposed exemption of the proposed transaction is that opportunity. All comments filed in response to this notice, along with the petition, will be used to determine whether or not the exemption under 49 U.S.C. 10505 should be granted.

This proceeding is instituted under the authority of 49 U.S.C. 10505 and pursuant to 5 U.S.C. 553 and 559.

This action will not significantly affect either energy consumption or the quality of the human environment.

Dated: June 24, 1980.

By the Commission, Chairman Gaskins, Vice-Chairman Greshaam, Commissioners Stafford, Clapp, Trantum, Alexis, and Gilliam.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-19699 Filed 6-30-80; 8:45 am]

BILLING CODE 7035-01-M

Decision-Notice

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11334 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by Special Rule 240 of the Commission's Rules of Practice (49 CFR § 1100.240). These rules provide, among other things, that opposition to granting of an application must be filed with the Commission on or before July 3, 1980. Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. Opposition under these rules should comply with Rule 240(c) of the Rules of Practice which requires that it set forth specifically the grounds upon which it is made, and specify with particularity the facts, matters and things relied upon, but shall not include issues or allegations phrased generally. Opposition not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of any protest shall be filed with the Commission, and a copy shall also be served upon applicant's representative or applicant if no representative is named. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 240(c)(4) of the special rules and shall include the certification required.

Section 240(c) further provides, in part, that an applicant who does not intend timely to prosecute its application shall promptly request its dismissal.

Further processing steps will be by Commission notice or order which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication except for good cause shown.*

Any authority granted may reflect administratively acceptable restrictive amendments to the transaction proposed. Some of the applications may have been modified to conform with Commission policy.

We find with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environement nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a protestant, that the proposed dual operations are consistent with the public interest and the national transportation policy subject to the right of the Commission, which is expressly reserved, to impose such conditions as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. 10930.

In the absence of legally sufficient protests as to the finance application *or* any application directly related thereto filed within 30 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

Decided: June 1980.

By the Commission, Review Board No. 5, Members Krock, Taylor, and Williams. (In No. MC-F-14360F, Board Member Taylor votes to issue a notice which will consolidate this proceeding with the proceeding in MC-F-14395F, and hold both open for further processing. He to acquire authority to replace that which he is selling.)

MC-F-4376F, filed April 23, 1980. VAN WYK, INC. (Van Wyk) (P.O. Box 433, Sheldon, IA 51201)—Purchase (portion)—DAKOTA EXPRESS, INC. (DEI) (530 East Fifth St., South St. Paul, MN 55075). Representatives: D. Douglas Titus, Suite 510 Benson Bldg., Sioux City, IA 51101, and Edward A. O'Donnell, 1004 29th St., Sioux City IA 51104. Van Wyk seeks to purchase a portion of the interstate operating rights of DEI. Arlan J. Van Wyk an Dennis Van Wyk, both of Sheldon, IA, who control Van Wyk through equal ownership of a majority of the outstanding stock, seek to acquire control of the rights through the transaction. Operating rights sought to be purchased are contained in Certificates No. MC 83217 (Sub-41), (Sub-51), and (Sub-55) and authorize transportation as a motor *common carrier* over irregular routes transporting *meats, meat products, meat by-products, 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 commodities in bulk), (A) from Madison, SD to points in IL, IA, KS, MN, MO, and NE, and from Sioux Falls, SD to points in IA, KS, MO, and NE; (B) from the plant site and storage facilities of George A. Hormel and Co. at Fort Dodge, IA, to points in CT, DE, DC, ME, MD, MA, NH, NJ, NY, PA, RI, VT, VA, and WV; and (C) from the plant site and warehouse facilities of Banner Beef Company at or near Hospers, IA, to points in IL, MI, MN, SD, and WI, respectively, with no transportation for compensation on return except as otherwise authorized. (Hearing site: Minneapolis, MN; Sioux City, IA; or Chicago, IL.)

Notes.—(1) Application for temporary authority has been filed. (2) Dual Operations maybe involved. (3) Application to covert Van Wyk's authority in MC-142246 and subs thereto from contract to common carrier authority has been filed.

MC-F-14387F, filed May 8, 1980. SHARRON MOTOR LINES, INC. (Sharron) (P.O. Box 5636, Meridian, MS)—Purchase (portion)—P. C. WHITE TRUCK LINES, INC., R. S. RENFRO, TRUSTEE IN BANKRUPTCY, (White) (P.O. Box 1488, Dothan, AL 36301). Representative: Bruce E. Mitchell, Suite 520, Lenox Towers South, 3390 Peachtree Road, NE, Atlanta, GA 30326, and Harold D. Miller, P.O. Box 22567, Jackson, MS 39205. Sharron seeks authority to purchase a portion of the interstate operating rights of White. D. J. Sharron, the sole stockholder of Sharron, seeks authority to acquire control of said rights through the transaction. Sharron is purchasing all regular-route, general commodity authority held by White, issued in MC-116110 and MC-116110 (Sub-5, 8, and 10), as summarized below: *general commodities,* with exceptions, (1) between Dothan, AL, and Panama City, FL, (2) between De Funiak Springs, FL, and Marianna, FL, (3) between Freeport and Ebro, FL, (4) between Vernon and Wausau, FL, (5) between Blountstown, FL, and junction FL Hwy 20 and U.S. Hwy 231, located approximately four miles north of Youngstown, FL, (6) between Birmingham and Montgomery, AL, (7) between Montgomery and Dothan, AL, (8) between Dothan, AL, and Cedar Springs, GA, and (9) between Montgomery, AL, and Atlanta, GA, serving various intermediate and offroute points. Sharron holds authority in MC-97310 and sub-numbers thereunder to operate as a motor common carrier, over regular and irregular routes, in AL, LA, MS, and GA. (Hearing site: Atlanta, GA.)

Notes.—(1) This notice does not purport to be a complete description of the operating rights of the carriers involved. (2) Application for temporary authority has been filed.

MC-F-14397F, filed May 22, 1980. REX TRANSPORTATION COMPANY (Rex) (Suite 207, Clausen Building, 1520 North Woodward Avenue, Bloomfield Hills, MI 48013)—purchase—N & K LEASING CO. (N & K) (2501 Henry Street, Muskego, MI 49441). Representative: Martin J. Leavitt, 22375 Haggerty Road, P.O. Box 400, Northville, MI 48167. Rex seeks authority to purchase the interstate operating rights of N & K. William R. House, the majority stockholder of Rex, seeks authority to acquire control of said rights through the transaction. Rex is purchasing the interstate operating rights contained in N & K's certificates in MC-129309 (Sub-Nos. 1 and 3), which authorize the transportation, as a motor common carrier, over irregular routes, of *cement,* (1) from Alpena, MI, to the Port of Entry on the International Boundary line between the United States and Canada located at Sault St. Marie, MI, and (2) from Alpena, MI, to points in WI, MN, ND, IL, OH, PA, NY, and IN. Rex is a motor common carrier pursuant to authority issued in MC-109595 and sub-numbers thereunder. (Hearing site: Detroit, MI, Chicago, IL, or Washington, DC.)

MC-F-14401F, filed May 27, 1980. MOMSEN TRUCKING CO. (Momsen) (13811 L Street, Omaha, NE, 68137)—purchase—HILTGEN TRUCK LINE, INC. (Hiltgen) (12911 Old Cherry Road, Omaha, NE 68137). Representative: Marshall D. Becker, Suite 610, 7171 Mercy Road, Omaha, NE 68106. Momsen seeks authority to purchase the interstate operating rights of Hiltgen. Karl E. Momsen, the sole stockholder of Momsen, seeks authority to acquire control of said rights through the transaction. Momsen is purchasing the interstate operating rights of Hiltgen contained in MC-107324 and MC-107324 (Sub-3), which authorize the transportation, as a motor common carrier, as follows: *MC-107324:* Regular routes: (1) *Livestock, agricultural commodities, and household goods* as defined by the Commission, from Barnes, KS, to Kansas City, MO, serving the intermediate and off-route points within 10 miles of Barnes, restricted to pickup only; to the intermediate points of Kansas City, KS, restricted to delivery only; and to the off-route points of North Kansas City, MO; restricted to the transportation of agricultural and household goods as defined by the

Commission, for delivery: (a) From Barnes over Kansas Hwy. 9 to junction U.S. Hwy. 77, thence over U.S. Highway 77 to Randolph, thence over Kansas Hwy. 16 (formerly unnumbered highway) to junction Kansas Hwy. 13, thence over Kansas Hwy. 13 to Manhattan, KS, thence over U.S. Hwy. 24 to junction U.S. Highway 40, thence over U.S. Hwy. 40 to Kansas City; and (b) from Barnes over Kansas Highway 9 to Netawaka, KS, thence over U.S. Hwy. 75 to Holton, KS, thence over Kansas Hwy. 16 to junction Kansas Hwy. 4, thence over Kansas Hwy. 4 to junction Kansas Highway 92, thence over Kansas Hwy. 92 to Oskaloosa, KS, thence over Kansas Hwy. 16 to Toganoixe, thence over U.S. Highway 24 to Kansas City; and (2) *Household goods* as defined by the Commission, and *general commodities,* except those of unsual value, classes A and B explosives, commodites in bulk, and commodities requiring special equipment, from Kansas City, MO, to Barnes, KS, serving the intermediate and off-route points within 10 miles of Barnes, restricted to delivery only; from the intermediate point of Kansas City, KS, restricted to pickup only and from the off-route point of North Kansas City, MO, restricted to pickup only: From Kansas City over the above-specified routes to Barnes. (3) *Livestock and feed,* from Barnes, KS, to St. Joseph, MO, serving intermediate and off-route points within 10 miles of Barnes: From Barnes over Kansas Hwy. 15E to junction U.S. Hwy. 36, thence over U.S. Hwy. 36 to St. Joseph, and return over the same route. (4) *General commodities,* except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities requiring special equipment, and commodities in bulk, between Irving, KS, and Kansas City, MO, serving the intermediate and off-route points of Kansas City, Blue Rapids, and Bigelow, KS: (a) From Irving over Kansas Hwy. 113 to junction Kansas Hwy. 13, thence over Kansas Hwy. 13 to Garrison, KS, thence over unnumbered highway to junction Kansas Hwy. 13 near Manhattan, KS, thence over Kansas Highway 13 to Manhattan, KS, and thence over U.S. Hwy. 24 via Wamego, KS, to Kansas City, and return over the same route. (b) From Irving over Kansas Hwy. 113 to junction Kansas Hwy. 13, thence over Kansas Hwy. 13 to junction unnumbered highway near Florena, KS, thence over unnumbered highway via Fostoria, KS, to Westmoreland, KS, thence over Kansas Hwy. 99 to Wamego, KS, and thence to Kansas City as specified above, and return over the same route, and Between Irving, KS, and St. Joseph, MO, serving no intermediate points: (a) From Irving over Kansas Hwy. 113 to junction Kansas Hwy. 13, thence over Kansas Hwy. 13 to junction Kansas Hwy. 9, thence over Kansas Hwy. 9 to Centralia, KS, thence over unnumbered highway to junction U.S. Hwy. 36, and thence over U.S. Hwy. 36 to St. Joseph, and return over the same route. (b) From Irving to Centralia as specified above, thence over Kansas Hwy. 9 to Atchison, KS, and thence over U.S. Hwy. 59 to St. Joseph and return over the same route. (5) *Hatchery supplies and equipment, liquid petroleum products* in containers, and *empty liquid petroleum products containers,* Between Marysville, KS, and Kansas City, MO, serving the intermediate and off-route points of Kansas City, and Waterville, KS: From Marysville, over U.S. Hwy. 77 to Blue Rapids, KS, thence over Kansas Hwy. 113 to Irving, and thence to Kansas City as specified above, and return over the same route. Irregular routes: (6) *Agricultural implements and parts and twine,* from Kansas City, and North Kansas City, MO, to Waterville, KS. (7) *Seeds,* From Kansas City and North Kansas City, MO, to Waterville, KS. (8) *Insulating materials and fertilizer,* From Kansas City and North Kansas City, MO, to Blue Rapids, KS. (9) *Sugar,* From Kansas City and North Kansas City, MO, to Belleville, Concordia, Greenleaf, and Barnes, KS: (10) *Livestock and feed,* Between Blue Rapids, KS, and points in those parts of KS and NE west of U.S. Hwy. 77 and within 30 miles of Blue Rapids on the one hand, and, on the other, Kansas City and St. Joseph, MO. (11) *Feed,* Between Blue Rapids, KS, and points in those parts of KS and NE west of U.S. Hwy. 77 and within 30 miles of Blue Rapids, on the one hand, and, on the other, North Kansas City, MO. (12) *Road machinery, tractors, and culverts,* Between Kansas City, and North Kansas City, MO, on the one hand, and, on the other, Morrowville, Washington, Greenleaf, and Barnes, KS. (13) *Livestock, agricultural commodities, and agricultural implements and parts,* from Barnes, KS, and points within 15 miles of Barnes to Kansas City, KS, and St. Joseph and Kansas City, MO. (14) *Livestock, feed, agricultural implements and parts, binder twine, windmills and parts, building and fencing materials, paint, baling wire, coal, and furniture,* From Kansas City, KS and Kansas City, MO, to points in the above-specified KS territory.

(15) *Livestock, feed,* and *building materials,* From St. Joseph, MO, to points in the above-specified KS territory. (16) *Livestock, feed, seeds, binder twine,* and *agricultural implements* and *implement parts,* Between Irving, KS, and points within 15 miles of Irving, on the one hand, and, on the the other, Kansas City, KS, Kansas City, MO, and St. Joseph, MO. MC 107324 (Sub-3): Regular routes: (17) *Livestock,* Between Cleburne, KS, and Kansas City, MO, serving the intermediate and off-route points of Kansas City, KS, and those within 15 miles of Cleburne: From Cleburne over Kansas Hwy 13 to Manhattan, KS, thence over U.S. Hwy 24 to Kansas City, MO, and return over the same route. (18) *General commodities,* except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, From Kansas City, MO, to Cleburne, KS, serving no intermediate points and serving the off-route points of Olsburg and Randolph, KS, restricted to delivery only: From Kansas City, MO, over U.S. Hwy 24 to Manhattan, KS, thence over Kansas Hwy 13 to Cleburne, and return over the same route, with no transportation for compensation except as otherwise authorized. (19) *Livestock and agricultural commodities,* From Marysville, KS, to St. Joseph, MO, serving the intermediate and off-route points in Kansas City, KS, and those in KS within 15 miles of Marysville: From Marysville over U.S. Hwy 36 to St. Joseph; and (20) *Livestock, feed,* and *farm machinery and parts,* From St. Joseph, MO, to Marysville, KS, serving the intermediate and off-route points in Kansas City, KS, and those in KS within 15 miles of Marysville: From St. Joseph over U.S. Hwy 36 to Marysville. (21) *Livestock, agricultural commodities* and *empty containers* for petroleum products, From Marysville, KS, to Kansas City, MO, serving the intermediate and off-route points in Kansas City, KS, and those in KS within 15 miles of Marysville: From Marysville over U.S. Hwy 36 to junction Kansas Hwy 187 near Seneca, KS, thence over Kansas Hwy 187 to Centralia, KS, thence over Kansas Hwy 9 to Netawaka, KS thence over U.S. Hwy 75 to Topeka, KS, thence over U.S. Hwy 24 to Kansas City; and (22) *Livestock, feed, farm machinery and parts,* and *petroleum products,* in containers, From Kansas City, MO, to Marysville, KS serving the intermediate and off-route points in Kansas City, KS, and those in KS within 15 miles of Marysville: From Kansas City over the routes specified next-above to Marysville. Irregular routes: (23) *Livestock,* From Marysville, KS, and points within 15 miles of Marysville to Omaha, NE; and (24) *Livestock* and *feed.*

from Omaha, NE, to Marysville, KS, and points within 15 miles of Marysville. (25) *Household goods* and *emigrant movables,* Between Marysville, KS, and points in KS within 15 miles of Marysville, on the one hand, and, on the other, points in that part of NE east of U.S. Hwy 281, and south of U.S. Hwy 6, including points on the indicated portions of the highways specified. Momsen is a motor common carrier pursuant to certificates issued in MC 124174 and sub-numbers thereunder which authorize the transportation of general and specified commodities, over regular and irregular routes, between various points in the United States. Momsen is also a motor contract carrier pursuant to permit MC 128342 which authorized the transportation of wallboard under contract with The Upson Company, of Lockport, NY. (Hearing site: Omaha, NE, or Washington, DC.)

Note.—Dual operations may be involved.

MC–F–13219, DODDS TRUCK LINE, INC.—purchase—BENNETT TRUCK LINE, INC. Certificate MC 79434 reissued as follows, with corrections: The decision of the Commission, Division 1, Acting as an Appellate Division, granted this application subject to the condition that transferor Bennett's certificate in No. MC–79434 be corrected to properly subject the authority that it holds: Regular routes: *General Commodities,* Between Paragould, AR and Lake City, AR, serving all intermediate points: From Paragould over Arkansas Highway 25 to junction Arkansas Highway 135, thence over Arkansas Highway 135 to junction Arkansas Highway 18, and thence over Arkansas Highway 18 to Lake City, and return over the same route. Between Paragould, AR and Memphis, TN, serving no intermediate points: From Paragould over Arkansas Highway 1 to Jonesboro, AR, thence over U.S. Highway 63 to Turrell, AR and thence over U.S. Highway 61 to Memphis, and return over the same route. Between Blythenville, AR and Memphis, TN, serving no intermediate points: From Bylthenville over U.S. Highway 61 to Memphis, and return over the same route. Between Paragould, AK and Little Rock, AR, serving all intermediate points between Paragould and Searcy, AR: From Paragould over Arkansas Highway 25 to Walnut Ridge, AR, thence over U.S. Highway 67 to Little Rock, and return over the same route. Between Paragould, AR and Corning, AR, serving all intermediate points and the off-route point of Knobell, AR: From Paragould over Arkansas Highway 135 (formerly Arkansas Highway 39) to junction U.S. Highway 62, thence over U.S. Highway 62 to Corning, and return over the same route. This decision and the initial decision of the Administrative Law Judge shall be effective 45 days from the date [the corrected certificate in MC–79434 is published in the **Federal Register**] of this publication.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80–19693 Filed 6–30–80; 8:45 am]

BILLING CODE 7035–01–M

Decision-Notice

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We find:

Each transaction is exempt from section 11343 (formerly section 5) of the Interstate Commerce Act, and complies with the appropriate transfer rules.

This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

Petitions seeking reconsideration must be filed within 20 days from the date of this publication. Replies must be filed within 20 days after the final date for filing petitions for reconsiderations; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 C.F.R. 1132.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will indicate that consummation of the transfer will be presumed to occur on the 20th day following service of the notice, unless either applicant has advised the Commission that the transfer will not be consummated or that an extension of time for consummation is needed. The notice will also recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices on or before July 31, 1980, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

By the Commission, Motor Carrier Board, Members Holyfield, Hedetniemi, and Healy.

Agatha L. Mergenovich,

Secretary.

F.D.–29374. By decision of June 19, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1151 The Motor Carrier Board approved the transfer to H&S Forwarders, Inc., of Fairbanks, AK, of Permit No. FF–322 (Sub-1) issued 9/19/77 to Sunpak Movers, Inc., of Seattle, WA, authorizing a freight forwarder service as follows: (a) used household goods and unaccompanied baggage and (b) automobiles, between points in the United States, including HI and AK, restricted in (b) to transportation of export-import traffic. Applicant's representative is: Alan F. Wohlstetter, 1700 K St., NW. Transferee is not a carrier, but is controlled by H&S Warehouse, Inc., a carrier.

MC–FC–78352. By decision of June 19, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1132, The Motor Carrier Board approved the transfer to Foothills Express, Inc., West Sacramento, CA, of Certificate No. MC 99946 (Sub-2), issued May 19, 1980, to Basic Materials Transport (a Corporation), Sacramento, CA, authorizing the transportation of *General commodities,* with the usual exceptions, between (1) Sacramento and Auburn, CA, over Interstate Hwy 80, serving the off-route and intermediate points of Citrus Heights, Rocklin, Loomis, Penryn, and Newcastle, CA, (2) Auburn and Coloma, CA, over CA State Hwy 49, (3) California State Hwy 49 at or near Coloma and Lotus, CA, over an unnumbered county road, (4) California State Hwy 49 and Foresthill, CA, over an unnumbered county road (Auburn-Forest-Hill Rd.), (5) CA State Hwy 49 at or near Cool, CA and Goergetown, CA, over CA Hwy 193, (6) Georgetown, CA and junction CA State Hwys 193 and 49, over CA Hwy 193, and (7) Sacramento and Placerville, CA, over U.S. Hwy 50, as an alternate route for operating convenience only, serving no intermediate points. Applicants' representative: Michael J. Stecher, 256 Montgomery St., Fifth Floor, San Francisco, CA 94104.

FEDERAL REGISTER SUMMARY FOR CERTIFICATE OR PERMIT

No. MC–FC–78476, by decision of June 12, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1132, the Motor Carrier Board approved the transfer to K. Truck Lines, Inc., of Ord, NE of those portions of Certificate No. MC–29555 (Sub–68) issued October 9, 1974 to Briggs Transportation Company of St. Paul, MN, authorizing the transportation of *general commodities,* with the usual exceptions, over regular routes between points in Nebraska as follows: (1) Between Burwell, Nebr., and Omaha, Nebr., serving all intermediate

points between St. Paul and Omaha, Nebr, including St. Paul; and the off-route points of Taylor and Scotia, Nebr., and Council Bluffs, Iowa: From Burwell over Nebraska Highway 11 to Midway, Nebr., thence over Nebraska Highway 92 to junction Alternate U.S. Highway 30, thence over Alternate U.S. Highway 30 to Omaha, and return over the same route. (2) Between Sargent, NE and the junction of U.S. 281 and U.S. 34, serving Grand Island, NE and intermediate point of St. Paul, NE, those between Sargent and Grand Island, NE, and those between Sargent and St. Paul, NE: From Sargent over U.S. Highway 183 to Taylor, Nebr., thence over Nebraska Highway 91 to Burwell, Nebr., thence over Nebraska Highway 11 to St. Paul, Nebr., thence over U.S. Highway 281 to junction U.S. Highway 34, From Sargent over U.S. Highway 183 to junction Nebraska Highway 92, thence over Nebraska Highway 92 to Omaha, and return over the same route. (3) Between Sargent, NE and junction Nebraska Highway 92 and U.S. Highway 30, serving St. Paul, NE and points between Sargent and St. Paul as intermediate points: From Sargent over U.S. Highway 183 to junction Nebraska Highway 92, thence over Nebraska Highway 92 to junction U.S. Highway 30, and return over the same route. (4) Between Comstock, Nebr., and St. Paul, Nebr., serving the intermediate point of Arcadia, Nebr., and the off-route points of Rockville, Boelus, and Dannebrog, Nebr.: From Comstock over Nebraska Highway 210 to junction U.S. Highway 183, thence over U.S. Highway 183 to junction Nebraska Highway 70, thence over Nebraska Highway 70 to junction Nebraska Highway 58, thence over Nebraska Highway 58 to junction Nebraska Highway 92, thence over Nebraska Highway 92 to St. Paul, and return over the same route. (5) Between Taylor, Nebr., and Ansley, Nebr., serving all intermediate points: From Taylor over Nebraska Highway 91 to junction Nebraska Highway 2, thence over Nebraska Highway 2 to Ansley, and return over the same route. (6) Between Ansley, Nebr., and Grand Island, Nebr. as an alternate route for operating convenience only in connection with carrier's regular route operations authorized herein, serving no intermediate points and serving Ansley and Grand Island for purposes of joinder only. From Ansely over Nebraska Highway 2 to Grand Island, and return over the same route. (7) Between Westerville, Nebr., and Stapleton, Nebr., serving all intermediate points and the off-route points of Callaway and Oconto, Nebr.: From Westerville over Nebraska Highway 70 to junction U.S. Highway 83, thence over U.S. Highway 83 to Stapleton, and return over the same route. (8) Between Grand Island, Nebr., and Ansley, Nebr., serving the intermediate points of Hazard, Litchfield and Mason City, Nebr., and off-route points of Pleasanton, Riverdale, Amherst, Miller, Sumner, and Eddyville, Nebr., and points within 5 miles of Nebraska Highway: From Grand Island over Nebraska Highway 2 to Ansley, and return over the same route. (9) Between Dunning, Nebr., and Antioch, Nebr.,serving all intermediate points, and the off-route point of Purdum, Nebr., and points within 5 miles of Nebraska Highway 2: From Dunning over Nebraska Highway 2 to Antioch, and return over the same route; and (10) Between Stapleton, Nebr., and Thedford, Nebr., serving no intermediate points: From Stapleton over U.S. Highway 83 to Thedford, and return over the same route subject to the following conditions: transferor shall either (1) submit for cancellation its Sub-67 route which duplicates routes sold to transferee; or (2) file an application for authority to operate over those routes. Applicant's representative is: Leon E. Klanecky, 142 North 15th Street, Ord, NE 68862.

MC–FC–78586, by decision of June 12, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. Part 1132. The Motor Carrier Board approved the transfer to Quinn Bros. Corp. of Amherst, NH of Certificate No. MC–126672 and MC–126672 (Sub-4), issued October 8, 1976 and April 11, 1978, acquired by Transferor Transport G. Courchesne, Inc. of St. Cyrille-de-Wnedover, Comte de Drummond, Quebec, Canada in No. MC–FC–77923 (to be reassigned No. MC–146935), authorizing the transportation of *Cement*, from ports of entry on the United States-Canada Boundary line at or near Derby Line and Highgate Springs, VT, and Champlain and Trout River, NY, to points in Maine, those parts of Vermont and New Hampshire south of U.S. Hwy 2, and that part of New York south of a line beginning at Sackets Harbor, NY, and extending eastward along NY Hwy 3 to Saranac Lake, NY, then along NY Hwy 86 to junction NY Hwy 73, near Lake Placid, NY, then along NY Hwy 73 to Kenne, NY, then along NY Hwy 9N to Westport, NY, from ports of entry on the United States-Canada Boundary line at or near Rooseveltown, Ogdensburg, Alexandria Bay, and Niagara Falls, NY, and Jackman, ME, to points in Maine, New Hampshire, New York and Vermont. Restriction: The authority granted above is restricted to the transportation of shipments in foreign commerce originating at the facilities of the St. Lawrence Cement Co., in the Province of Quebec, Canada. *Cement*, in bulk, in tank vehicles, from ports of entry on the United States-Canada Boundary line at or near Morses Line, West Berkshire, Richford, East Richford, North Troy, Beebe Plain, Derby Line, Highgate Springs, and Norton, VT, Beecher Falls and Scott Bog, NH, and Fort Covington, Trout River, Mooers Forks, Champlain, and Rouses Point, NY, to points in those parts of New Hampshire and Vermont on and north of U.S. Hwy 2, and points in that part of New York on and north of a line beginning at Sackets Harbor, NY, and extending eastward along NY Hwy 3 to Saranac Lake, NY, then along NY Hwy 86 to junction NY Hwy 73, near Lake Placid, NY, then along NY Hwy 73 to Keene, NY, and then along NY Hwy 9N to Westport, NY. Restriction: The operations authorized above are limited to transportation in foreign commerce only. *Cement*, in bags, from the ports of entry on the United States-Canada Boundary line at or near Morses Line, West Berkshire, Richford, East Richford, North Troy, Beebe Plain, Derby Line, Highgate Springs, and Norton, VT, Beecher Falls and Scott Bog, NH, and Fort Covington, Trout River, Mooers Forks, Champlain, and Rouses Point, NY, to points in those parts of New Hampshire and Vermont on and north of U.S. Hwy 2, and that part of New York on and north of a line beginning at Sackets Harbor, NY, and extending eastward along NY Hwy 3 to Saranac Lake, NY, then along NY Hwy 86 to junction NY Hwy 73, near Lake Placid, NY, then along NY Hwy 73 to Keene, NY, and then along NY Hwy 9N to Westport, NY. The authority granted herein to the extent that it duplicates any authority heretofore granted to or now held by carrier shall not be construed as conferring more than one operating right and in MC–126672 (Sub-4) irregular routes; *cement*, in bulk, in tank vehicles, and in bags, from ports of entry on the United States-Canada Boundary line located in Maine, New Hampshire, New York, and Vermont, to points in Connecticut, Rhode Island, and Massachusetts. Restriction: The authority granted herein is restricted to the transportation of shipments originating at the facilities of Independent Cement, Inc., and St. Lawrence Cement Co., in the Province of Quebeck, Canada. Applicant's representative is: L. C. Major, Jr., Suite 400 Overlook Bldg., 6121 Lincolnia Road, Alexandria, VA 22312. TA application has been filed. Transferee holds no authority.

MC–FC–78598, by decision of June 11, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. Part 1132. The Motor Carrier Board approved the transfer to J. H. Skinner & Company, Inc., of McKees Rocks, PA of Certificates No. MC 610 (Subs-4 and 5) issued June 27, 1967 and February 22, 1973, to H. M. Skinner & Sons, Inc., of New Bethlehem, PA, authorizing the transportation of *general commodities* (usual exceptions), between Pittsburgh, PA, on the one hand, and, on the other, named points in PA, restricted to traffic interchanged at Pittsburgh, PA. Applicant's representative is: John A. Pillar, 1500 Bank Tower, 1307 Fourth Ave., Pittsburgh, PA. 15222, Kent S. Pope, 10 Grant St., Clarion, PA 16214. Transferee holds no authority from the Commission. An application seeking temporary lease has not been filed.

MC–FC–78599, by decision of June 11, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. Part 1132. The Motor Carrier Board approved the transfer to New Truck Lines Co., of Perry, Fl (a DE Corporation), of Certificates No. MC 115215 and (Subs-23, 24, 29, 33, 35, and 37), issued July 2, 1975, (modified March 3, 1980), January 27, 1977, February 14, 1979, August 15, 1979, November 30, 1979, November 30, 1979, and April 14, 1980, respectively), to New Truck Lines, Inc., of Perry, FL (a FL Corporation), authorizing generally the transportation of *lumber, lumber products, plastic pipe, composition board, plywood, lumber handling machinery, and similar commodities,* from and to named points in AL, GA, FL, VA, NC, SC, AR, MS, IL, IN, KS, KY, LA, MI, MO, OH, OK, TN, TX, and WV. Transferee is a wholly-owned subsidiary of transferor, but holds no authority from the Commission itself. An application seeking temporary lease authority has not been filed. Applicant's representative is: Charles Ephraim, Suite 600, 1250 Connecticut Avenue, N.W., Washington, D.C. 20036.

MC–FC–78601, by decision of June 10, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1132. The Motor Carrier Board approved the transfer to Dominion Lines, Ltd., of Lynchburg, VA, of Certificates No. MC 111978 (Subs-1, 6, 7, 8, 10) issued to Black and White Transit Company, Inc., and acquired by Ralph Ownbey d.b.a. Twin State Coach Lines, pursuant to approved in MC–F–13087, authorizing the transportation of *passengers and their baggage, and express and newspapers* in the same vehicle with passengers, over specified regular routes, serving all intermediate points, between (a) Pikeville, KY and Grundy, VA, (b) Hellier, KY and Elkhorn City, KY, (c) the KY–VA State line near Breaks, VA, and junction VA Secondary Hwy 609 and U.S. Hwy 460 near Bigrock, VA, (d) Pikeville, KY and Jenkins, KY, (e) Bluefield, WV and Grundy, VA, (f) Huntington, WV and Pikeville, KY, (g) Elkhorn City, KY and Pikeville, KY; and (h) Mouthcard, KY and Belcher, KY; passengers and their baggage, in the same vehicle with passengers, in special and charter operations, in round-trip sightseeing or pleasure tours, beginning and ending at Bluefield, WV and points in Mingo and Wayne Counties, WV, Buchanan, Tazewell, and Dickenson Counties, VA, and Pike and Letcher Counties, KY, and extending to points in the United States (except AK and HI).

MC–FC–78614, by decision of June 10, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, The Motor Carrier Board approved the transfer to Cecil A. Perkins d.b.a. Lindburg Truck Line, Challis, ID, of Certificates MC 65285 and MC 65285 (Sub-9, 10, 11, 13, and 15), issued October 14, 1969, June 27, 1961, July 31, 1961, September 27, 1961, November 23, 1964, and March 15, 1968, respectively, to Hilmer Lindburg (Jeannette Lindburg and Gordon H. Vaden, Co-Administrators) and L. D. Lindburg, a Partnership, d.b.a. Lindburg Truck Line Mackay, ID, authorizing the transportation of *general commodities* (except livestock and household goods as defined by the Commission), between Ketchum, Hailey, Arco, Darlington, Leslie, Mackay, and Moore, ID, on the one hand, and, on the other, points in Butte and Custer Counties, ID, those in that part of Lemhi County, ID west of U.S. Hwy 93, and those east of U.S. Hwy 93 but west of the boudary line of the Salmon National Forest, serving no points located on U.S. Highway 93 between Hallis, ID and the ID–MT State line, inclusive, those in that part of Valley County, ID east of a line running north and south through Deadwood, Reservoir, ID and sought of a line running east and west through Landmark, ID, those in that part of Boise.

MC–FC–78625, by decision of June 10, 1980 issued under 49 U.S.C. 10926 and 10931 or 10932 and the transfer rules at 49 C.F.R. 1132, The Motor Carrier Board approved the transfer to L. A. Chitwood, Inc. of Charleston Heights, SC of Certificate of Registration No. MC 97633 (Sub-2) issued 1/22/68 and of Certificate No. MC 97633 (Sub-3) issued 6/28/73, to L. A. Chitwood, Jr. of Charleston Heights, SC. The certificate of Registration evidences right to engage in transportation in interstate or foreign commerce corresponding in scope to the authority granted in C–373–A, C–439–E, and 507–B dated 10/10/56, 2/22/56, and 4/17/57 issued by the Public Service Commission of South Carolina. The standard certificate authorizes telephone equipment and supplies, between Charleston, SC on the one hand, and, on the other, points in Beaufort, Berkeley, Charleston, Colleton, Dorchester, Hampton, and Jasper Counties, SC. The Board imposed the following condition: transferee shall file the following with this Commission's Office of Proceedings (either prior to or concurrently with the consummation of this transfer): (1) a certified copy of the State certificate as reissued to transferee, or—if the State Commission does not reissue the certificate—a certified copy of the State order approving the transfer of the underlying intrastate rights; and (ii) a written notice confirming the date of consummation of that intrastate transaction. Applicant's representative is Lawrence M. Gressette, Jr., 203 Railroad Ave., NW, P.O. Box 346, St. Matthews, SC 29135.

MC–FC–78630, by decision of June 10, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1132, The Motor Carrier Board approved the transfer to Stacey Storage & Moving Company, 2335 Gilbert Ave., Cincinnati, OH 45206, of Certificate No. MC–48590 (Sub-1) issued 3/15/57 to The William Stacey Storage and Moving Company (same address) authorizing the transportation of household goods as defined by the Commission, (1) between points in those parts of OH, IN, and KY within 130 miles of Cincinnati, OH, including Cincinnati, (2) between points in the territory in (1) above, on the one hand, and, on the other, points in the remainder of OH, IN, and KY not included within 130 miles of Cincinnati, and points in AL, CT, FL, GA, IL, IA, MD, MA, MI, MO, MN, NC, NY, NJ, PA, SC, TN, VA, WV, WI, and DC. Applicant's representative is: None. Transferee holds no authority from the Commission. An application seeking temporary lease authority has not been filed.

MC–FC–78631, by decision of June 10, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1132, The Motor Carrier Board approved the transfer to Henningsen Bros. Inc., of Preston, IA, of Certificate No. MC–93718 issued 9/21/70 to Robert W. Henningsen and John W. Henningsen, d/b/a Henningsen Bros. Trucking, of Preston, IA, authorizing the transportation of *egg cases, apiary supplies and equipment, farm machinery and parts, twine, fencing, and tankage,* from points in

Illinois in the Chicago, IL, Commercial Zone, as defined by the Commission, to Preston, IA, *honey*, from Preston, IA, to Chicago, IL, *petroleum products, anti-freeze compounds, and linseed oil*, in containers, from Rock Island, IL, to Preston, IA, *farm machinery*, from Rockford, IL, to Preston, IA, *livestock*, between Preston, IA, and points in IA within 25 miles of Preston, on the one hand, and, on the other, Chicago and Savannah, IL. Applicant's Representative: J. E. Gooerow, P.O. Box 790, Mafquoketa, IA 52060. Transferee is not a carrier. An application seeking temporary lease authority has not been filed.

MC–FC–78632, by decision of June 10, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1132, The Motor Carrier Board approved the transfer to Formula I Feeds, Inc., of New Albany, PA, of Certificate No. MC–2871 issued 3/15/77 to Carlton Depster, of Laceyville, PA, authorizing the transportation of cream, ice cream mixtures; milk and milk products; flour, in bulk, in hopper-type vehicles; and ice cream mix, in bulk, in tank vehicles; from and to named points in NY, PA, VA, MA, NJ, and CT. Applicant's Representative: Joseph F. Hoary, 121 S. Main St., Taylor, PA 18517. Transferee holds no authority from the Commission. An application seeking temporary lease authority has not been filed.

MC–FC–78633, by decision of June 10, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1132, The Motor Carrier Board approved the transfer to E–Z Freight, Inc., North Bloomfield, OH, of Permits Nos. MC–134419 and MC–134419 (Sub–1), issued May 18, 1976 and March 21, 1979, respectively, to TLT Company, Inc., Warren, OH, authorizing the transportation of *Electric* transformers and transformer parts, materials, equipment and supplies used in the production, distribution or sale of electric transformers (except commodities in bulk), between Warren, OH, Hight Springs, FL, and Belzoni, MS, on the one hand, and, on the other, points in the United States (except AK and HI), under continuing contract(s) with Standard Transformer Co., a division of American Guage and Machine Co.; *Rubber tires*, from Warren, OH, to points in the United States (except AK, OH and HI), and *materials, equipment and supplies* used in the manufacture of rubber tires (except commodities in bulk), from points in the United States (except AK, OH, and HI), to Watten, OH, under continuing contract(s) with Denman Rubber Manufacturing Co., Leavittsburg, OH. Applicant's representative: Robert F. Burkey, 106 E. Market St., Warren, OH 44481.

MC–FC–78636, by decision of June 10, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1132, The Motor Carrier Board approved the transfer to Southern Tank Lines, of Imperial, CA, of Certificate No. MC–124588 issued 11/11/71 to Harris Oil Company, of Ontario, CA, authorizing the transportation of *liquid petroleum products* as described in Appendix XIII to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, in bulk vehicles, from Colton and Niland, CA, to ports of entry on the United States–Mexico Boundary line at or near Calexico, Tecate, and Andrade, CA, and San Luis, AZ, *petroleum products* as described in Appendix XIII to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, in bulk, in tank vehicles, from Imperial, CA, and points within 10 miles thereof, to ports of entry on the United States–Mexico boundary line, at Calexico, Tecate, and Andrade, CA, and San Luis, AZ, *liquid petroleum products*, in bulk, in tank vehicles, from Imperial, CA, and points within 10 miles thereof, to Yuma, AZ and points in Arizona within 50 miles of Yuma. Applicant's representative: Danny R. Timmons, P.O. Box 265, Benicia, CA 94510. Transferee is not a carrier. An application seeking temporary lease authority has not been filed.

MC–FC–78639, by decision of June 10, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1132, The Motor Carrier Board approved the transfer to J–C Hauling Company, of Millstadt, IL, of Permit No. MC–84702 issued 8/24/63 to George G. Callahan, d/b/a J. C. Hauling Co., of St. Louis, MO, authorizing the transportation of coal, from points in IL within 30 miles of East St. Louis, IL to St. Louis, MO, and points in St. Louis County, MO. Applicant's representative: Ernest A. Brooks II, 1301 Ambassador Bldg., St. Louis, MO 63101. Transferee is not a carrier. Temporary lease authority is not sought.

MC–FC–78656, by decision of June 17, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1132. The Motor Carrier Board approved the transfer to Robinson Bus Service, Inc., of Evanston, IL of Certificate No. MC–2844 issued May 10, 1976, to Chicago Grey Line, Inc., and acquired by R.S.P. Bus Company, Inc., of Chicago, IL (Hamilton Moses, Jr., Trustee) in No. MC–FC–77605, authorizing the transportation of *passengers and their baggage*, over regular routes, (1) between Chicago, IL, and Hammond, IN, (2) between Chicago, IL, and Gary, IN, (3) between Hammond, IN, and Lansing, IL, (4) between Hammond, IN, and Calumet City, IL, (5) between Hammond, IN, and Griffith, IN, and Oak Glen, IL, (6) between Hammond, IN, and East Chicago, IN, (7) between points in Hammond, IN, (8) between points in East Chicago, IN, and (9) between Whiting, IN, and Highland, IN; *passengers and their baggage*, over irregular routes, restricted to traffic originating in the territory indicated, in charter operations, from points and places within 30 miles of the above-specified regular routes, to points and places in IL, IN, MI, and WI, and return; *passengers and their baggage*, over regular routes, (1) between points in Chicago, IL, (2) between Hammond, IN, and Whiting, IN, (3) between points in Hammond, IN, and (4) between points in Whiting, IN; and *passengers and their baggage*, in the same vehicle with passengers, over regular routes, between the junction of Campbell Avenue, and Michigan City Road and the junction of Burnham Avenue, and Michigan City Road, in Calumet City, IL. Transferee holds no authority from the Commission. An application seeking temporary authority has been filed. Applicant's representative: Edward G. Bazelon, 39 S. La Salle St., Chicago, IL 60603.

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Decision-Notice

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by Special Rule 240 of the Commission's rules of practice (49 CFR § 1100.240). These rules provide, among other things, that opposition to the granting of an application must be filed with the Commission on or before July 31, 1980. Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. Opposition under these rules should comply with Rule 240(c) of the Rules of Practice which requires that it set forth specifically the grounds upon which it is made, and specify with particularity the facts, matters and things relied upon, but shall not include issues or allegations phrased generally. Opposition not in reasonable compliance with the requirements of the

rules may be rejected. The original and one copy of any protest shall be filed with the Commission, and a copy shall also be served upon applicant's representative or applicant if no representative is named. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 240(c)(4) of the special rules and shall include the certification required.

Section 240(e) further provides in part, that an applicant who does not intend timely to prosecute its application shall promptly request its dismissal.

Further processing steps will be by Commission notice or order which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication except for good cause shown.*

Any authority granted may reflect administratively acceptable restrictive amendments to the transaction proposed. Some of the applications may have been modified to conform with Commission policy.

We find with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a protestant, that the proposed dual operations are consistent with the public interest and the national transportation policy subject to the right of the Commission, which is expressly reserved, to impose such condtions as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. 10930.

In the absence of legally sufficient protests as to the finance application or any application directly related thereto filed on or before July 31, 1980 (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

Decided: June 19, 1980.

By the Commission, Review Board Number 5, Members Krock, Taylor, and Williams. (In MC–96165 (Sub-No. 15F) Board Member Taylor dissents, stating that the notice in the gateway case, while reflecting what the parties seek, does not appear satisfactory. The authority sought in the first two descriptions is clearly embraced in the third description. He sees no reason to grant duplicating authority.)

Agatha L. Mergenovich,

Secretary.

MC–F–14357F, filed March 27, 1980. T. DEL FARNO TRUCKING CO. (Del Farno) (30 Lockbridge Street, Pawtucket, RI 02860)—Purchase (portion)—BOWMAN BROS. TRUCKING CO., INC. (Bowman) (P.O. Box 624, West Paterson, NJ 07424). Representative: Frank J. Weiner, 15 Court Square, Boston, MA 02108, and George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Del Farno seeks authority to purchase a portion of the interstate operating rights of Bowman. Augustino Del Farno, the majority stockholder of Del Farno, seeks to acquire control of said rights through the transaction. Del Farno is purchasing that portion of Bowman's authority which is contained in Certificate No. MC 7680, which authorizes the transportation, as a motor common carrier, over irregular routes, as follows: (1) *machinery, exhibition material, and commodities requiring special handling or rigging* because of size or weight, between New York, NY, and points in Essex and Hudson Counties, NJ, on the one hand, and, on the other, Philadelphia, PA, Boston, MA, and points in NJ, CT, and DC; (2) *machinery, and commodities requiring special handling or rigging* because of size or weight, between New York, NY, on the one hand, and, on the other, points in NY; and (3) *machine parts, contractors' equipment, and heavy and bulky articles*, between New York, NY, on the one hand, and, on the other, points in CT, NY, and NJ. Del Farno is authorized to operate as a motor common carrier of specified commodities in CT, ME, MA, NH, NY, RI, and VT, pursuant to certificates issued in MC 96165 and sub-numbers thereunder. Del Farno has also been awarded authorty in MC–F–13653 to operate as a motor common carrier pursuant to certificate No. MC–95218. (Hearing site: Boston, MA, or New York, NY.)

Note.—A directly related gateway elimination has been filed in MC–96165 (Sub-15F), published in this same **Federal Register** issue.

Decision-Notice

The following operating rights applications, filed on or after March 1, 1979, are filed in connection with pending finance applications under 49 U.S.C. 10926, 11343 or 11344. The applications are governed by Special Rule 247 of the Commission's General Rules of Practice (49 CFR 1100.247). These rules provide, among other things, that a petition to intervene either with or without leave must be filed with the Commission within 30 days after the date of publication in the **Federal Register** with a copy being furnished the applicant. Protests to these applications will be rejected.

A petition for intervention without leave must comply with Rule 247(k) which requires petitioner to demonstrate that it (1) holds operating authority permitting performance of any of the service which the applicant seeks authority to perform, (2) has the necessary equipment and facilities for performing that service, and (3) has performed service within the scope of the application either (a) for those supporting the application, or, (b) where the service is not limited to the facilities of particular shippers, from and to, or between, any of the involved points.

Persons unable to intervene under Rule 247(k) may file a petition for leave to intervene under Rule 247(l). In deciding whether to grant leave to intervene, the Commission considers, among other things, whether petitioner has (a) solicited the traffic or business of those persons supporting the application, or, (b) where the identity of those supporting the application is not included in the published application notice, has solicited traffic or business identical to any part of that sought by applicant within the affected marketplace. Another factor considered is the effects of any decision on petitioner's interests.

Samples of petitions and the text and explanation of the intervention rules can be found at 43 FR 50908, as modified at 43 FR 60277. Petitions not in reasonable compliance with these rules may be rejected. Note that Rule 247(e), where not inconsistent with the intervention rules, still applies. Especially refer to

Rule 247(e) for requirements as to supplying a copy of conflicting authority, serving the petition on applicant's representative, and oral hearing requests.

Section 247(f) provides that an applicant which does not intend timely to prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. Broadening amendments will not be accepted after the date of this publication.

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

Findings: With the exceptions of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each applicant has demonstrated that its proposed service is either (a) required by the public convenience and necessity, or, (b) will be consistent with the public interest and the transportation policy of 49 U.S.C. 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a protestant, that the proposed dual operations are consistent with the public interest and the national transportation policy subject to the right of the Commission, which is expressly reserved, to impose such conditions as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. 10930.

In the absence of legally sufficient protests as to the finance application *or* the following operating rights applications directly related thereto filed on or before July 31, 1980 (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice by effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

MC 96165 (Sub-15F), filed March 27, 1980. Applicant: T. DEL FARNO TRUCKING CO.—Gateway Elimination, 30 Lockbridge Street, Pawtucket, RI 02860. Representative: Frank J. Weiner, 15 Court Square, Boston, MA 02108. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Road construction and excavating materials* and *road building machinery* the transportation of which because of size and weight requires the use of special equipment (except dry cement, in bulk), between points in Rhode Island on the one hand, and, on the other, Philadelphia, PA, Washington, DC and points in New Jersey and New York. (Gateway eliminated: Points in CT and New York, NY). (2) *Construction and road building machinery, materials, suppliës, and equipment,* the transportation of which because of size or weight requires the use of special equipment (except dry cement, in bulk), between points in Rhode Island, Massachusetts, Maine, New Hampshire, and vermont, on the one hand, and, on the other, Philadelphia, PA, Washington, DC, and points in New Jersey and New York. Restriction: The authority next above is subject to the restriction that no service shall be performed in connection with the stringing or picking up of pipe in connection with oil, gas, or gasoline pipelines. (Gateways eliminated: Boston, MA, New York, NY and points in CT). (3) *Machinery,* and *commodities requiring specialized handling or rigging because of size or weight,* between points in Rhode Island and Massachusetts, on the one hand, and, on the other, Philadelphia, PA, Washington, DC and points in New York, and New Jersey. (Gateways eliminated: Points in CT and NY) and (4) *Machinery,* and *commodities requiring special handling or rigging because of size or weight,* between Philadelphia, PA and Washington, DC and points in New York and New Jersey, on the one hand, and, on the other, points in New York, New Jersey, and Connecticut. (Gateway eliminated: New York, NY.) (Hearing site: Boston, MA, or New York, NY.)

Note.—This application is directly related to a finance proceeding under 49 U.S.C. 11343 in Docket No. MC–F–14357F published in this same Federal Register issue.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-19697 Filed 6-30-80; 8:45 am]

BILLING CODE 7035-01-M

Decision Notice; Correction

In the issue of Monday, June 9, 1980, appearing at page 38451, please make the following corrections:

On page 38455, in the third column, the first full paragraph, first line, add MC–F–14358F, filed March 28, 1980.

On page 38456, in the first column, line 60, the word "points" should be added after "off-route", in MC–F–14358F.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-19694 Filed 6-30-80; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 241; Exemption No. 3–A]

Exemption Under Mandatory Car Service Rules

To: All Railroads: Upon further consideration of Exemption No. 3 issued June 30, 1980.

It is ordered, That, under authority vested in me by Car Service Rule 19, Exemption No. 3, to the Mandatory Car Service Rules ordered in Ex Parte No. 241 be, and it is hereby, vacated.

This amendment shall become effective June 20, 1980.

Issued at Washington, D.C., June 19, 1980.

Interstate Commerce Commission.

Joel E. Burns,

Agent.

[FR Doc. 80-19692 Filed 6-30-80; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 311]

Expedited Procedures for Recovery of Fuel Costs

Decided June 24, 1980.

In our decisions of May 13, 20, and 27, June 3, 10, and 17, 1980, a 13-percent surcharge was authorized on all owner-operator traffic, and on all truckload traffic whether or not owner-operators were employed. We ordered that all owner-operators were to receive compensation at this level.

The weekly figures set forth in the appendix for transportation performed by owner-operators and for truckload traffic is 13.4 percent. Accordingly, we are authorizing that the 13-percent surcharge for this traffic remain in effect. All owner-operators are to

receive compensation at this level. No change is authorized in the 2.3-percent surcharge on less-than-truckload (LTL) traffic performed by carriers not utilizing owner-operators, the 1.3-percent surcharge for United Parcel Service, nor in the 5.0-percent surcharge authorized for the bus carriers.

Notice shall be given to the general public by mailing a copy of this decision to the Governor of each State and to the Public Utilities Commissions or Boards of each State having jurisdiction over transportation, by depositing a copy in the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., for public inspection and by delivering a copy to the Director, Office of the Federal Register for publication therein.

It is ordered: This decision shall become effective Friday, 12:01 a.m. June 27, 1980.

By the Commission, Chairman Gaskins, Vice Chairman Gresham, Commissioners Stafford, Clapp, Trantum, Alexis and Gilliam.

Agatha L. Mergenovich,

Secretary.

APPENDIX—FUEL SURCHARGE

Base date and price per gallon (including tax)

January 1, 1979 ..... 63.5¢

Date of current price measurement and price per gallon (including tax)

June 23, 1980 ..... 113.9¢

	Transportation performed by—			
	Owner-operator[1]	Other[2]	Bus carrier	UPS
	(1)	(2)	(3)	(4)
Average percent: Fuel expenses (including taxes) of total revenue..	16.9	2.9	6.3	3.3
Percent surcharge developed.....	13.4	2.3	5.0	[3]2.1
Percent surcharge allowed	13.0	2.3	5.0	[4]1.3

[1] Apply to all truckload rated traffic.

[2] Including less-than-truckload traffic.

[3] The percentage surcharge developed for UPS is calculated by applying 81 percent of the percentage increase in the current price per gallon over the base price per gallon to the UPS average percent of fuel expense to revenue figure as of January 1, 1979 (3.3 percent).

[4] The developed surcharge figure is reduced 0.8 percent to reflect fuel-related increases already included in UPS rates.

[FR Doc. 80-19695 Filed 6-30-80; 8:45 am]

BILLING CODE 7035-01-M

[No. 15037]

Southwestern Millers' League and Atchison, T. & S. F. Ry. Co.; Reopening To Consider Vacating Rate Prescriptions

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Reopening To Consider Vacating Rate Prescriptions.

SUMMARY: The Interstate Commerce Commission is considering vacating the outstanding order in *Southwestern Millers' League* v. *Atchison T. & S. F. Ry. Co.*, 227 I.C.C. 795 (1938), which involved five other reports over an eleven year period: see also 126 I.C.C. 23 (1927); 173 I.C.C. 86 (1931); 176 I.C.C. 668 (1931); 225 I.C.C. 195 (1937); and 231 I.C.C. 130 (1938). In that decision rates were prescribed on grain, grain products, and grain by-products, in carloads, from Chicago and related gateways to destinations in central territory, on traffic from Minneapolis-Duluth, MN, and Missouri River Cities (including Omaha, NE, and Council Bluffs, IA, South to St. Joseph and Kansas City, MO), and through rates from the Missouri cities. We seek comments on whether the rate prescriptions are still appropriate in light of changed conditions and our recent commission decision in *Transit on Wheat Between Reshipping Point and Destination*, 362 I.C.C. 529 (1980).

COMMENTS: Verified comments must be received on or before August 15, 1980.

ADDRESS: An original and 15 copies of comments should be sent to: Room 5340, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Richard Felder, Telephone: (202) 275-7693.

SUPPLEMENTAL INFORMATION:

In this proceeding, we will consider whether the outstanding rate order in *Southerwestern Millers' League* v. *Atchison, T. & S. F. Ry., Co.*, 227 I.C.C. 795 (1938) should be modified or vacated. That decision prescribed two sets of proportional rates. The purpose of the presciption was to equalize the through rates from the two origin territories to points in the central territory.

In *Transit on Wheat Between Reshipping Point and Destination*, 362 I.C.C. 529 (1980), the railroads petitioned for vacation of our outstanding order in this case as its applies to wheat. Instead, relief was granted from the order. This proceeding is being instituted to review the prescription orders in their entirety.

The grain rate structure has undergone numerous adjustments and changes. In the past, the rates were established without serious consideration to carriers' costs. Since the 1938 prescription, our approach to ratemaking has changed. It now focuses primarily on cost issues. The 1938 prescription may not be consistent with current law concerning discrimination. Equally important, it may not reflect present economic and competitive conditions. We believe present transportation conditions do not warrant prescription of these two scales of rates. This traffic is now subject to intense competition from water and motor carriers. We believe that this forced equalization of rates has acted as a bar to intermodal and intramodal rate competition.

For these reasons, it is time to question whether these rate prescriptions on grain serve any useful purpose.

This action will not significantly affect either the quality of the human environment or conservation of energy resources. However, comments regarding environmental and energy issues, if any, should be included in the statements filed with the Commission.

Authority: 49 U.S.C. Section 10421, 5 U.S.C. Section 553.

Decided: June 19, 1980.

By the Commission, Chairman Gaskins, Vice Chairman Gresham, Commissioners Stafford, Clapp, Trantum, Alexis and Gilliam. Commissioner Stafford concurred in part with a separate expression.

Agatha L. Mergenovich,

Secretary.

Commissioner Stafford, concurring, in part: While I have no objection to a reexamination of the prescriptions in this proceeding, I believe that the Commission must move with caution lest it disturb beneficial marketing arrangements on the grounds of changed conditions. Accordingly, I reserve may right to review the submissions before taking any further action in this matter.

[FR Doc. 80-19690 Filed 6-30-80; 8:45 am]

BILLING CODE 7035-01-M

Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after March 1, 1979, are governed by Special Rule 247 of the Commission's *Rules of Practice* (49 CFR 1100.247). These rules provide, among other things, that a petition for intervention, either in support of or in opposition to the granting of an application, must be filed with the Commission within 30 days after the date notice of the application is published in the **Federal Register.** Protests (such as were allowed to filings prior to March 1, 1979) *will be rejected.* A petition for intervention without leave must comply with Rule 247(k) which requires petitioner to demonstrate that it (1) holds operating authority permitting performance of any of the service which the applicant seeks authority to perform, (2) has the necessary equipment and facilities for performing that service, and (3) has performed service within the scope of the application either (a) for those supporting the application, or, (b) where the service is not limited to the facilities of particular shippers, from and

to, or between, any of the involved points.

Persons unable to intervene under Rule 247(k) may file a petition for leave to intervene under Rule 247(l) setting forth the specific grounds upon which it is made, including a detailed statement of petitioner's interest, the particular facts, matters, and things relied upon, including the extent, if any, to which petitioner (a) has solicited the traffic or business of those supporting the application, or, (b) where the identity of those supporting the application is not included in the published application notice, has solicited traffic or business identical to any part of that sought by applicant within the affected marketplace. The Commission will also consider (a) the nature and extent of the property, financial, or other interest of the petitioner, (b) the effect of the decision which may be rendered upon petitioner's interest, (c) the availability of other means by which the petitioner's interest might be protected, (d) the extent to which petitioner's interest will be represented by other parties, (e) the extent to which petitioner's participation may reasonably be expected to assist in the development of a sound record, and (f) the extent to which participation by the petitioner would broaden the issues or delay the proceeding.

Petitions not in reasonable compliance with the requirements of the rule may be rejected. An original and one copy of the petition to intervene shall be filed with the Commission indicating the specific rule under which the petition to intervene is being filed, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named.

Section 247(f) provides, in part, that an applicant which does not intend to timely prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

If an applicant has introduced rates as an issue it is noted. Upon request, an applicant must provide a copy of the tentative rate schedule to any protestant.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after July 1, 1980.*

Any authority granted may reflect administrative acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

Findings: With the exception of those applications involving duly noted problems (e.gs., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the present and future public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the transportation policy of 49 U.S.C. 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulation. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a petitioner, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. 10101 subject to the right of the Commission, which is expressly reserved, to impose such terms, conditions or limitations as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. 10930(a) [formerly section 210 of the Interstate Commerce Act].

In the absence of legally sufficient petitions for intervention, filed on or before July 31, 1980 (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of the decision-notice. To the extent that the authority sought below may duplicate an applicant's other authority, such duplication shall be construed as conferring only a single operating right.

Applicants must comply with all specific conditions set forth in the following decision-notices on or before July 31, 1980, or the application shall stand denied.

Note.—All applications are for authority to operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, except as otherwise noted.

[Volume No. 187]

Decided: June 9, 1980.

By the Commission, Review Board Number 1, Members Carleton, Joyce and Jones.

MC 16903 (Sub-81F), filed March 19, 1980. Applicant: MOON FREIGHT LINES, INC., P.O. Box 1275, Bloomington, IN 47401. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. Transporting (1) *plastic articles and polystyrene products*, and (2) *materials, equipment and supplies* used in the manufacture, packaging, installation, and distribution of the commodities in (1) above, between the facilities of U. C. Industries at (a) Tallmadge, OH, and (b) Rockford, IL, on the one hand, and, on the other, points in the U.S. in and east of ND, SD, NE, KS, OK, and TX. (Hearing site: Chicago, IL.)

MC 71593 (Sub-67F), filed April 10, 1980. Applicant: FORWARDERS TRANSPORT, INC., 1608 E. Second Street, Scotch Plains, NJ 07076. Representative: David W. Swenson (same address as applicant). Transporting (1) *sound recordings and sound recording blanks* and (2) *materials, equipment and supplies* used in the development, manufacture, distribution and promotion of the commodities in (1) above, between points in the United States (excluding AK and HI), restricted to traffic originating at or destined to the facilities of Warnver/Elektra/Atlantic, Inc. and its affiliates. (Hearing site: Newark, NJ or New York, NY.)

MC 82492 (Sub-254F), filed February 20, 1980, published in the **Federal Register** issue of April 22, 1980, and republished, as corrected, this issue. Applicant: MICHIGAN & NEBRASKA TRANSIT CO., INC., 2109 Olmstead Rd., P.O. Box 2853, Kalamazoo, MI 49003. Representative: Neil E. Hannan (same address as applicant). Transporting *sodium bicarbonate*, in bags, from the facilities of Church & Dwight Co., Inc., in Seneca and Sandusky Counties, OH, to points in IL, IN, IA, KY, KS, MI, MN, MO, NE, ND, SD, TN, and WI, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Chicago, IL or New York, NY.) The purpose of this republication is to show the origin territory as "Seneca and Sandusky Counties, OH," in lieu of "Old Fort, OH".

MC 107012 (Sub-500F), filed February 13, 1980. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same address as applicant).

Transporting *cot frames, couch frames, lounge frames, and sofa bed frames,* from the facilities of Simmons, U.S.A., at or near Elizabeth, NJ, to Columbus, OH. (Hearing site: Elizabeth, NJ, or Washington, DC.)

MC 107012 (Sub-526F), filed March 25, 1980. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same address as applicant). Transporting (1) *such commodities* as are used by hospitals and (2) *parts and materials* used in the manufacture of the commodities in (1) above, between points in the United States, restricted to traffic originating at or destined to the facilities of American Convertors, a Division of American Hospital Supply Corporation. (Hearing site: El Paso or Houston, TX.)

MC 107403 (Sub-1328F), filed March 28, 1980. Applicant: MATLACK, INC., Ten West Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same address as applicant). Transporting (1)(a) *petroleum and petroleum products* and (b) *chemicals* (except those in (a) above) in bulk, in tank vehicles, from points in GA to points in the U.S. (except AK and HI) and (2) *liquid chemicals,* in bulk, in tank vehicles, from Greensboro, NC to points in GA, TN, AL and SC. (Hearing site: Washington, DC.)

MC 114273 (Sub-582F) (Correction), filed March 29, 1979, published in the Federal Register, issue of July 9, 1979, and republished as corrected, this issue. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). Transporting *meat, meat products, and meat byproducts, and articles distributed by meat-packing houses, and such commodities as are used by meat packers in the conduct of their business* when destined to and for use by meat packers, as described in sections A, C, and D of Appendix I to the report in *Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766* (except commodities in bulk), in tank vehicles), between the facilities of Lauridsen Foods, Inc., at or near Britt, IA, on the one hand, and, on the other, points in CT, DE, IL, IN, KS, ME, MD, MA, MI, MN, MO, NE, NH, NJ, NY, OH, PA, RI, VT, VA, WI, and DC, restricted to the transportation of traffic originating at or destined to the named points. (Hearing site: Chicago, IL, or Washington, DC.)

Note.—The purpose of this republication is to add the commodity description of Section D, previous omitted.

MC 115162 (Sub-508F), filed October 4, 1979. Applicant: POOLE TRUCK LINE, INC., P.O. Drawer 500, Evergreen, AL 36401. Representative: Robert E. Tate (same address as applicant). Transporting (1) *building materials,* from Mobile and Montgomery, AL, to those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX; and (2) *materials, equipment, and supplies* used in the manufacture and distribution of building materials (except commodities in bulk, in tank vehicles), in the reverse direction. (Hearing site: Montgomery, AL, or Atlanta, GA.)

MC 116763 (Sub-574F), (Correction) filed August 21, 1979, published in the Federal Register, issue of March 5, 1980, and republished, as corrected, this issue. Applicant: CARL SUBLER TRUCKING, INC., North West St., Versailles, OH 45380. Representative: Gary J. Jira (same address as applicant). Transporting (1) *printed matter,* and (2) *such commodities* as are used in the manufacture and distribution of printed matter (except commodities in bulk, in tank vehicles), between the facilities used by W. F. Hall Printing Company, at (a) Chicago, IL, (b) Dresden, TN, (c) Corinth, MS, and (d) Evans, GA, on the one hand, and, on the other, points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the named facilities. (Hearing site: Chicago, IL.) The purpose of this republication is to correct the territorial description in relation to the location of the facilities.

MC 121683 (Sub-8F), filed October 5, 1979. Applicant: JACKSON EXPRESS, INC., 12 Conalco Drive, Jackson, TN 37203. Representative: H. Neil Garson, 3251 Old Lee Highway, Suite 400, Fairfax, VA 22030. Classes over regular routes, transporting *general commodities* (except A and B explosives, commodities in bulk, household goods as defined by the Commission, and those requiring special equipment), (1) Between Nashville, TN, and Memphis, TN, over Interstate Hwy 40 serving the intermediate point of Jackson, TN, and serving all other points in Madison County, TN, as off route points; Restriction: The operations authorized above are subject to the following conditions: Service at that part of Memphis and its Commercial Zone lying in TN is restricted against handling of traffic originating at, destined to, or interchanged at Nashville, TN, and points in its Commercial Zone as defined by the Commission. (2) Between Jackson, TN, and Selmer, TN, over U.S. Hwy 45, serving all intermediate points, (3) Between Jackson, TN, and Milan, TN, From Jackson over U.S. Hwy 45 to its junction with U.S. Hwy 45–E, then over U.S. Hwy 45–E to Milan, and return over the same route, serving all intermediate points. Restriction: The operations authorized above are subject to the following conditions: Service at Milan is restricted against the handling of traffic originating at, destined to or interchanged at Memphis, TN, and points in its commercial zone. (4) Between Jackson, TN, and Tupelo, MS, and over U.S. Hwy 45, serving all intermediate points and serving off-route points in Alcorn, Itawamba, Lee, Prentiss and Tishomingo Counties, MS and points in Alabama located within ten (10) miles of Itawamba and Tishomingo Counties, MS. (5) Between Memphis, TN, and Iuka, MS, over U.S. Hwy 72, serving the intermediate point of Corinth, MS, and serving off-route points in Alcorn, Itawamba, Lee, Prentiss and Tishomingo Counties, MS and points in Alabama located within ten (10) miles of Itawamba and Tishomingo Counties, MS. (6) Between Memphis, TN, and Hamilton, AL, over U.S. Hwy 78, serving the intermediate point of Tupelo, MS and serving off-route points in Alcorn, Itawamba, Lee, Prentiss and Tishomingo Counties, MS, and Marion County, AL, and other points in AL located within ten (10) miles of Itawamba and Tishomingo Counties, MS. (7) Between Nashville, TN and Tupelo, MS, From Nashville over Interstate Hwy 40 to its junction with U.S. Hwy 45, then via U.S. Hwy 45 to Tupelo and return over the same route, serving off-route points in Alcorn, Itawamba, Lee, Prentiss and Tishomingo Counties, MS, and points in Alabama located within ten (10) miles of Itawamba and Tishomingo Counties, MS. (8) Alternate Route Authority for Operating Convenience only between the following points and over the following routes, with authority to join the following alternate route at all common points: (a) Between Whiteville, TN, and Nashville, TN, over TN Hwy 100. (b) Between Selmer, TN, and Memphis, TN, over U.S. Hwy 64. (c) Between Parson, TN, and Jackson, TN, over TN Hwy 20. (d) Between the Intersection of Interstate Hwy 40 and TN Hwy 22, and Jacks Creek, TN, over TN Hwy 22 to its junction with TN Hwy 22A thence over TN Hwy 22A to Jacks Creek and return over the same route, and (e) Between Jackson, TN and Bolivar, TN, and over TN Hwy 18.

MC 124673 (Sub-52F), filed March 14, 1980. Applicant: FEED TRANSPORTS, INC., P.O. Box 2167, Amarillo, TX 79105. Representative: Thomas F. Sedberry, P.O. Box 2165, Austin, TX 78768. Transporting *meats, meat products and meat byproducts, articles distributed by*

meat-packing houses, and such commodities as are used by meat packers in the conduct of their business when destined to and for use by meat packers, as described in sections A, C, and D of Appendix I to the report in *Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766,* (except commodities in bulk), (1) from the facilities of National Beef Packing Co., at or near Liberal, KS, to points in the U.S. (except AK and HI), and (2) in the reverse direction, restricted to traffic originating at or destined to the above facilities. (Hearing site: Dallas, TX.)

MC 127042 (Sub-295F), filed March 24, 1980. Applicant: HAGEN, INC., P.O. Box 98-Leeds Station, Sioux City, IA 51108. Representative: Joseph B. Davis (same address as applicant). Transporting *meats, meat products, and meat byproducts, and articles distributed by meat-packing houses,* as described in Section A and C of Appendix I to the report in *Description in Motor Carrier Certificates, 61 M.C.C. 209 and 766* (except hides and commodites in bulk), from the facilities of Vernon Calhoun Packing Company, at or near Palestine, TX to points in CO, IL, IN, IA, KS, MN, MO, NE, and WI. (Hearing site: Dallas, TX.)

MC 138493 (Sub-3F), filed August 17, 1979, published in the **Federal Register** issue of February 28, 1980, and republished, as corrected, this issue. Applicant: JAKUM TRUCKING, INC., R.R. 2, Miley Rd., Sheboygan Falls, WI 53085. Representative: Michael J. Wyngaard, 150 East Gilman St., Madison, WI 53703. *Contract carrier* transporting *foodstuffs,* from points in IL, IA, MN, and WI, to the facilities of Crescent Food Company, at or near Hayward, CA, under continuing contract(s) with Crescent Food Company, at Hayward, CA. (Hearing site: Madison or Milwaukee, WI.) The purpose of this republication is to correct the territorial description.

MC 138882 (Sub-320F) (Correction) filed October 31, 1979, published in the **Federal Register,** issue of March 25, 1980, and republished, as corrected, this issue. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Drawer 707, Troy, AL 36081. Representative: John J. Dykema (same address as applicant). Transporting (1) *furniture, furniture parts, components, and accessories* for furniture and furniture parts, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, between the facilities of Leggett Platt Incorporated in the U.S. and its subsidiaries, on the one hand, and, on the other, points in the U.S. (except AK and HI), restricted in (1) and (2) above to the transportation of commodities in bulk, in tank vehicles, and commodities which because of size or weight, require the use of special equipment, and further restricted to traffic originating at or destined to the named shipper facilities and its subsidiaries. (Hearing sites: Joplin, MO or Birmingham, AL). The purpose of this republication is to correct the territory description by adding "its subsidiaries".

MC 140563 (Sub-46F), filed October 4, 1979. Applicant: W. T. MYLES TRANSPORTATION CO., a corporation, P.O. Box 321, Conley, GA 30027. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. Transporting *paper and paper products,* from St. Marys, GA, to those points in the US in and east of ND, SD, NE, KS, OK and TX. (Hearing site: Atlanta, GA.)

Note.—Dual operations may be involved.

MC 146402 (Sub-16F), filed March 28, 1980. Applicant: CONALCO CONTRACT CARRIER, INC., P.O. Box 968, Jackson, TN 38301. Representative: Charles W. Teske (address same as applicant). Transporting (1) *Paper and Paper Articles, Wood Pulp, Plastic and Plastic Products,* and (2) *Equipment, Materials* and *Supplies* used in the manufacture and distribution of the products in (1) above (except commodities in bulk in tank vehicles), between points in the United States (except AK and HI), restricted to traffic originating at or destined to facilities utilized by Georgia-Pacific Corporation or its wholly-owned subsidiaries. (Hearing site: Washington, DC.)

Note.—Dual operations may be involved.

MC 147752 (Sub-2F), filed March 10, 1980. Applicant: SIKORA & WILSON, INC., d.b.a. EAST-WEST EXPRESS, 7900 North Frontage Rd., Hinsdale, IL 60521. Representative: Robert J. Gill, First Commercial Bank Bldg., 410 Cortez Rd. West, Suite 406, Bradenton, FL 33507. *Contract carrier,* transporting (1)(a) *adhesives, cement compounds, caulking compounds, cleaning and polishing compounds,* and (b) *solutions, emulsions, latex solutions, mastic material, sealing primer, and solvents,* (except in bulk) and (2) *equipment, accessories, supplies and tools* used in the application of the commodities in (1) above (except in bulk), from the facilities of Durabond Products Company (a subsidiary of United States Gypsum Company) at or near Chicago, Des Plaines, Elk Grove Village, and Rosemont, IL, to points in AL, FL, GA, NC, and SC, under continuing contract(s) with Durabond Products Company, of Rosemont, IL. (Hearing site: Chicago, IL.)

Note.—Dual operations may be involved.

MC 148353 (Sub-2F), filed November 23, 1979, published in the **Federal Register** issue of April 10, 1980, and republished, as corrected, this issue. Applicant: PORTER LINES, INCORPORATED, 609 W. Rillito St., Tucson, AZ 85705. Representative: Milton W. Flack, 8383 Wilshire Blvd., Suite 900, Beverly Hills, CA 90211. Transporting (1)(a) *chemicals* except those described in (b), and (b) *epoxy compounds, liquid plastic materials, ink materials, and paint thinning compounds* (except commodities in bulk), in vehicles equipped with mechanical refrigeration; and (2) *cable splicing kits,* in mixed loads with commodities in (1) above, from the facilities of Hysol Division, The Dexter Corporation at Olean, NY, to Lees Summit and Kansas City, MO, points in Los Angeles Harbor and City of Industry, CA. (Hearing site: Los Angeles, CA.) The purpose of this republication is to correct the commodity and territorial descriptions.

Note.—Dual operations may be involved.

MC 149052 (Sub-1F), filed January 18, 1980. Applicant: FIRST FLIGHT AIR CHARTER, INC., 28478 Highland Road, P.O. Box 371, Romulus, MI 48174. Representative: Timothy R. Sinclair, Roseville Theatre Building, P.O. Box 285, Roseville, MI 48066. Over *regular routes,* transporting *general commodities* (except commodities in bulk, classes A and B explosives, and household goods, as defined by the Commission) between Detroit Metropolitan Airport at Detroit, MI, and Willow Run Airport at Ypsilanti, MI, and O'Hare International Airport and Midway Airport, at Chicago, IL: from Detroit Metropolitan Airport, and Willow Run Airport over Interstate Hwy 94 to junction Interstate Hwy 80/94, then over Interstate Hwy 80/94 to junction Interstate Hwy 294, then along Interstate Hwy 294 to O'Hare International Airport and Midway Airport, and return over the same routes, serving no intermediate points. (Hearing site: Detroit MI or Chicago, IL.)

MC 150332F, filed February 27, 1980. Applicant: SUNBURY TRANSPORT LTD., P.O. Box 3217, Station "B", Cliff Street, Fredericton, New Brunswick, Canada E3A 5G9. Representative: Fritz R. Kahn, Suite 1100, 1660 L St., NW, Washington, D.C. 20036. *Contract carrier,* in foreign commerce only, transporting *woodpulp* from the ports of entry on the International boundary line between US and Canada, at or near Calais, Houlton, Vanceboro, Fort Kent, Jackman and Madawska, ME, Beecher

Falls, NH, Derby Line, Norton, Richford and Swanton, VT, on the one hand, and, on the other, to points in ME, NH, Derby Line, Norton, Richford and Swanton, VT, on the one hand, and, on the other, to points in ME, NH, VT, MA, RI, CT, NY and NJ, under continuing contract(s) with Irving Pulp and Paper Limited of St. John, New Brunswick, Canada. (Hearing site: Boston, MA or Washington, DC.)

Note.—Dual operations may be involved.

MC 150353F, filed March 17, 1980. Applicant: KOPAK, INC., d.b.a. K CARTAGE, 4320 NW 72nd Ave., Miami, FL 33166. Representative: Gerard J. Donovan, 4791 SW 82nd Ave., Davie, FL 33328. Transporting *general commodities* (except commodities in bulk, classes A and B explosives, household goods, as defined by the Commission), between Miami, Port Everglades, and Palm Beach, FL, on the one hand, and, on the other points in Dade, Broward and Palm Beach Counties, FL, restricted to traffic having a prior or subsequent movement by air or water. (Hearing site: Miami, FL.)

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Decided: June 16, 1980.

By the Commission, Review Board Number 3, Members Parker, Fortier and Hill.

MC 10183 (Sub-8F), filed May 27, 1980. Applicant: GETZINGER TRUCKING, INC., Morton Avenue, Rosenhayn, NJ 08352. Representative: James W. Patterson, Esquire, 1200 Western Savings Bank Bldg., Philadelphia, PA 19107 Contract carrier, transporting *meats, meat products, meat-products, and articles distributed by and commodities used by meat packing houses* (except commodities in bulk, hides, animal feed and animal feed ingredients), in vehicles equipped with mechanical refrigeration, between points in Lancaster County, NE, on the one hand, and, on the other points in DC, DE, MD, NJ, NY, PA, VA, and WV, restricted to traffic originating at or destined to the facilities of Acme Markets, Inc., or its subsidiary, American Stores Packing Company, under continuing contract(s) with Acme Markets, Inc., and American Stores Packing Company. (Hearing site: Philadelphia, PA.)

MC 59292 (Sub-39F), filed May 1, 1980. Applicant: THE MARYLAND TRANSPORTATION CO., INC., 1111 Frankfurst Ave., Baltimore, MD 21225. Representative: Charles J. Braun, Jr. (same address as applicant). *Polystyrene plastic pellets, in bulk, in containers,* from Kobuta, PA, to Baltimore, MD. (Hearing site: New York, NY, or Philadelphia, PA.)

MC 61403 (Sub-287F), filed May 23, 1980. Applicant: THE MASON AND DIXON TANK LINES, INC., P.O. Box 969, Kingsport, TN 37662. Representative: W. C. Mitchell, Suite 1201, 370 Lexington Avenue, New York, NY 10017. Transporting *chemicals,* in bulk, in tank vehicles from facilities of Chemetics Systems, Inc., at or near Monticello, AR, to points in the U.S. (except AK and HI). (Hearing site: Dallas, TX.)

MC 61403 (Sub-288F), filed May 23, 1980. Applicant: THE MASON AND DIXON TANK LINES, INC., P.O. Box 969, Kingsport, TN 37662. Representative: W. C. Mitchell, Suite 1201, 370 Lexington Avenue, New York, NY 10017. Transporting *liquid chemicals,* in bulk in tank vehicles, from Neville Chemical, Neville Island, PA, to points in New Jersey, New York, Massachusetts, Illinois, Michigan, Wisconsin, Florida, Ohio and West Virginia. (Hearing site: Pittsburgh, PA.)

MC 61403 (Sub-289F), filed May 27, 1980. Applicant: THE MASON AND DIXON TANK LINES, INC., P.O. Box 969, Kingsport, TN 37662. Representative: W. C. Mitchell, Suite 1201, 370 Lexington Avenue, New York, NY 10017. Transporting *chemicals,* in bulk, in tank vehicles, between those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX. (Hearing site: Pittsburgh, PA.)

MC 61403 (Sub-291F), filed May 27, 1980. Applicant: THE MASON AND DIXON TANK LINES, INC., P.O. Box 969, Kingsport, TN 37662. Representative: W. C. Mitchell, Suite 1201, 370 Lexington Avenue, New York, NY 10017. Transporting (1) *liquid Chemicals,* in bulk, in tank vehicles, from the facilities of Mooney Chemical, Inc., at Franklin, PA, to points in CT, NJ, MI, IL, IN and MO, and (2) *lubricating Oils,* in bulk, in tank vehicles, from Paulsboro, NJ, to the facilities of Mooney Chemical, Inc., at Franklin, PA. (Hearing site: Pittsburgh, PA.)

MC 71593 (Sub-71F), filed May 15, 1980. Applicant: FORWARDERS TRANSPORT, INC., 1608 E. Second Street, Scotch Plains, NJ 07076. Representative: David W. Swenson (same address as applicant). Transporting *such commodities as are manufactured, processed, distributed or dealt in by manufacturers of dry soup ingredients* between the facilities of Nissin Food (USA) Co., Inc., at Lancaster, PA, to points in GA, FL. (Hearing site: Newark, NJ, New York, NY.)

MC 71593 (Sub-72F), filed May 23, 1980. Applicant: FORWARDERS TRANSPORT, INC., 1608 E. Second Street, Scotch Plains, NJ 07076. Representative: David W. Swenson (same address as applicant). Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment) between all points in the U.S. (excluding AK and HI) restricted to traffic moving on bills of lading of ABC Trans-National Transport, Inc., and Acme Fast Freight, Inc.

MC 87103 (Sub-63F), filed May 23, 1980. Applicant: MILLER TRANSFER AND RIGGING CO., P.O. Box 322, Cuyahoga Falls, OH 44222. Representative: Edward P. Bocko (same address as applicant). Transporting (1) *Metal heat treating and melting furnaces* and *parts* for the foregoing commodities and (2) *equipment, materials and supplies* used or useful in the manufacture, production or distribution of the commodities named in (1) above, between the facilities of Lectromelt Corporation at Pittsburgh, PA, on the one hand, and, on the other, points in the U.S. (except AK and HI) restricted to the transportation of traffic originating at or destined to the named facilities. (Hearing site: Philadelphia, PA or Washington, DC.)

Note.—Dual operations may be involved.

MC 87103 (Sub-64F), filed May 23, 1980. Applicant: MILLER TRANSFER AND RIGGING CO., P.O. Box 322, Cuyahoga Falls, OH 44222. Representative: Edward P. Bocko (same address as applicant). Transporting (1) *Injection molding machines* for plastic and rubber and (2) *parts and attachments* for the commodities in (1) above and (3) *equipment, materials and supplies* used or useful in the manufacture, production or distribution of the commodities in (1) and (2) above (except commodities in bulk) between the facilities of the Van Dorn Company at Cleveland and Strongsville, OH on the one hand, and, on the other, points in the U.S. (except AK and HI) restricted to the transportation of traffic originating at or destined to the named facilities. (Hearing site: Cleveland, OH, or Washington, DC).

Note.—Dual operations may be involved.

MC 87103 (Sub-65F), filed May 23, 1980. Applicant: MILLER TRANSFER AND RIGGING CO., P.O. Box 322, Cuyahoga Falls, OH 44222. Representative: Edward P. Bocko (same address as applicant). Transporting (1) *Annealing boxes* and *annealing box covers,* (2) *Fabricated iron and steel articles* and (3) *equipment, materials*

and *supplies* used or useful in the manufacture, production or distribution of the commodities named in (1) and (2) above (except commodities in bulk) between the facilities of Pittsburgh Annealing Box Company at Pittsburgh, PA on the one hand, and, on the other, points in the U.S. (except AK and HI) restricted to the transportation of traffic originating at or destined to the named facilities. (Hearing site: Philadelphia, PA or Washington, DC).

Note.—Dual operations may be involved.

MC 87103 (Sub-66F), filed May 27, 1980. Applicant: MILLER TRANSFER AND RIGGING CO., P.O. Box 322, Cuyahoga Falls, OH 44222. Representative: Edward P. Bocko (same address as applicant). Transporting: (1) *air pollution control equipment*, (2) *tanks*, (3) *fabricated iron and steel articles*, (4) *iron and steel articles*, (5) *structural steel plate* and (6) *equipment, materials and supplies* used or useful in the manufacture, production or distribution of the commodities named in (1) through (5) above (except commodities in bulk) between the facilities of Nadine Corporation at Verona, PA on the one hand, and, on the other, points in the U.S. (except AK and HI), restricted to the transportation of traffic originating at or destined to the named facilities.) (Hearing site: Philadelphia, PA, or Washington, DC.)

Note.—Dual operations may be involved.

MC 107012 (Sub-530F), filed May 5, 1980. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Highway 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: Bruce W. Boyarko (same address as applicant). Transporting: (1) *wood pulp, paper*, and *paper products* and (2) *products* used in the manufacturing, packaging, and distribution of the commodities listed in (1) above (except liquid commodities in bulk in tank vehicles), between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities of the Georgia-Pacific Corporation. (Hearing site: Little Rock, AR or Washington, DC.)

Note.—Common control may be involved.

MC 107012 (Sub-531F), filed May 5, 1980. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Highway 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same address as applicant). Transporting *electronic bug killers* and *parts and accessories for electronic bug killers*, from the facilities of Armatron International, Inc., at or near Melrose, MA, to points in the U.S. in and east of ND, SD, NE, CO, OK and TX. (Hearing site: Boston, MA or Washington, DC.)

Note.—Common control may be involved.

MC 107012 (Sub-532F), filed May 5, 1980. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Highway 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same address as applicant). Transporting *new furniture*, from the facilities of Hooker Furniture Corporation at or near Martinsville, VA, to points in FL, IA, LA, MN, ND and SD. (Hearing site: Philadelphia, PA or Washington, DC.)

Note.—Common control may be involved.

MC 108453 (Sub-37F), filed May 28, 1980. Applicant: G & A TRUCK LINE, INC., 404 West Peck Ave., White Pigeon, MI 49099. Representative: Edward Malinzak, 900 Old Kent Bldg., Grand Rapids, MI 49503. Contract carrier, transporting *paper mill products and supplies* (except in bulk) used in the manufacture and distribution of paper mill products, between the facilities of Spartan Paperboard, Inc., at or near Kalamazoo, MI, and points in IN, IL, OH, WI, NY, KY, MO and IA, under continuing contracts with Spartan Paperboard, Inc., of Three Rivers, MI. (Hearing site: Lansing, MI, or Chicago, IL.)

MC 113362 (Sub-389F), filed May 5, 1980. Applicant: ELLSWORTH FREIGHT LINES, INC., 310 East Broadway, Eagle Grove, IA 50533. Representative: Milton D. Adams, P.O. Box 429, Austin, MN 55912. Transporting *Petroleum and Petroleum Products, Vehicle Body Sealer, and Sound Deadening Compounds, (except in bulk), and filters*, from the facilities of Pennzoil Company at Maryland Heights, MO, to points in AR, LA, MS, OK, TN, and TX. (Hearing site: Pittsburgh, PA or Washington, D.C.)

MC 113362 (Sub-391F), filed May 13, 1980. Applicant: ELLSWORTH FREIGHT LINES, INC., 310 East Broadway, Eagle Grove, IA 50533. Representative: Milton D. Adams, P.O. Box 429, Austin, MN 55912. (a) *Feed and feed ingredients, and equipment, materials, and supplies used in the manufacture of feed (except in bulk)*, between Eagle Grove, IA, on the one hand, and, on the other, points in AR, OK, TX, LA, MS, TN, AL, GA, NC, SC, and FL. (Hearing site: Des Moines, IA, or Minneapolis, MN.)

MC 114273 (Sub-744F), filed May 28, 1980. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). Transporting: *televisions, stereos*, and *appliances*, from points in VA to points in CO, IA, IL, IN, KS, MI, MO, NE, OH, PA, and TX. (Hearing site: Chicago, IL, or Washington, DC.)

Note.—Common control may be involved.

MC 115162 (Sub-529F), filed May 12, 1980. Applicant: POOLE TRUCK LINE, INC., P.O. Drawer 500, Evergreen, AL 36401. Representative: Robert E. Tate (same address as applicant). Transporting: *(1) stoves and stove parts*, from points in Henderson County, NC, to points in the U.S. in and east of ND, SD, NE, KS, OK, and TX; and *(2) materials, equipment and supplies used in the manufacture, sale and distribution of stoves and stove parts* (except commodities in bulk, in tank vehicles), in the reverse direction. (Hearing site: Atlanta, GA or Washington, DC.)

MC 115413 (Sub-4F), filed May 28, 1980. Applicant: BLISSFIELD TRUCK LINE, INC., P.O. Box 245, Archbold, OH 43502. Representative: Paul F. Beery, Beery & Spurlock Co., L.P.A., 275 East State St., Columbus, OH 43215. Transporting *new furniture, furniture parts*, and *materials, equipment* and *supplies* used in the manufacture of new furniture (except commodities in bulk) between Archbold, OH, and GA, IL, IN, KY, MI, PA, TN, and St. Louis, MO. (Hearing site: Columbus, OH.)

MC 115413 (Sub-5F), filed May 28, 1980. Applicant: BLISSFIELD TRUCK LINE, INC., P.O. Box 245, Archbold, OH 43502. Representative: Paul F. Beery, Beery & Spurlock Co., L.P.A., 275 E. State St., Columbus, OH 43215. Transporting (1) *ramps, stands, scaffolding;* (2) *accessories and supplies* for the commodities in (1) and (3) *equipment, materials* and *supplies* used in the manufacture or distribution of the commodities in (1) and (2) above (except commodities in bulk) between Erin, TN, and Archbold, OH, on the one hand, and, on the other, points in the U.S. in and east of ND, SD, NE, KS, OK, and TX. (Hearing site: Columbus, OH.)

MC 116763 (Sub-666F), filed May 28, 1980. Applicant: CARL SUBLER TRUCKING, INC., North West Street, Versailles, OH, 45380. Representative: Gary J. Jira (same as applicant). Transporting *general commodities* (except commodities in bulk, in tank vehicles, used household furniture, commodities the transportation of which because of size or weight require the use of special equipment, automobiles, trucks and buses as described in the Report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766, and explosives), between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities utilized by Purex Corporation. (Hearing site: Los Angeles, CA.)

MC 116763 (Sub-667F), filed May 28, 1980. Applicant: CARL SUBLER

TRUCKING, INC., North West Street, Versailles, OH 45380. Representative: Gary J. Jira (same address as applicant). Transporting *foodstuffs* (except commodities in bulk, in tank vehicles), from the facilities of General Foods Corporation at Evansville, IN, to points in the United States in and east of ND, SD, NE, CO, OK and TX, restricted to traffic originating at the named origin and destined to points in the named destination States. (Hearing site: New York City, NY.)

MC 116763 (Sub-668F), filed May 28, 1980. Applicant: CARL SUBLER TRUCKING, INC., North West Street, Versailles, OH 45380. Representative: Gary J. Jira (same address as applicant). Transporting (1) *paper, paper articles and printed materials and (2) such commodities (except commodities in bulk) as are used in the manufacturing, distribution and sale of the commodities in (1) above* between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities utilized by Beveridge Paper Co., a subsidiary of Simkins Industries, Inc. (Hearing site: Indianapolis, IN.)

MC 119493 (Sub-384F), filed May 27, 1980. Applicant: MONKEM COMPANY, INC., P.O. Box 1196, Joplin, MO 64801. Representative: Thomas D. Boone (same address as applicant). Transporting *refractories, refractory products, insulation, insulating materials,* and *equipment, and supplies* used in the manufacture, distribution, and installation of the foregoing commodities (except commodities in bulk), between the facilties of Kaiser Refractories, Inc., at Mexico, MO, on the one hand, and, on the other, points in the U.S. (except AK and HI). (Hearing site: St. Louis or Kansas City, MO.)

MC 123993 (Sub-77F), filed May 23, 1980. Applicant: FOGLEMAN TRUCK LINE, INC., P.O. Box 1504, Crowley, LA, 70526. Representative: Austin L. Hatchell, 801 Vaughn Bldg., Austin, TX 78701. Transporting (1) non-alcoholic beverages (except in bulk); and (2) materials, equipment and supplies used in the manufacture, sale and distribution of the commodities named in (1) above (except in bulk), between Winnsboro, LA, on the one hand, and, on the other, points in AL, AR, FL, GA, LA, MS, TN and TX. (Hearing site: New Orleans or Baton Rouge, LA.)

MC 123993 (Sub-78F), filed May 23, 1980. Applicant: FOGLEMAN TRUCK LINE, INC., P.O. Box 1504, Crowley, LA 70526. Representative: Austin L. Hatchell, 801 Vaughn Bldg., Austin, TX 78701. Transporting (1) *poultry and animal feed* (except in bulk), and (2) *mineral vitamin mixtures* for poultry or animal feeding (except in bulk), between the facilities of Evergreen Mills, Inc., at Ada, OK, on the one hand, and, on the other, points in AR, LA, and TX. (Hearing site: Dallas, TX or Oklahoma City, OK.)

MC 125433 (Sub-419F), filed May 23, 1980. Applicant: F-B TRUCK LINE COMPANY, 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same address as applicant). Transporting *such commodities as are dealt in* by the General Electric Company Housewares and Audio Business Division, between the facilities utilized by the General Electric Company Housewares and Audio Business Division, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Chicago, IL.)

MC 126822 (Sub-89F), filed May 1, 1980. Applicant: WESTPORT TRUCKING COMPANY, 15580 South 169 Highway, Olathe, Kansas 66061. Representative: John T. Pruitt (same address as applicant). *(1) Toilet preparations, household and industrial cleaning articles, insect repellents, grooming aids, food products, clothes hangers, medicated sprays, and promotional materials, and (2) materials, supplies and machinery used in the manufacture and distribution of commodities in (1) above* between points in CT, IL, MA, MO, NY, NJ, PA, OH, and VT on the one hand, and the facilities of the Fuller Brush Company, at or near Great Bend, KS on the other. (Hearing site: Kansas City, Mo.)

MC 129282 (Sub-55F), filed May 2, 1980. Applicant: BERRY TRANSPORTATION, INC., P.O. Box 2147, Longview, TX 75606. Representative: Fred S. Berry (same address as applicant). Transporting *paper and plastic articles and materials,* and *supplies* used in the manfacture and distribution of the foregoing commodities (except commodities in bulk) between points in TX and points in AL, AR, OK, LA and MS. (Hearing site: Dallas or Ft. Worth, TX.)

MC 135982 (Sub-31F), filed May 2, 1980. Applicant: S. L. HARRIS, d.b.a. PBI, 1711 Lake Harris Rd., White Oak, TX, 75693. Representative: Lawrence A. Winkle, P.O. Box 45538, Dallas TX 75245. Transporting (1) *malt beverages, and* (2) *metal cans,* (1) from Longview, TX, and Memphis, TN, to point in LA, MS, NM, TX, AR, MO, OK, AL, GA, FL, NC, SC, and KY, and (2) From Longview, TX, to Tampa, FL, and Los Angeles, CA. (Hearing site: Dallas, TX.)

Note.—Dual Operations may be involved.

MC 136713 (Sub-20F), filed May 27, 1980. Applicant: AERO LIQUID TRANSIT, INC., 1717 Four Mile Road N.E., Grand Rapids, MI 49505. Representative: Daniel J. Kozera, Jr., The McKay Tower, Suite 2-A, Grand Rapids, MI 49503. Transporting: *anhydrous ammonia, in bulk, in tank vehicles,* from Port Huron, MI, to points in IN and OH. (Hearing site: Lansing or Detroit, MI or Chicago, IL.)

Note.—Dual operations are involved.

MC 138782 (Sub-4F), filed May 2, 1980. Applicant: KY. T.O.F.C. DELIVERY SERVICE, INC., P.O. Box 30, Princeton, KY 42445. Representative: William L. Willis, 708 McClure Building, Frankfort, KY 40601. Transporting *general commodities (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment)* between Paris, TN on the one hand, and, on the other, points in Ballard, Calloway, Carlisle, Fulton, Graves, Hickman, McCracken and Marshall Counties, KY, restricted to traffic having an immediately prior or subsequent movement by rail. (Hearing site: Paducah or Mayfield, KY.)

MC 139482 (Sub-177F), filed May 5, 1980. Applicant: NEW ULM FREIGHT LINES, INC., Post Office Box 877, New Ulm, MN 56073. Representative: Samuel Rubenstein, Post Office Box 5, Minneapolis, MN 55440. Transporting: *charcoal and charcoal briquets, and materials, equipment and supplies* used in the manufacture of the foregoing commodities, (1) from Scotia, NY, to points in CT, ME, MA, NH, NJ, PA, RI, VT and DE, and (2) from Dickinson, ND, to points in AZ, CA, CO, NM, TX and UT. (Hearing site: Atlanta, GA, or Minneapolis, MN.)

MC 139482 (Sub-178F), filed May 12, 1980. Applicant: NEW ULM FREIGHT LINES, INC., P.O. Box 877, New Ulm, MN 56073. Representative: Barry M. Bloedel (same address as applicant). Transporting *dry fertilizer compound, dry ice melting compound, and vermiculite,* from the facilities of Koos, Inc. at or near Kenosha, WI to points in the U.S. (except AK and HI). (Hearing site: Milwaukee, WI; St. Paul, MN.)

MC 141443 (Sub-62F), filed May 27, 1980. Applicant: JOHN LONG TRUCKING, INC., 1030 East Denton, Sapulpa, OK 74066. Representative: Wilburn L. Williamson, Suite 615-East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. Transporting *canned and preserved foodstuffs,* from the facilities of Heinz USA at or near Grand Prairie, TX, to points in AR, LA, NM and OK, restricted

to traffic originating at the named origins and destined to the named States. (Hearing site: Dallas, TX.)

Note.—Dual operations may be involved.

MC 144503 (Sub-28F), filed May 23, 1980. Applicant: ADAMS REFRIGERATED EXPRESS, INC., P.O. Box F, Forest Park, GA 30050. Representative: Virgil H. Smith, Suite 12-1587 Phoenix Blvd., Atlanta, GA 30349. Transporting (1) *yarn* from the facilities of Coats & Clark Sales Corp. at Albany, GA, to points in MO, KS, NE, IA, IL, IN, OH, MI, WI, MN, SC, KY, AL, MS, SC, NC, TN and LA; (2) *sewing thread, cotton, yarn fasteners, slide, dry goods, books, cloth, plastic articles, needles, notions, display cases, racks, sheet steel articles and friction fabric* from the facilities of Coats & Clark Sales Corp. at Doraville, GA, to points in MO, and (3) *sewing thread, cotton, yarn, fasteners, slide, dry goods, books, cloth, plastic articles, needles, notions, display cases, racks, sheet steel articles and friction fabric* from the facilities of Coats & Clark Sales, Corp. at St. Louis, MO, to points in MN. (Hearing site: Atlanta, GA.)

MC 144513 (Sub-16F), filed May 27, 1980. Applicant: CONDOR CONTRACT CARRIERS, INC., 656 Wooster Street, Lodi, OH 44254. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. *Rubber, rubber articles, rubber materials, plastics, plastic articles, plastic resins, and plastic materials* (except commodities in bulk), between points in ND, SD, OK, TX, LA, AR, MO (except Kansas City and St. Louis, MO, and points in their commercial zones), MN (except Minneapolis and St. Paul, MN, and points in their commercial zones), IL (except Chicago, IL, and points in its commercial zone), and points in and east of MS, TN, KY, IN and MI, on the one hand, and, on the other, points in and east of ND, SD, NE, KS, OK and TX. (Hearing site: Cleveland, OH.)

Note.—Dual operations may be involved.

MC 144622 (Sub-168F), filed May 5, 1980. Applicant: GLENN BROTHERS TRUCKING, INC., P.O. Box 9343, Little Rock, AR 72219. Representative: J. B. Stuart, P.O. Box 179, Bedford, TX 76021. Transporting *building materials and materials and supplies* used in the manufacture and distribution of building materials (except in bulk) between Little Rock and Warren, AR, on the one hand, and, on the other, points in the U.S. (except AK and HI). (Hearing site: Little Rock, AR.)

Note.—Dual operations may be involved.

MC 144622 (Sub-169F), filed May 15, 1980. Applicant: GLENN BROTHERS TRUCKING, INC., P.O. Box 9343, Little Rock, AR 72219. Representative: Phillip G. Glenn (same address as applicant). Transporting *television sets, recorders and accessories* for television sets and recorders, (1) from the facilities of the General Electric Company at Portsmouth, VA, to the facilities of the General Electric Company at Little Rock, AR, and (2) from the facilities of the General Electric Company, at Little Rock, AR, to points in LA, MS, NM, OK, and TX. (Hearing site: Little Rock, AR.)

Note.—Dual operations may be involved.

MC 144713 (Sub-10F), filed May 27, 1980. Applicant: HALLMARK TRANSFER, INC., 1100 N. Macon St., Baltimore, MD 21205. Representative: Glenn M. Heagerty (same address as applicant). Contract carrier, transporting *such merchandise* as is dealt in by a bakery supply distributor (except in bulk) between points in the U.S. (except AK and HI), under continuing contract(s) with Frank A. Serio & Son, Inc., of Jessup, MD. (Hearing site: Washington, DC.)

Note.—Dual operations may be involved.

MC 146293 (Sub-62F), filed May 23, 1980. Applicant: REGAL TRUCKING CO., INC., Post Office Box 829, Lawrenceville, GA 30246. Representative: Richard M. Tettelbaum, Fifth Floor, Lenox Towers S, 3390 Peachtree Road, N.E., Atlanta, GA 30326. (1) *Paper and paper products* and (2) *materials, equipment and supplies* (except commodities in bulk), *used in the manufacture, distribution and sale of paper products*, between the facilities of Gilman Paper Company at or near Hazelwood, MO and St. Marys, GA, on the one hand, and on the other , points in the U.S. (except AK and HI). (Hearing site: Atlanta, GA.)

Note.—Dual operations may be involved.

MC 147003 (Sub-9F), filed May 1, 1980. Applicant: RAWHIDE CARRIERS, INC., P.O. Box 1171, Grand Island, NE 68801. Representative: Darryl Pauly (same address as applicant). Transporting *metal scaffolding towers, knocked down, conveyors, pumps, and parts and accessories* for the foregoing commodities, from Yankton, SD, to points in the U.S. (except AK, HI, and SD) and *materials and supplies* used in the manufacture and production of the commodities named above from points in the U.S. (except AK and HI) to the facilities of Morgen Manufacturing Co., at Yankton, SD. (Hearing site: Sioux City, IA, or Omaha, NE.)

MC 147323 (Sub-20F), filed May 28, 1980. Applicant: HADDAD TRANSPORTATION, INC., 5000 Wyoming Ave., Dearborn, MI 48126. Representative: John P. Haddad (same address as applicant). Transporting *such commodities as are used by or dealt in by manufacturers and distributors of iron and steel articles* (except commodities in bulk) (1) between the facilities of North American Steel Co., Melvindale, MI, on the one hand, and, on the other, points in the United States (except AK and HI) and (2) between points in the United States (except AK and HI), in (2) above to the transportation of traffic for North American Steel Co. (Hearing site: Detroit, MI, or Washington, DC.)

MC 147873 (Sub-2F), filed May 27, 1980. Applicant: G. BAKER EXPRESS, INC., 1445 West Northwest Ave., West Chicago, IL 60185. Representative: Joel H. Steiner, 39 South LaSalle St., Chicago, IL 60603. Contract carrier, transporting *such commodities* as are dealt in by grocery stores (1) between West Chicago, and Batavia, IL, Wright City, MO, and Burlington, IA, on the one hand, and, on the other, points in IA, WI, MO, KS, KY, TN, AR, OH and MN, and (2) between Wright City, MO, and Burlington, IA, on the one hand, and, on the other, points in IL and IN, under continuing contract(s) with Aldi, Inc., at Aurora, IL. (Hearing site: Chicago, IL.)

MC 148383 (Sub-2F), filed May 23, 1980. Applicant: H. PRUITT TRUCKING, INC., 2333 Wadsworth, Saginaw, MI 48601. Representative: Robert E. McFarland, 999 West Big Beaver Road, Suite 1002, Troy, MI 48084. Contract carrier, transporting (1) *waste and reclaimed petroleum and petroleum products*, in bulk, in tank vehicles, between the facilities of General Motors Corporation at or near Athens, AL, on the one hand, and, on the other, Detroit, MI, and Indianapolis, IN; and (2) *petroleum and petroleum products*, in bulk, in tank vehicles, from Detroit, MI, to the facilities of General Motors Coporation at or near Athens, AL, under continuing contract(s) with General Motors Corporation. (Hearing site: Detroit, or Lansing, MI.)

MC 148653 (Sub-1F), filed May 27, 1980. Applicant: MILTON WOODARD, d.b.a., WOODARD TRUCKING COMPANY, P.O. Box 308, Ripley, TN 38063. Representative: William L. Willis, 708 McClure Building, Frankfort, KY 40601. Transporting *anhydrous ammonia and urea*, from Amorel, AR, Vertagreen, AL and Memphis, TN, to points in AL, AR, FL, GA, IL, KS, KY, LA, MS, MO, NC, OK, SC and TX. (Hearing site: Memphis, TN or Atlanta, GA.)

MC 150062 (Sub-1F), filed May 1, 1980. Applicant: GEORGE J. MORTON, d.b.a. MORTON TRUCKING COMPANY, 305 West Vine Street, Radcliff, KY 40160.

Representative: George M. Catlett, 708 McClure Building, Frankfort, KY 40601. Transporting *military vehicle parts and accessories* between the Ft. Knox Military Reservation, Ft. Knox, KY, on the one hand, and, on the other, Lima and St. Mary's, OH, Indianapolis, IN, Red River Arsenal Military Reervation at or near Texarkana, TX, Ft. Hood Military Reservation, Ft. Hood, TX, Aberdeen Proving Grounds, MD, Redstone Arsenal Military Reservation near Huntsville, AL, Stratford, CN, and Warren, Center Line and Sterling Heights, MI. (Hearing site: Louisville, KY, or Nashville, TN.)

MC 150163 (Sub-2F), filed May 27, 1980. Applicant: HORWITH TRUCKS, INC., R.D. #1, Coplay, PA 18037. Representative: Francis W. Doyle, 323 Maple Ave., Southampton, PA 18966. Transporting *scrap metal,* in bulk, in dump vehicles, from S. Attleboro, and Westport, MS, to points in DE, MD, NJ, NY, OH and PA. (Hearing site: Providence, RI, or Boston, MA.)

Note.—Dual operations may be involved.

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Decided: June 19, 1980.

By the Commission, Review Board Number 1, Members Carleton, Joyce and Jones.

MC 8713 (Sub-3F), filed May 6, 1980. Applicant: BRAUN'S EXPRESS, INC., P.O. Box 251, 1494 Main Street, (Rear), Medway, MA 02053. Representative: Edward J. Kiley, 1730 M Street, NW., Washington, DC 20036. Transporting *general commodities* (except commodities in bulk, commodities requiring special equipment, commodities of unusual value, classes A and B explosives, and household goods as defined by the Commission) between Boston, MA, on the one hand, and, on the other, New York, NY, and points in NH, restricted to traffic having a prior or subsequent movement by air. (Hearing site: Boston, MA or Washington, DC.)

MC 16682 (Sub-97F), filed May 6, 1980. Applicant: MURAL TRANSPORT, INC., P.O. Box 1785, North Brunswick, NJ, 08902. Representative: W. C. Mitchell, 370 Lexington Ave, New York, NY 10017. Transporting *electronic equipment, and parts and accessories used in the manufacture and operation of electronic equipment, between Sunnyvale, CA, Wheeling, IL, Edison, NJ, and El Paso, TX, on the one hand, and, on the other, points in the U.S. (except AK and HI). (Hearing site: San Francisco, CA.)*

MC 21623 (Sub-86F), filed May 7, 1980. Applicant: W. J. DILLNER TRANSFER COMPANY, a Corporation, 3748 W. Liberty Ave., Pittsburgh, PA 15216. Representative: Richard H. Brandon, P.O. Box 97, 220 W. Bridge St., Dublin, OH 43017. Transporting *Pulpboard,* in rolls, between points in Allegheny County, PA, on the one hand, and, on the other, points in Washington County, PA, restricted to traffic having a prior or subsequent movement by water or rail (Hearing site: Pittsburgh, PA.)

MC 52022 (Sub-13F), filed May 7, 1980. Applicant: SANTINI BROS., INC., 1405 Jerome Ave., New York, NY 10452. Representative: Robert J. Gallagher, 1000 Connecticut Ave. NW, Suite 112, Washington, DC 20036. Transporting *used automobiles,* in truckaway service, between points in CT, DE, FL, GA, IL, IN, IA, KS, KY, ME, MD, MA, MI, MN, MO, NM, NJ, NY, ND, OH, OK, PA, RI, SC, TN, TX, VT, VA, WV, WI, NC, AL, AK, MS, LA, and DC.

MC 64832 (Sub-10F), filed May 6, 1980. Applicant: MAGNOLIA TRUCK LINE, INC., 3097 Fontaine Road, Memphis, TN 38116. Representative: Donald B. Morrison, 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, MS 39205. Transporting *general commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment) serving Ft. Polk Military Reservation, Hamburg, Leesville and Simmesport, LA as off-route points in connection with carrier's regular-route authority. (Hearing site: Memphis, TN or Alexandria, LA.)

MC 73533 (Sub-9F), filed May 19, 1980. Applicant: KEY WAY TRANSPORT, INC., 820 S. Oldham Street, Baltimore, MD 21224. Representative: W. F. Lamperelli (same address as applicant). Transporting: *General Commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment) serving Westminster, MD, as an off-route point in connection with carrier's authorized regular route operations. (Hearing site: Washington, DC or Baltimore, MD.)

Note.—Dual operations may be involved.

MC 87103 (Sub-59F), filed May 19, 1980. Applicant: MILLER TRANSFER AND RIGGING CO., a corporation, P.O. Box 322, Cuyahoga Falls, OH 44222. Representative: Edward P. Bocko (same address as applicant). Transporting (1) *Industrial metal heat treating furnaces and parts* and (2) *equipment, materials and supplies* used in the manufacture and distribution of the commodities in (1) above (except commodities in bulk) between the facilities of The Electric Furnace Co., at Salem, OH, on the one hand, and on the other, points in the U.S. (except AK and HI) restricted to traffic originating at or destined to the named facilities. (Hearing site: Cleveland, OH, or Washington, D.C.)

Note.—Dual operations may be involved.

MC 105813 (Sub-274F), filed May 5, 1980. Applicant: BELFORD TRUCKING CO., INC., 1759 S.W. 12th St., P.O. Box 2009, Ocala, FL 32670. Representative: Arnold L. Burke, 180 North LaSalle Street, Chicago, IL 60601. Transporting *such commodities* as are dealt in by food business houses, from points in OH, to points in AL, FL, GA, MS, NC, SC, and TN. (Hearing site: Columbus, OH.)

MC 107012 (Sub-533F), filed May 6, 1980. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Highway 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same address as applicant). Transporting *store fixtures,* from Birmingham, AL to Chicago, IL, and points in AR, AZ, CT, DE, FL, GA, IA, KY, LA, MD, MA, ME, MN, MS, NH, NJ, NM, NY, NC, OK, PA, RI, SC, TN, TX, VA, VT, WV and DC. (Hearing site: Memphis, TN or Atlanta, GA.)

MC 108053 (Sub-178F), filed May 16, 1980. Applicant: LITTLE AUDREY'S TRANSPORTATION CO., INC., P.O. Box 129, Fremont, NE 68025. Representative: Arnold L. Burke, 180 North LaSalle St., Chicago, IL 60601. Transporting *foodstuffs,* from points in CA, to points in CO, NE, KS, IA, MO, MD, MN, ND, SD, IL, IN, OH, WI, MI, PA, NY, NJ, and DC. (Hearing site: San Francisco, CA.)

MC 108393 (Sub-149F), filed May 5, 1980. Applicant: SIGNAL DELIVERY SERVICE, INC., 201 East Ogden Avenue, Hinsdale, IL 60521. Representative: J. A. Kundtz, 1100 National City Bank Bldg., Cleveland, OH 44114. *Contract carrier,* transporting *electrical and gas appliances, parts of electrical and gas appliances, and equipment, materials and supplies* used in the manufacture, distribution, and repair of electrical and gas appliances, between Evansville, IN, on the one hand, and, on the other, points in TX and OK, under continuing contract(s) with Whirlpool Corporation of Benton Harbor, MI. (Hearing site: Chicago, IL or Washington, DC.)

Note.—Dual operations may be involved.

MC 113362 (Sub-390F), filed May 7, 1980. Applicant: ELLSWORTH FREIGHT LINES, INC., 310 East Broadway, Eagle Grove, IA 50533. Representative: Milton D. Adams, P.O. Box 429, Austin, MN 55912. Transporting *petroleum and petroleum products, vehicle body sealer, and sound deadening compounds (except in bulk),*

and filters, from points in (1) Butler County, PA to points in AL, GA, LA, MS, NC, SC, TN, VA, and WV, and (2) Hancock County, WV to points in AL, GA, NC, SC, and VA, and (3) McKean County, PA (except Bradford to IL, IN, and KY) to points in AL, GA, IL (except Chicago), IN, KY, LA, MS, NC, SC, TN, VA, and WV, and (4) Venango County, PA (except Rouseville, Oil City, and Reno, PA to points in IL, IN, and KY), to points in AL, GA, IL (except Chicago), IN, KY, LA, MS, NC, SC, TN, and VA. (Hearing site: Pittsburgh, PA or Washington, DC.)

MC 113843 (Sub-284F), filed May 19, 1980. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer Street, Boston, MA 02210. Representative: Lawrence T. Sheils (same address as applicant). *Transporting such commodities as are dealt in by food stores, drug or department stores* from points in IL to points in CT, DE, MA, ME, MD, NH, NJ, NY, PA, OH, RI, VT, VA, WV, and DC. (Hearing site: Chicago, IL.)

MC 114273 (Sub-728F), filed May 20, 1980. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same as applicant). Transporting *iron and steel articles* from Sinking Spring, PA to those points in the U.S. in and east of ND, SD, NE, CO, OK, and TX. (Hearing site: Chicago, IL or Washington, DC.)

MC 114273 (Sub-736F), filed May 20, 1980. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same as applicant). Transporting (1) *paper, paper articles, woodpulp, plastic, and plastic articles*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities described in (1) above (except commodities in bulk, in tank vehicles), between those points in the U.S. in and east of ND, SD,NE, KS, OK, and TX, restricted to traffic originating at or destined to the facilities utilized by International Paper Company. (Hearing site: Chicago, IL or Washington, DC.)

MC 114273 (Sub-737F), filed May 20, 1980. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same as applicant). Transporting (1) *resin, coal, tar, and petroleum and resin, coal, tar and petroleum products*, and (2) *materials, equipment, and supplies* used in the sale and distribution of the commodities in (1) (except in bulk, in tank vehicles), from Neville Island, PA, to those points in the U.S. in and east of ND, SD, NE, OK, KS, and TX, restricted to traffic originating at the facilities of Neville Chemical Company. (Hearing site: Chicago, IL or Washington, DC.)

MC 114273 (Sub-738F), filed May 20, 1980. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). Transporting: *batteries* and *materials, equipment and supplies* used in the manufacture and distribution of batteries, from Niagara Falls, NY to points in IN and OH. (Hearing site: Chicago, IL or Washington, D.C.)

MC 114273 (Sub-739F), filed May 20, 1980. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). Transporting: *Electrical parts and battery charges*, from Tipton, IA to points in TN. (Hearing site: Chicago, IL or Washington, D.C.)

MC 114273 (Sub-740F), filed May 20, 1980. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). Transporting: *Frit, glazing compounds and additives*, from points in OH, to points in WI. (Hearing site: Chicago, IL or Washington, D.C.)

MC 114273 (Sub-741F), filed May 20, 1980. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). Transporting: (1) *plastic and plastic articles* and (2) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1), between Elyria, OH, on the one hand, and, on the other, those points in the U.S. in and east of ND, SD, NE, KS, OK and TX, restricted to traffic originating at or destined to Elyria, OH. (Hearing site: Chicago, IL or Washington, D.C.)

MC 114273 (Sub-742F), filed May 20, 1980. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). Transporting: *corn starch, corn syrup and soybean products* (except in bulk, in tank vehicles), from Muscatine, IA to Sioux Falls, SD, and points in CT, DE, IL, IN, KS, KY, MD, MA, MI, MN, MO, NE, NJ, NY, NC, OH, PA, RI, SC, TN, VA, WV, and WI. (Hearing site: Chicago, IL, or Washington, D.C.)

MC 114273 (Sub-743F), filed May 20, 1980. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). Transporting: *such commodities* as are dealt in or used by manufacturers of electrical products, between those points in the U.S. in and east of ND, SD, NE, CO, OK, and TX. restricted to traffic originating at or destined to the facilities, divisions and subsidiaries of the General Electric Company. (Hearing site: Chicago, IL, or Washington, D.C.)

MC 115162 (Sub-525F), filed May 7, 1980. Applicant: POOLE TRUCK LINE, INC., P.O. Drawer 500, Evergreen, AL 36401. Representative: Robert E. Tate (same address as applicant). Transporting: *such commodities* as are dealt in or used by manufacturers and distributors of alcoholic beverages (except commodities in bulk, in tank vehicles), between Fort Smith, AR, New Orleans, LA, Bardstown and Louisville, KY, and Plainfield, IL, on the one hand, and, on the other, those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX, restricted to traffic originating at or destined to the facilities utilized by Hiram Walker & Sons, Inc. (Hearing site: Chicago, IL, or Washington, DC.)

MC 115162 (Sub-526F), filed May 8, 1980. Applicant: POOLE TRUCK LINE, INC., P.O. Drawer 500, Evergreen, AL 36401. Representative: Robert E. Tate (same address as applicant). Transporting: (1) *refractories, insulation, and insulating materials, and* (2) *materials, equipment and supplies used in the manufacture, distribution and installation of the commodities*, in (1) (except commodities in bulk in tank vehicles), between the facilities of A. P. Green Refractories Company, Inc., on the one hand, and, on the other, points in the U.S. (except AK and HI). (Hearing site: St. Louis, MO, or Chicago, IL.)

MC 115162 (Sub-527F), filed May 6, 1980. Applicant: POOLE TRUCK LINE, INC., P.O. Drawer 500, Evergreen, AL 36401. Representative: Robert E. Tate (same address as applicant). Transporting: (1) *Axles, parts for axles, axle assemblies, springs, suspensions, and suspension components* from Montgomery, AL to those points in the U.S., in and east of ND, SD, NE, KS, OK, and TX and (2) *Materials, equipment and suipplies* used in the manufacture and distribution of commodities named in (1) above, in the reverse direction. (Hearing site: Montgomery, AL or Atlanta, GA.)

MC 115162 (Sub-528F), filed May 7, 1980. Applicant: POOLE TRUCK LINE, INC., P.O. Drawer 500, Evergreen, AL 36401. Representative: Robert E. Tate (same address as applicant). Transporting: (1) *Poleline hardware, electrical transmission equipment, parts and transformers, and crane and derrick parts* from Centralia and Washington, MO and Houston, TX to points in the U.S. (except AK and HI), and (2) *Materials, supplies and equipment used in the manufacture and distribution of*

commodities in (1) above (except commodities in bulk, in tank vehicles) in the reverse direction. (Hearing site: Houston, TX or St. Louis MO.)

MC 116063 (Sub-167F), filed May 19, 1980. Applicant: WESTERN-COMMERCIAL TRANSPORT, INC., P.O. Box 270, Fort Worth, TX 76101. Representative: W. H. Cole (same address as applicant). Transporting (1) *chemicals and petroleum products,* and (2) *materials and supplies* used in the manufacture of chemicals and petroleum products, in bulk, in tank vehicles, between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities used by Sherex Chemical Company, Inc. (Hearing site: Fort Worth or Dallas, TX.)

MC 119493 (Sub-383F), filed May 19, 1980. Applicant: MONKEM COMPANY, INC., P.O. Box 1196, Joplin, MO 64801. Representative: Thomas D. Boone (same address as applicant). Transporting (1) *salvage merchandise,* and (2) *such commodities* as are dealt in or used by discount or variety stores (except commodities in bulk), between points in the U.S. (except AK and HI), restricted to traffic from or to the facilities of Dollar Saver Stores, Inc. (Hearing site: Fort Smith or Little Rock, AR.)

MC 124333 (Sub-34F), filed April 25, 1980. Applicant: BAKER PETROLEUM TRANSPORTATION CO., INC., Pyles Lane, New Castle, DE 19720. Representative: Samuel W. Earnshaw, 833 Washington Bldg., Washington, DC 20005. *Contract carrier,* transporting *petroleum and petroleum products,* in bulk, in tank vehicles, from Pennsauken, NJ to Dover, DE, under continuing contract(s) with General Foods Corp., of Dover, DE. (Hearing site: Washington, DC.)

MC 124373 (Sub-20F), filed April 25, 1980. Applicant: NELMAR TRUCKING CO., 273 Paterson Ave., E. Rutherford, NJ 07073. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street, NW, Washington, DC 20001. *Contract carrier,* transporting *such commodities,* as are dealt in or sold by discount and department stores (except commodities in bulk) between Manchester, NH, and Dedham, Danvers, Cambridge, Framingham, Woburn, Wilmingham and Springfiled, MA, on the one hand, and, on the other, points in MD, DE, PA, NJ, NY, CT, MA, NH, RI, VA, and DC under continuing contract(s) with Lechmene Sales Company of Woburn, MA. (Hearing site: Washington, DC.)

MC 125433 (Sub-418F), filed May 19, 1980. Applicant: F–B TRUCK LINE COMPANY, a corporation, 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same address as applicant). Transporting *motor vehicle parts and accessories; boat parts and accessories; construction materials;* and *plastic, metal and rubber articles and products,* between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities of Elixir Industries. (Hearing site: Los Angeles, CA.)

MC 136713 (Sub-19F), filed May 5, 1980. Applicant: AERO LIQUID TRANSIT, INC., 1717 Four Mile Rd. NE, Grand Rapids, MI 49505. Representative: Daniel J. Kozera, Jr., The McKay Tower, Suite 2–A, Grand Rapids, MI 49503. Transporting *liquefied petroleum gas,* in bulk, in tank vehicles, from Woodhaven and Wyandotte, MI, to points in IN and OH. **Note:** (1) Dual operation may be involved, and (2) The authority granted here will be limited in point of time to a period of 5 years from the date of the issuance of a certificate. (Hearing site: Lansing or Detroit, MI.)

MC 138313 (Sub-71F), filed May 6, 1980. Applicant: BUILDERS TRANSPORT, INC., 409 14th St. S.W., Great Falls, MT 59404. Representative: Irene Warr, 430 Judge Bldg., Salt Lake City, UT 84111. Transporting *lumber and wood products,* in foreign commerce only, from ports of entry on the international boundary line between the U.S. and Canada in WA, ID, and MT, to points in CA and CO. (Hearing site: Seattle, WA.)

MC 138882 (Sub-363F), filed May 9, 1980. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Box 707, Troy, AL 36081. Representative: George A. Olsen P.O. Box 357, Gladstone, NJ 07934. Transporting *Automotive Service Equipment,* and *materials, equipment, and supplies* used in the manufacture, sale, and installation of Automotive Service Equipment (except commodities in bulk, in tank vehicles), between the facilities of Sun Electric Corporation, at or near Nashville, TN, on the one hand, and, on the other, points in the U.S. (except AK and HI). (Hearing site: Nashville, TN or Washington, DC.)

MC 141932 (Sub-34F), filed May 19, 1980. Applicant: POLAR TRANSPORT, INC., 176 King St., Hanover, MA 02339. Representative: Alton C. Gardner (same address as applicant). Transporting *groceries and grocery supplies,* and *materials, equipment, and supplies* used in the manufacture and sale of groceries and grocery supplies (except commodities in bulk), between those points in the U.S. in and east of MN, IA, MO, AR, and TX, restricted to traffic originating at or destined to the facilities used by Transtop, Inc. (Hearing site: Boston, MA.)

Note.—Dual operations may be involved.

MC 142603 (Sub-28F), filed April 28, 1980. Applicant: CONTRACT CARRIERS OF AMERICA, INC., P.O. Box 1968, Springfield, MA 01101. Representative: Raymond A. Richards, 35 Curtice Pk., Webster, NY 14580. *Contract carrier,* transporting (1) *metal Christmas tree stands and metal hardware articles,* and (2) *materials, supplies, and equipment* used in the manufacture and distribution of the commodities in (1) above, between the facilities of NM Industries, at West Springfield, MA, on the one hand, and, on the other, those points in the U.S. in and east of a line beginning at the mouth of the Mississippi River, and extending along the Mississippi River to its junction with the western boundary of Itasca County MN, then northward along the western boundaries of Itasca and Koochiching Counties, MN, to the international boundary line between the U.S. and Canada, and those points in CA, CO, and TX, under continuing contract(s) with NM Industries, of West Springfield, MN. (Hearing site: Springfield or Boston, MA.)

MC 143263 (Sub-2F), filed April 28, 1980. Applicant: GILLETTE TRANSPORTATION, INC., 700 East Omaha Ave., Norfolk, NE 68701. Representative: Michael J. Ogborn, P.O. Box 82028, Lincoln, NE 68501. *Contract carrier,* transporting (1)(a) *dairy products,* and (b) *manufactured or prepared foods* (except dairy products), and (2) *materials, supplies, and equipment* used in the production of the commodities in (1) above (except commodities in bulk), between points in CO, IA, KS, MN, MO, ND, NE, SD, and WY, under continuing contract(s) with Gillette Dairy, Inc., of Norfolk, NE, Gillette Dairies of the Black Hills, Inc., of Rapid City, SD, Nebraska Dairies, Inc., of Norfolk, NE, and Gillette Dairy West, Inc., of Rapid City, SD. (Hearing site: Omaha, NE.)

MC 144303 (Sub-18F), filed April 29, 1980. Applicant: YOUNGBLOOD TRUCK LINES, INC., P.O. Box 1048, Fletcher, NC 28732. Representative: Charles Ephraim, Suite 600, 1250 Connecticut Ave. NW, Washington, DC 20036. *Contract carrier,* transporting *plastic products,* from Carson, CA, and Louisville, KY, to those points in the U.S. in and east of MT, WY, CO, and NM, under continuing contract(s) with J. W. Carroll & Sons, Division of U.S. Industries, of Carson, CA. (Hearing site: Washington, DC.)

Note.—Dual operations may be involved.

MC 144622 (Sub-170F), filed May 16, 1980. Applicant: GLENN BROTHERS TRUCKING, INC., P.O. Box 9343, Little Rock, AR 72219. Representative: J. B. Stuart, P.O. Box 179, Bedford, TX 76021. Transporting *such commodities* as are dealt in by discount stores (except commodities in bulk), between points in St. Joseph County, MI, on the one hand, and, on the other, points in the U.S. (except AK and HI). (Hearing site: Little Rock, AR or Dallas, TX.)

Note.—Dual operations may be involved.

MC 144622 (Sub-171F), filed May 19, 1980. Applicant: GLENN BROTHERS TRUCKING, INC., P.O. Box 9343, Little Rock, AR 72219. Representative: J. B. Stuart, P.O. Box 179, Bedford, TX 76021. Transporting *such commodities* as are dealt in by discount stores (except in bulk), between the facilities of Lancaster Colony Corporation and its subsidiaries at or near Opeliko, AL, Menlo Park and Torrance, CA, Eatonton and Waycross, GA, Dunkirk and Eaton, IN, Elizabeth, NJ, Bedford Heights, Columbus, Coshocton, Jackson, Lancaster, Leesburg, Massillon, Mt. Sterling, Roseville, Sandusky, and Wapakoneta, OH, and Ft. Worth, TX, on the one hand, and, on the other, points in the U.S. (except AK and HI). (Hearing site: Little Rock, AR or Dallas, TX.)

Note.—Dual operations may be involved.

MC 145663 (Sub-6F), filed May 19, 1980. Applicant: TRANS-POLAR XPRESS, INC., 5611 N.W., Oakridge Court, Kansas City, MO 64151. Representative: Larry D. knox, 600 Hubbell Building, Des Moines, IA 50309. Transporting *fresh meat*, from Rockville, MO, to Austin, MN. (Hearing site: Minneapolis, MN.)

MC 145882 (Sub-5F), filed May 6, 1980. Applicant: KUVASZOK TRANSPORT, INC., 1630 Rhonda Rd., St. Joseph, MI 49085. Representative: J. Joseph Daly, 610 Ship St., P.O. Box 558, St. Joseph, MI 49085. Transporting (1) *liquid asphalt*, in bulk, in tank vehicles, from East Chicago, IN, to Lawrence, Zeeland, and Coldwater, MI, and points in Berrien County, MI; (2) *lubricating oil* (except petroleum) and *petroleum products*, in containers, from the facilities of Universal Cooperatives, Inc., at or near Kenton, OH, to points in MI; and (3) *anti-freeze*, from the Lake River Terminal facilities at or near Berwyn and Bedford Park, IL, to points in MI. (Hearing site: St. Joseph, MI.)

MC 146233 (Sub-2F), filed April 5, 1980. Applicant: BOBBY REEVES CO., INC., P.O. Box 630, Rte. No. 3, Adairsville, GA. Representative: Mark S. Gray, P.O. Box 872, Atlanta, GA 30301. *Contract carrier*, transporting *such commodities* as are dealt in by manufacturers of steel wire products, between points in the U.S. (except AK and HI), under continuing contract(s) with Bekaert Steel Wire Corp., of Rome, GA. (Hearing site: Atlanta, GA.)

MC 146453 (Sub-2F), filed May 16, 1980. Applicant: TOM ROWE SR. AND TOM ROWE JR., d.b.a. TOM ROWE SERVICES, 107 Roberts Ln., Bakersfield, CA 93308. Representative: Earl N. Miles, 3704 Candlewood Dr., Bakersfield, CA 93306. Transporting *clay*, from facility of Industrial Minerals Ventures, at Imvite, NV, to points in Kern, Los Angeles, Monterey, Santa Barbara and Ventura Counties, CA. (Hearing site: Bakersfield, CA.)

MC 146813 (Sub-5F), filed May 19, 1980. Applicant: A. M. DELIVERY, INC., 2756 Plano Drive, Rowlands Heights, CA 91748. Representative: Milton W. Flack, 8383 Wilshire Blvd., Suite 900, Beverly Hills, CA 90211. *Contract Carrier*, transporting (1) *fireplace airheaters and ventilators and barbeque grills;* and (2) *parts and accessories* for the commodities in (1) above, from the facilities of Superior Fireplace Co., Division of Mobex Corporation, at Fullerton, CA, to points in AZ and NV, under continuing contract(s) with Superior Fireplace Co., Division of Mobex Corporation, of Fullerton, CA. (Hearing site: Los Angeles, CA.)

MC 147323 (Sub-18F), filed May 16, 1980. Applicant: HADDAD TRANSPORTATION, INC., 5000 Wyoming Ave., Dearborn, MI 48126. Representative: John P. Haddad (same address as applicant). Transporting *such commodities* as are used by or dealt in by manufacturers, distributors and processors of iron or steel articles (except commodities in bulk) between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities of Central States Steel Co., Inc. (Hearing site: Detroit, MI, or Washington, DC.)

Note.—Dual operations may be involved.

MC 147323 (Sub-19F), filed May 16, 1980. Applicant: HADDAD TRANSPORTATION, INC., 5000 Wyoming Ave., Dearborn, MI 48126. Representative: John P. Haddad (same address as applicant). Transporting *such commodities* as are used by or dealt in by manufacturers and distributors of iron and steel articles (except commodities in bulk) between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities of Phillips Steel Co. (Hearing site: Detroit, MI, or Washington, DC.)

Note.—Dual operations may be involved.

MC 147943 (Sub-2F), filed May 6, 1980. Applicant: E.W.K. CARTAGE, INC., 4854 South Leamington St., Chicago, IL 60638. Representative: Anthony E. Young, 29 S. LaSalle St., Suite 350, Chicago, IL 60603. Transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, those requiring special equipment, articles of unusual value, and commodities in bulk), between Chicago, IL, on the one hand, and, on the other, points in IL, IN, MI, and WI, restricted to traffic moving on bills of lading of freight forwarders as defined in 49 U.S.C. § 10102(8) of the Interstate Commerce Act. (Hearing site: Chicago, IL.)

MC 150293 (Sub-1F), filed May 19, 1980. Applicant: CLARE L. BENDER, 809 Flora, Prescott, AZ 86301. Representative: Donald E. Fernaays, 4040 East McDowell Road, Suite 320, Phoenix, AZ 85008. Transporting *alcoholic beverages* (except in bulk), from Portland, OR and those points in CA in and south of Marin, Sonoma, Napa, Solano, Sacramento and El Dorado Counties, to Flagstaff, Holbrook, Parker and Prescott, AZ. (Hearing site: Phoenix, AZ.)

MC 150383 (Sub-1F), filed May 5, 1980. Applicant: COURTNEY J. MUNSON, d.b.a. MUNSON TRUCKING, P.O. Box 266, Monmouth, IL 61462. Representative: Daniel O. Hands, Suite 200, 205 West Touhy Avenue, Park Ridge, IL 60068. Transporting *petroleum and petroleum products*, in bulk, from points in IA, IN, MO and WI to Little York, Monmouth and Woodhull, IL, under a continuing contract(s) with Woodhull Land Development Corporation of Woodhull, IL. (Hearing site: Chicago, IL or St. Louis, MO.)

Note.—Dual operations may be involved.

MC 150473 (Sub-1F), filed April 28, 1980. Applicant: O'BOYLE TANK LINES, INC., P.O. Box 30006, Washington, D.C. 20014. Representative: William P. Sullivan, 1320 Fenwick Lane, Silver Springs, MD 20910. *Contract carrier* transporting (1) *Sulfuric Acid* from the facilities of Getty Refining, Delaware City, DE to points in MD, NJ, NY, PA, VA, WV, and DC, and (2) *spent Sulfuric Acid* from points in MD, NJ, NY, PA, VA, DC, and WV to points in Delaware, under a continuing contract(s) with Allied Chemical Corporation Chemicals Co., of Morristown, NJ. (Hearing site: Washington, D.C.)

Note.—Dual operations may be involved.

MC 150652F, filed April 22, 1980. Applicant: FOOD CARRIERS, INC., P.O. Box 759, Demopolis, AL 36732. Representative: Herbert S. Zischkau III, 277 Park Ave., New York, NY 10017. *Contract carrier*, transporting *such*

commodities as are dealt in or used by grocery and food business houses, and in connection therewith, *equipment and materials* (except commodities in bulk), between the facilities of Graves Company, Inc., in Demopolis, AL, on the one hand, and, on the other, points in the U.S. (except AK and HI), under continuing contract(s) with Graves Company, Inc., of Demopolis, AL. (Hearing site: Mobile, AL or Washington, DC.)

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-19509 Filed 6-30-80; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF LABOR

Employment and Training Administration

Federal-State Unemployment Compensation Program; Extended Benefits; Notice of Ending of Extended Benefit Period in the State of Rhode Island

This notice announces the ending of the Extended Benefit Period in the State of Rhode Island, effective on July 5, 1980.

Background

The Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note) established the Extended Benefit Program as a part of the Federal-State Unemployment Compensation Program. The Extended Benefit Program takes effect during periods of high unemployment in a State or the nation, to furnish up to 13 weeks of extended unemployment benefits to eligible individuals who have exhausted their rights to regular unemployment benefits under permanent State and Federal unemployment compensation laws. The Act is implemented by State unemployment compensation laws and by Part 615 of Title 20 of the Code of Federal Regulations (20 CFR Part 615).

Extended Benefits are payable in a State during an Extended Benefit Period, which is triggered "on" when the rate of insured unemployment in the State or in all States collectively reaches the State or National trigger rates set in the Act and the State laws. 20 CFR 615.12. During an Extended Benefit Period individuals are eligible for a maximum of up to 13 weeks of benefits, but the total of Extended Benefits and regular benefits together may not exceed 39 weeks.

The Act and the State unemployment compensation laws also provide that an Extended Benefit Period in a State will trigger "off" when the rate of insured unemployment in the State is no longer at the trigger rates set in the law. A benefit period actually terminates at the end of the third week after the week for which there is an off indicator, but not less than 13 weeks after the benefit period began.

An Extended Benefit Period commenced in the State of Rhode Island on March 9, 1980; and has now triggered off.

Determination of "off" Indicator

The head of the employment security agency of the State of Rhode Island has determined, in accordance with the State law and 20 CFR 615.12(e), that the rate of insured unemployment in the State for the period consisting of the week ending on June 14, 1980, and the immediately preceding twelve weeks, fell below the State trigger rate, so that for that week there was an "off" indicator in that State.

Therefore, the Extended Benefit Period in that State terminates with the week ending on July 5, 1980.

Information for Claimants

The State employment security agency will furnish a written notice to each individual who is currently filing claims for Extended Benefits of the forthcoming end of the Extended Benefit Period and its effect on the individual's right to Extended Benefits. 20 CFR 615.13(d)(3).

Persons who wish information about their rights to Extended Benefits in the State of Rhode Island should contact the nearest State Employment Office of the Rhode Island Department of Employment Security in their locality.

Signed at Washington, D.C., on June 27, 1980.

Ernest G. Green,

Assistant Secretary for Employment and Training.

[FR Doc. 80-19646 Filed 6-30-80; 8:45 am]

BILLING CODE 4510-30-M

Reallocation of Funds Under Titles II—D and VI of the Comprehensive Employment and Training Act (CETA)

AGENCY: Employment and Training Administration, Labor.

ACTION: Final Notice of Funds Reallocated Under Titles II–D and VI of the Comprehensive Employment and Training Act (CETA).

SUMMARY: Pursuant to 20 CFR 676.47, the Department of Labor announces the reallocation of Titles II–D and VI funds in the amounts and from the prime sponsors indicated below.

FOR FURTHER INFORMATION CONTACT: Robert Anderson, Administrator, Office of Comprehensive Employment Development, 601 D Street NW., Room 5014, Washington, D.C. 20213, Telephone: 202–376–6254.

SUPPLEMENTARY INFORMATION: The Department of Labor determined, by reviewing actual enrollments with planned enrollments and rates of expenditures, that the CETA programs listed below were underutilizing available funds. The prime sponsors were provided with an opportunity to increase their performance before a final decision was made with respect to reallocation. The respective Governors, the general public and other prime sponsors were advised of the proposed reallocation of funds in the March 21, 1980, **Federal Register.**

At the end of 30 days from the date of notice to the prime sponsors, the Department again reviewed the prime sponsors' enrollments. The Department found, in the case of the prime sponsors listed below, that the amount of funds indicated for each prime sponsor could not effectively be utilized by the prime sponsor prior to the end of the Fiscal Year 1980. As a result, the Department took final reallocation actions with respect to these prime sponsors. Prime sponsors which were listed in the March 21, 1980, **Federal Register,** and which are not listed below, were found to have improved their performance to the point where no reallocations were required.

	Title II–D	Title VI
Region I: Bridgeport Consortium	0	$27,000
Region II:		
Essex County, N.J.	$87,894	0
Erie County, N.Y.	36,511	0
Onondaga County, N.Y.	43,962	0
Westchester County, N.Y.	95,004	0
Region III:		
BOS Pennsylvania	0	212,169
Bucks County, Pa.	64,893	53,520
Southern Allegheny Consortium	46,689	0
Prince George's County, Md.	33,660	53,856
BOS Delaware	50,925	0
District of Columbia	218,784	0
Region IV:		
BOS Florida	231,990	603,174
Broward County, Florida	100,640	0
Northeast Florida Consortium	33,314	49,262
Palm Beach County, Florida	139,194	168,720
Pinellas/St. Petersburg, Florida.	79,439	0
City of Charlotte, N.C.	86,048	74,192
Robeson County, N.C.	151,762	0
BOS North Carolina	0	267,750
Region V:		
Cook County, Illinois	480,000	0
Kane County, Illinois	199,000	0
Tippecanoe County, Indiana	51,000	0
Region VI: None		
Region VII:		
Linn County, Iowa	0	25,300
Central Iowa Consortium	70,800	0
Woodbury County, Iowa	82,100	0
BOS Iowa	287,200	0
Kansas City/Wyandotte Csrt., Kan.	77,700	139,600
Johnson/Leavenworth Csrt., Kan.	0	119,400
BOS Nebraska	256,300	0
Region VIII: None		

	Title II-D	Title VI
Region IX:		
Alameda County, California	339,024	0
Shasta County, California	204,149	154,000
Stanislaus County, California	600,000	0
Arizona BOS	500,000	0
Pima County, Arizona	75,000	0
Trust Territory	128,475	142,152
Region X:		
BOS Oregon	129,231	0
Yakima County, Wash.	66,220	102,578
Clark County, Wash.	0	29,748

Signed at Washington, D.C., this 26th day of June 1980.

Charles B. Knapp,

Deputy Assistant Secretary for Employment and Training.

[FR Doc. 80-19718 Filed 6-30-80; 8:45 am]

BILLING CODE 4510-30-M

Reallocation of Funds Under Titles II-D and VII of the Comprehensive Employment and Training Act (CETA)

AGENCY: Employment and Training Administration, Labor.

ACTION: Reallocation of Funds Under Titles II-D and VII of the Comprehensive Employment and Training Act (CETA).

SUMMARY: Pursuant to 20 CFR 676.47, the Department of Labor announces the redistribution of funds reallocated under Titles II-D and VII of CETA.

SUPPLEMENTARY INFORMATION: The Department of Labor has determined to provide the following CETA prime sponsors the amounts indicated of reallocated Titles II-D and VII funds. The Department of Labor reviewed the operations of these prime sponsors and determined that the prime sponsors needed and will be able to effectively utilize the amounts indicated prior to the end of fiscal year 1980.

FOR FURTHER INFORMATION CONTACT: Robert Anderson, Administrator, Office of Comprehensive Employment Development, 601 D Street, NW, Room 5014, Washington, D.C. 20213, Telephone: 202-376-6254.

TITLE II-D

Region I

None.

Region II

City of Rochester, New York—$43,895
Ulster County, New York—$43,895
Saratoga County, New York—$43,895
Mercer County, New Jersey—$43,896
Morris County, New Jersey—$43,895
Passaic County, New Jersey—$43,895

Region III

Schuylkill/Carbon, Pennsylvania—$93,870
City of Pittsburgh—$70,402
Tri-County Consortium—$96,479
City of Wilmington, Delaware—$50,925
Baltimore, Maryland, Consortium—$103,275

Region IV

Pasco County, Florida—$240,000
Wake County, North Carolina—$134,000
Fuller County, Georgia—$95,000
Kenton County, Kentucky—$85,860
Balance of State Mississippi—$165,000

Region V

Vigo County, Indiana—$51,000
Balance of State Illinois—$470,000
Sangamon/Cass Consortium, Illinois—$190,000
McLean County, Illinois—$60,000
Shawnee County, Illinois—$204,000
City of Cleveland, Ohio—$200,000
Montgomery/Preble Consortium, Ohio—$100,000
Scioto County, Ohio—$100,000
Central Ohio Consortium—$100,000
Toledo Area Consortium, Ohio—$80,000
Akron/Summit/Medina Consortium, Ohio—$87,000

Region VI

None.

Region VII

City of Wichita, Kansas—$47,000
Topeka/Shawnee Consortium, Kansas—$30,000
City of Omaha, Nebraska—$256,300
Davenport/Scott Consortium, Iowa—$100,000
City of Springfield, Missouri—$50,000
Jefferson/Franklin Consortium, Missouri—$100,000
Kansas City Consortium, Missouri—$100,000
Kansas Balance of State—$366,244
Kansas Balance of State (Title VII Funds)—$210,708

Region VIII

None.

Region IX

Marin County, California—$176,000

Region X

Multnomah/Washington Consortium, Oregon—$129,231
City of Tacoma, Washington—$66,220

Signed at Washington, D.C., this 26th day of June 1980.

Charles B. Knapp,

Deputy Assistant Secretary for Employment and Training.

[FR Doc. 80-19716 Filed 6-30-80; 8:45 am]

BILLING CODE 4510-30-M

Voluntary Reallocation of Funds Under Titles II-D, VI and VII of the Comprehensive Employment and Training Act (CETA)

AGENCY: Employment and Training Administration, Labor.

ACTION: Final Notice of the Voluntary Reallocation of Funds Under Titles II-D, VI and VII of the Comprehensive Employment and Training Act (CETA).

SUMMARY: Pursuant to 20 CFR 676.47, the Department of Labor announces the voluntary reallocation of Titles II-D, VI and VII funds in the amounts and from the prime sponsors indicated below.

FOR FURTHER INFORMATION CONTACT: Robert Anderson, Administrator, Office of Comprehensive Employment Development, 601 D Street, NW., Room 5014, Washington, D.C. 20213, Telephone: 202-376-6254.

SUPPLEMENTARY INFORMATION: The prime sponsors listed below advised the Department of Labor that they had excess funds available under Titles II-D, VI and VII of their Fiscal Year 1980 CETA grants and that they would be unable to effectively utilize these funds prior to the end of Fiscal Year 1980. They further advised that they were agreeable to voluntary reallocation of these funds.

The Department of Labor Regional Offices determined that the prime sponsors listed below had made every effort to utilize the available funds. However, the prime sponsors have been unable to recruit a sufficient number of individuals which meet the required eligibility requirements. The Governor, the general public and other prime sponsors were provided with 30 days notice to provide comments to the Regional Offices regarding the reallocation of these funds.

	Title II-D	Title VI	Title VII
Canton/Stark/Wayne Consortium, Ohio	$667,000	0	
DuPage County, Illinois	245,000	0	
City of Albuquerque, New Mexico	0	$250,000	
Oklahoma City, Oklahoma	0	474,654	
City of Tulsa, Oklahoma	0	200,000	
North Texas Consortium	0	25,000	
Region XI Consortium, Texas	0	50	
Southeast Texas Consortium, Texas	0	800,000	
Johnson/Leavenworth Consortium, Kansas	366,244	0	$210,708

Signed at Washington, D.C., this 26th day of June 1980.

Charles B. Knapp,

Deputy Assistant Secretary for Employment and Training.

[FR Doc. 80-19717 Filed 6-30-80; 8:45 am]

BILLING CODE 4510-30-M

Office of the Secretary

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than July 10, 1980.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than July 10, 1980.

The petitions filed in this case are available for inspection at athe Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210.

Signed at Washington, D.C. this 19th day of May 1980.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

Appendix

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Motor City Stamping Inc. (company)	Sterling Heights, Mich	5-6-80	4-30-80	7997	Washers, brackets, clamps, weight and support for GM cars.
Goodyear Tire and Rubber Co. (company)	Lawton, Okla	5-6-80	4-29-80	7998	Original equipment passenger tires.
Clark Copy International Corp. (company)	Morton Grove, Ill	5-12-80	5-5-80	7999	Photocopy machines.
Dazero, Inc. (company)	Hialeah, Fla	5-9-80	5-7-80	8000	Men's slacks and men's 3-piece suits.
Eaton Corp. Temperature Control Division, Athens Plant (company).	Athens, Ala	5-12-80	5-9-80	8001	Thermostats for Chrysler and GM cars.
Scheeler Bros., Lumber Co. (company)	Olympia, Wash	5-13-80	5-13-80	8002	Cedar lumber.
Sun Cutter Corp. (company)	Elk Rapids, Mich	5-12-80	5-2-80	8003	Cutting blades.
Independence Steel Sale & Service, Inc. (company).	Warren, Mich	5-2-80	4-23-80	8004	Steel for American-made cars.
Southeastern Garment Corp. (company)	Clinton, N.C	5-6-80	4-24-80	8005	Down jackets and vests.
Lucky Sports Sewing Co., Inc. (company)	New York, N.Y	5-6-80	4-30-80	8006	Ladies skirts and pants.
Metal Forge Co. (UAW)	Columbus, Ohio	4-29-80	4-23-80	8007	Automobile parts.
Excello Corp., McCord-Winn Division (IUE)	Winchester, Mass	4-29-80	4-25-80	8008	Automotive components.
Gorsuch Foundry Co., Inc. (workers)	Jeffersonville, Ind	5-2-80	4-28-80	8009	Grey iron, aluminum, and bronze casting.
Armco Inc. (AEIF)	Middletown, Ohio	5-6-80	4-28-80	8010	Carbon steel products.
Snyder Shake Co	Forks, Wash	5-13-80	5-1-80	8011	Cedar shakes.
ARMCO, Inc., Union Wire Rope Plant (USWA).	Kansas City, Mo	5-1-80	4-28-80	8012	Steel rope, and other wire products.
Berkshire Maid Garment Manufacturing Corp. (company).	Springfield, Mass	5-1-80	4-22-80	8013	Ladies' blouses, tops, skirts.
Dalton Ind., Inc. (ILGWU)	Willoughby, Ohio	5-1-80	4-28-80	8014	Women's sportswear.
Eaton Corp., Timerman Plant (UAW)	Cleveland, Ohio	4-29-80	4-29-80	8015	Fasteners.
Summit Warehouse Inc. (Teamsters)	Mogodore, Ohio	4-29-80	4-22-80	8016	Automobile and truck tires.
G.M. Corp., Inland Manufacturing Division (URW).	Dayton, Ohio	4-28-80	4-18-80	8017	Automotive component.
Chronar Corp. (workers)	Princeton, N.J	4-28-80	4-23-80	8018	Watches and watch parts.
Ben Max Sportswear (company)	Asbury Park, N.J	5-8-80	5-6-80	8019	Ladies suits and coats.
Walco Enterprises, Inc. (company)	Warren, Mich	5-8-80	5-5-80	8020	Machine repair work for American-made cars.
Callins Ind., Inc. (company)	Hollandale, Miss	5-6-80	4-30-80	8021	Aluminum electrolytic.
Lear Seigler, Inc. (workers)	Livonia, Tenn	5-1-80	4-24-80	8022	Seats for Ford and Volkswagen.
Hunt-Wilde Corp. (company)	Dayton, Ohio	5-2-80	3-29-80	8023	Parts for bicycles, wheel chairs, lawn mowers, and other tools.
Lipsett Industries and Byron Midwest, Inc. (workers).	Monongahela, Pa	4-29-80	4-14-80	8024	Recyclers of various metals.
Dura Corp., Adrian Division (company)	Adrian, Mich	5-13-80	5-9-80	8025	Light-duty truck bumpers, and auto scissor jacks.
ACCO Industries Inc., Blytheville Plant (workers).	Blytheville, Ark	5-1-80	4-25-80	8026	Cable control for automobiles.
P.H. Leather & Suede Inc. (workers)	New York, N.Y	5-1-80	4-27-80	8027	Leather and suede articles.
Brand X Fashions Inc. (workers)	New York, N.Y	5-1-80	4-27-80	8028	Leather and suede articles.
Chrysler Corp., U.S. Automotive Sales Section (UAW).	Highland Park, Mich	5-1-80	4-29-80	8029	Automobile administrative.
Davidson Manufacturing Co., Inc. (workers)	Detroit, Mich	5-1-80	4-23-80	8030	Automotive parts.
Barley Earhart Co. (AIW)	Portland, Mich	5-1-80	4-28-80	8031	Gas tank straps, anti-squeak parts, and general parts for automobiles.
Lobdell-Emery Manufacturing Co. (UAW)	Alma, Mich	5-1-80	4-29-80	8032	Ford, General Motors auto parts.
Chrysler Corp., Zone Service Office (workers)	Hazelwood, Mo	5-6-80	5-2-80	8033	Administration of corporate dealership.
Chrysler Corp., Belvidere Assembly Plant (workers).	Belvidere, Ill	5-6-80	5-5-80	8034	Administrative and other support functions.
Westinghouse Buffalo Apparatus Service (IUE).	Buffalo, N.Y	5-1-80	4-19-80	8035	Electrical motors, generators, transformers, magnets, turbines, switch gears, and other parts.

Appendix—Continued

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
The Stanley Works, Stanley Hydraulics Tools Division (workers).	Milwaukee, Oreg	4-29-80	4-23-80	8036	Hydraulic paving breakers.
Newport Steel Corp. (workers)	Newport, Ark	4-29-80	4-22-80	8037	Angled steel.
Servomation Corp. (company)	Greenville, N.C	4-29-80	4-18-80	8038	Zippers.
American Sunroof Corp. (company)	Southgate, Mich	5-1-80	4-21-80	8039	Installing of sunroof.
Allen Shoe Co., Inc. (workers)	Haverhill, Mass	5-2-80	4-30-80	8040	Women's shoes.
LaConner Cedar, Inc. (workers)	LaConner, Wash	5-2-80	4-29-80	8041	Cedar shakes and shingles.
Barry-Wehmiller Co. (IAMAW)	St. Louis, Mo	5-2-80	4-30-80	8042	Bottle washers and pasteurizers machines.
Barry-Wehmiller Co. (IAMAW)	St. Louis, Mo	5-2-80	4-30-80	8043	Bottle washers and pasteurizers machines.
Van Dresser Corp. (UAW)	Norwalk, Ohio	4-29-80	4-22-80	8044	Automotive components.
Thom McAn Shoe Co. (teamsters)	Auburn, Mass	4-29-80	4-23-80	8045	Men's, women's and children's footwear.
GTR Reinforced Plastic Co. (UFWA)	Ionia, Mich	5-1-80	4-28-80	8046	Fiber glass reinforced plastic to auto industry.
Fox Point Sportswear, Inc. (ACTWU)	Port Washington, Wis	5-12-80	5-9-80	TA-W-8,047	Ladies' sportswear, outerwear and insulated snowmobile clothing.
Woonsocket Spinning Co. (ACTWU)	Charlotte, N.C	5-12-80	5-8-80	TA-W-8,048	Woolen, camel hair and cashmere yarn for apparel.
Russellville Sportswear, Inc. (ACTWU)	Russellville, Ala	5-12-80	5-8-80	TA-W-8,049	Men's pants.
Rud-Shaw Manufacturing Co., Inc. (ACTWU)	Brooklyn, N.Y	5-12-80	5-8-80	TA-W-8,050	Tailored clothing.
Solix Sportswear Corp. (ACTWU)	New York, N.Y	5-12-80	5-8-80	TA-W-8,051	Men's outerwear.
Leon of Paris Co., Inc. (ACTWU)	New York, N.Y	5-12-80	5-8-80	TA-W-8,052	Tailored clothing.
Amil Manufacturing Co. (ACTWU)	Shickshinny, Pa	5-12-80	5-8-80	TA-W-8,053	Outerwear.
Fox-Knapp Manufacturing Co. (ACTWU)	Pine Grove, Pa	5-12-80	5-8-80	TA-W-8,054	Outerwear.
The Arrow Co. (ACTWU)	Atlanta, Ga	5-12-80	5-8-80	TA-W-8,055	Dress shirts.
The Arrow Co. (ACTWU)	Bremen, Ga	5-12-80	5-8-80	TA-W-8,056	Dress shirts.
The Arrow Co. (ACTWU)	Buchanan, Ga	5-12-80	5-8-80	TA-W-8,057	Dress shirts.
The Arrow Co. (ACTWU)	Cedartown, Ga	5-12-80	5-8-80	TA-W-8,058	Dress shirts.
Dana Corp., Material Supply Division (UAW)	Havana, Ill	5-12-80	4-29-80	TA-W-8,059	Steering components for trucks, components for differentials for vehicles, piston ring castings for engines.
Danny Leather Fashions, Inc. (workers)	New York, N.Y	5-12-80	5-6-80	TA-W-8,060	Contractors for cutting and making leather coats.
Park-Ohio Industries, Ohio Crankshaft Division (UAW).	Cleveland, Ohio	5-12-80	5-8-80	TA-W-8,061	Crankshafts and camshafts.
Fox-Knapp Manufacturing Co. (ACTWU)	Milton, Pa	5-12-80	5-8-80	TA-W-8,062	Outerwear.
Regina Co. (National Union of Electrical and Machine Workers.).	Rahway, N.J	5-12-80	4-30-80	TA-W-8,063	Electric brooms.
Stamping Service, Inc. (UAW)	Detroit, Mich	5-12-80	5-2-80	TA-W-8,064	Engine-accelerator brackets, chassis.
Wolverine Bolt Co. (company)	Detroit, Mich	5-12-80	5-5-80	TA-W-8,065	Auto fasteners and bolts.
Dana Corp., Spicer Universal Joint Division (UAW).	Pottstown, Pa	5-12-80	5-7-80	TA-W-8,066	Universal joints—drive shafts for trucks and vans.
MTG Industries (workers)	Philadelphia, Pa	5-12-80	4-29-80	TA-W-8,067	Men's tailored clothing—sportcoats.
Maple Tree Inc. (workers)	Maplesville, Ala	5-9-80	5-7-80	TA-W-8,068	Shirts and blouses.
V.P.P. Co., Inc. (company)	Beaver, Wash	4-15-80	4-10-80	TA-W-8,069	Cedar products, shakes, and shingles.
E.I. Dupont Co., C.D. & P. Dept. (workers)	Rumford, R.I	4-22-80	4-14-80	TA-W-8,070	Dyes.
Weyerhaeuser Co., Aberdeen Mill (workers)	Aberdeen, Wash	4-15-80	4-7-80	TA-W-8,071	Lumber for housing industry.
The Firestone Tire & Rubber Co. (workers)	Lavergne, Tenn	4-28-80	4-24-80	TA-W-8,072	Transteel radial truck tires.
Rico Manchine Co., Inc. (USWA)	Bristol, R.I	5-7-80	4-30-80	TA-W-8,073	Machine tools.
Standard Products Co. (UAW)	Gaylord, Mich	5-7-80	5-1-80	TA-W-8,074	Automotive parts.
Eastern Sportswear Manufacturing Co., Inc. (workers).	New Bedford, Mass	5-7-80	5-2-80	TA-W-8,075	Women's and girls' jeans and slacks.
Midas Manufacturing, Inc. (workers)	Philadelphia, Pa	5-7-80	4-30-80	TA-W-8,076	Costume jewelry.
Bundy Corp., Bundy Tubing Division (UAW)	Warren, Mich	5-7-80	4-29-80	TA-W-8,077	Small diameter steel tubing, brake lines, push rods.
Charles A. Easton Co. (workers)	Richmond, Maine	5-7-80	5-1-80	TA-W-8,078	Shoes.
Davidson Rubber (workers)	Dover, N.H	5-7-80	5-1-80	TA-W-8,079	Molds and dies for interior and exterior plastic auto pieces.
Hanimex Manufacturing Co. (AIW)	Jackson, Mich	5-7-80	5-1-80	TA-W-8,080	Movie project equipment, film editors, slide viewers, slide projectors.
D & G Shake Co., Inc. (workers)	Amanda Park, Wash	5-7-80	5-2-80	TA-W-8,081	Shakes and shingles.
Michigan Rubber Products, Inc. (company)	Cadillac, Mich	5-15-80	5-9-80	TA-W-8,082	Rubber products for automobiles.
Maryanne Sportwear (workers)	Ozone Park, N.Y	5-7-80	5-3-80	TA-W-8,083	Ladies' sportwear.
ITT Lester Industries, Inc. (company)	Rome, Ga	5-6-80	5-1-80	TA-W-8,084	Automatic transmission parts.
ITT Lester Industries, Inc. (company)	Bedford Heights, Ohio	5-6-80	5-1-80	TA-W-8,085	Automatic transmission parts.
Greif & Co. (company)	Fredericksburg, Va	5-8-80	5-6-80	TA-W-8,086	Tailored clothing.
Greif & Co. (company)	Baltimore, Md	5-8-80	5-6-80	TA-W-8,087	Tailored clothing.
Greif & Co. (company)	Everett, Pa	5-8-80	5-6-80	TA-W-8,088	Tailored clothing.
Greif & Co. (company)	Hanover, Pa	5-8-80	5-6-80	TA-W-8,089	Tailored clothing.
Greif & Co. (company)	Verona, Va	5-8-80	5-6-80	TA-W-8,090	Tailored clothing.
Magnavox Consumer Electronics Co. (IUE)	Jefferson City, Tenn	4-14-80	4-8-80	TA-W-8,091	Cabinets for TV.
Allison Manufacturing Co. (workers)	Allentown, Pa	5-7-80	5-1-80	TA-W-8,092	Men's and boys' knit shirts.
Victor Business Products (New York Branch) (company).	New York, N.Y	5-13-80	5-6-80	TA-W-8,093	Produces, sells and services electronic business calculators and cash registers.
Eaton Corp., Saginaw Plant (AIW)	Saginaw, Mich	5-7-80	4-29-80	TA-W-8,094	Auto engine parts.
Firestone Tire & Rubber Co. (workers)	Akron, Ohio	5-12-80	5-2-80	TA-W-8,095	Radial and bias ply passenger and truck tires.
Chromalloy American Corp., Forest Hills Sportwear Division (ACTWU).	Lawrenceburg, Tenn	5-12-80	5-6-80	TA-W-8,096	Men's suit trousers and men's slacks.
Chemseco (workers)	Cumberland, Md	51-12-80	4-29-80	TA-W-8,097	Automotive parts.
New England Drawn Steel Co., Inc. (workers).	Mansfield, Mass	5-2-80	4-25-80	TA-W-8,098	Rolled steel bars.
Getty Fashions, Inc. (workers)	Yonkers, N.Y	5-2-80	4-28-80	TA-W-8,099	Ladies' apparel.
Garland Corp. (company)	Brockton, Mass	5-6-80	5-1-80	TA-W-8,100	Women's sweaters, knit dresses and women's sportswear.
St. Clair Rubber Co. (Molded) (URW)	Marysville, Mich	5-7-80	4-29-80	TA-W-8,101	Molded rubber parts for autos; adhesives for autos.
St. Clair Rubber Co. (Adhesive) (URW)	Marysville, Mich	5-7-80	4-29-80	TA-W-8,102	Molded rubber parts for autos; adhesives for autos.
G.B. Dupont Co. (company)	Troy, Mich	5-7-80	5-2-80	TA-W-8,103	Automotive cold heated products.
G.B. Dupont Co.(company)	Lapeer, Mich	5-7-80	5-2-80	TA-W-8,104	Automotive cold heated products.
General Motors Corp., Packard Electric Division (workers).	Brookhaven, Miss	5-6-80	4-28-80	TA-W-8,105	Automotive wiring harnesses.
General Motors Corp., Packard Electric Division (IUE).	Warren, Ohio	5-2-80	4-24-80	TA-W-8,106	Automotive wiring harnesses.
General Motors Corp., Packard Electric Division (IUE).	Clinton, Miss	4-29-80	4-21-80	TA-W-8,107	Automotive wiring harnesses.
Kelly Carbide Die Corp. (company)	Roseville, Mich	5-13-80	5-8-80	TA-W-8,108	Cold heading tools for the fastener industry.
Superior Industries International, Inc. (company).	Van Nuys, Calif. (Woodley Ave.).	5-2-80	4-28-80	TA-W-8,109	Steel and aluminum sport automobile wheels.

Appendix—Continued

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Superior Industries International, Inc. (company).	Van Nuys, Calif. (Keswick)	5-2-80	4-28-80	TA-W-8,110	Steel and aluminum sport automobile wheels.
Superior Industries International, Inc. (company).	Los Angeles, Calif	5-2-80	4-28-80	TA-W-8,111	Steel and aluminum sport automobile wheels.
Superior Industries International, Inc. (company).	West Los Angeles, Calif	5-2-80	4-28-80	TA-W-8,112	Steel and aluminum sport automobile wheels.
Superior Industries International, Inc. (company).	Gardena, Calif	5-2-80	4-28-80	TA-W-8,113	Steel and aluminum sport automobile wheels.
Superior Industries International, Inc. (company).	Itasca, Ill (Route 53)	5-2-80	4-28-80	TA-W-8,114	Steel and aluminum sport automobile wheels.
Superior Industries International, Inc. (company).	Itasca, Ill (West Bryn)	5-2-80	4-28-80	TA-W-8,115	Steel and aluminum sport automobile wheels.
C.A. Spalding Co. (company)	Philadelphia, Pa	5-13-80	5-8-80	TA-W-8,116	Tools, dies special machinery for autos.
Dana Perfect Circle (UAW)	Rushville, Ind	5-2-80	4-30-80	TA-W-8,117	Sleeve castings, piston rings.
Gulf & Western Manufacturing Co., Bohn Aluminum Brass Division (workers).	Adraia, Mich.	4-29-80	4-22-80	TA-W-8,118	Brass automotive gears, blerm bumpers.
Bethlehem Steel Corp. (workers)	Buffalo, N.Y.	4-21-80	4-16-80	TA-W-8,119	Steel.
Rockport Log & Shake (workers)	Copalis Crossing, Wash.	4-29-80	4-17-80	TA-W-8,120	Cedar shakes and shingles.
Schurig Shoe Clinic (workers)	Warren, Mich	5-2-80	4-23-80	TA-W-8,121	Shoes and leather for shoes.
Armco, Inc., Kansas City Workers (USA)	Kansas City, Mo	5-2-80	4-28-80	TA-W-8,122	Steel, rods, bolts, and nuts.
Pittsburg Tube Co. (Pittsburg Tube Ind. Union).	Jane Lew, W. Va	5-2-80	4-29-80	TA-W-8,123	Steel.
Whittaker Steel Strip Division (workers)	Detroit, Mich	5-2-80	4-25-80	TA-W-8,124	Steel; cold rolled, and heat treated.
Mazda Fashions (workers)	New York, N.Y.	5-6-80	4-30-80	TA-W-8,125	Coats and jackets, ladies.
G. K. Technologies General Cable Division (USA).	Pownal, Vt	5-2-80	4-28-80	TA-W-8,126	Electrical cords.
Inland Tool & Manufacturing Co. (workers)	Detroit, Mich	5-2-80	4-28-80	TA-W-8,127	Brake parts for automobiles.
Kenworth Truck Co. (UAW)	Kansas City, Mo	5-2-80	4-24-80	TA-W-8,128	Diesels and heavy duty trucks.
Penn Dixie Ind., Inc., Cement Division (UCL & GWIU).	South Pittsburg, Tenn	5-2-80	4-26-80	TA-W-8,129	Portland cement.
U.S. Industries, Inc., Barsteel Division (UAW).	Detroit, Mich	5-2-80	4-29-80	TA-W-8,130	trim and moldings for automobiles.
Sealed Power Corp., Die Cast Division (company).	Alma, Mich	5-13-80	5-2-80	TA-W-8,131	Tilt column for steering.
Sealed Power Corp., Die Cast Division (company).	Dowagiac, Mich	5-13-80	5-2-80	TA-W-8,132	Oil filter bases.
Specialty Systems, Inc. (company)	Rochester, Mich	5-13-80	5-8-80	TA-W-8,133	Release agents and cleaners.
William Amer Co. (company)	Philadelphia, Pa	5-13-80	5-9-80	TA-W-8,134	Kid leathers.
Dura Corp. (workers)	Southfield, Mo	5-7-80	4-30-80	TA-W-8,135	O.E.M. auto parts.
U.S. Manufacturing Corp., Auto Products Division (UAW).	Fraser, Mich	5-13-80	5-5-80	TA-W-8,136	Automobile steering knuckles.
Triangle Auto Spring Co. (workers)	Columbia, Tenn	5-13-80	5-7-80	TA-W-8,137	Flat leaf springs for automobiles.
Machinery Builders, Inc. (UAW)	Toledo, Ohio	5-7-80	4-23-80	TA-W-8,138	Processing equipment for auto and steel industries.
Julius Simon Ruffalo Co. (workers)	New York, N.Y	5-13-80	5-7-80	TA-W-8,139	Men's swimming attire.
Hayes-Albion Corp. (workers)	Tiffin, Ohio	5-13-80	5-7-80	TA-W-8,140	Cast parts for automobiles.
General Electric Tube Products Division (AIW).	Owensboro, Ky	5-13-80	5-7-80	TA-W-8,141	Cathode ray tubes for televisions.
Gulf & Western Stamping Division, Plant 22 (UAW).	Mancelona, Mich	5-13-80	5-8-80	TA-W-8,142	Brakes, hood latches for autos.
Perfection Pattern and Manufacturing (Pattern Makers Association).	Madison Heights, Mich	5-8-80	5-5-80	TA-W-8,143	Patterns, metal and wood (auto).
Automotive Pattern Co. (Pattern Makers Association).	Detroit, Mich	5-8-80	5-5-80	TA-W-8,144	Patterns, metal and wood (auto).
Conventry Pattern Co. (Pattern Makers Association).	Troy, Mich	5-8-80	5-5-80	TA-W-8,145	Patterns, wood (auto).
Commerce Engineering & Pattern (Pattern Makers Association).	Walled Lake, Mich	5-8-80	5-5-80	TA-W-8,146	Industrial patterns.
Sherwood Pattern Co. (Pattern Makers Association).	Walled Lake, Mich	5-8-80	5-5-80	TA-W-8,147	Patterns, metal and wood (auto).
Admiral Pattern Works (Pattern Makers Association).	Warren, Mich	5-8-80	5-5-80	TA-W-8,148	Patterns, metal and wood (auto).
Progress Pattern (Pattern Makers Association).	Southfield, Mich	5-8-80	5-5-80	TA-W-8,149	Patterns, metal and wood (auto).
J & I Pattern (Pattern Makers Association)	Troy, Mich	5-8-80	5-5-80	TA-W-8,150	Patterns, metal and wood (auto).
Annex Pattern Co. (Pattern Makers Association).	Southfield, Mich	5-8-80	5-5-80	TA-W-8,151	Patterns, metal and wood (auto).
Sherwood Metal (Pattern Makers Association)	Drayton Plains, Mich	5-8-80	5-5-80	TA-W-8,152	Patterns, metal and wood (auto).

[FR Doc. 80-19720 Filed 6-30-80; 8:45 am]
BILLING CODE 45-10-28-M

Mine Safety and Health Administration

[Docket No. M-79-276-C]

J & D Coal Co., Inc.; Petition for Modification of Application of Mandatory Safety Standard

The J and D Coal Co., Inc., Post Office Box 418, Oakwood, Virginia 24631, has filed a petition to modify the application of 30 CFR 1719-1, 1719-2 (illumination) to its mine, I.D. #44-04715, in Russell County, Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164.

The substance of the petition follows:

1. The petition concerns the illumination of working places in the petitioner's mine while self-propelled mining equipment is operated in the work place.

2. The required lighting will reduce the visibility and safety of the petitioner's miners because low seam height (28 to 30 inches) and a very reflective roof top combine to make this type lighting and blinding glare.

3. Petitioner states that using factory installed lights on the machinery will achieve the same protection as the standard, and that additional lighting would result in a diminution of safety.

Request for Comments

Persons interested in this petition may furnish written comments on or before July 31, 1980. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: June 23, 1980.

Frank A. White,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 80-19719 Filed 6-30-80; 8:45 am]

BILLING CODE 4510-43-M

MERIT SYSTEMS PROTECTION BOARD

Appointment of Members to Performance Review Board

AGENCY: Merit Systems Protection Board.

ACTION: Notice of Appointment of Members to the Performance Review Board.

Title IV of the Civil Service Reform Act (Sec. 405(a), Title IV, Pub. L. 95-454; 5 U.S.C. 4314(c) (4) (1) through (5) requires agencies to establish a Performance Review board whose members make recommendations to the Chairwoman of the Board relating to the performance of senior executives of the Merit Systems Protection Board.

Accordingly, the following persons are hereby appointed as members of the Performance Review Board of the Senior executive Service for a three year term: Ronald P. Wertheim, Chairman; Ernest Russell, National Labor Relations Board; Willis E. Greenstreet, Alaska Natural Gas Transportation System; Samuel A. Chaitovitz, Federal Labor Relations Authority; Jay W. Morava; Jane Edmisten.

The normal term of office for members will run from January 1–December 31. For the first year of SES operation, however, the term of each member will commence formally on the date of publication of this notice, rather than on January 1, 1981. Thus, the term of persons here appointed expires on December 31, 1983.

EFFECTIVE DATE: July 1, 1980.

FOR FURTHER INFORMATION, CONTACT: Lawrence Bembry, Director of Personnel and EEO, Room 367, 1717 H Street, N.W., Washington, D.C. 20419, (202) 653-5916.

Merit Systems Protection Board,

Kathy W. Semone,

Acting Secretary.

June 26, 1980

[FR Doc. 80-19754 Filed 6-30-80; 8:45 am]

BILLING CODE 6325-20-M

MINIMUM WAGE STUDY COMMISSION

Metting Cancellation

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463) announcement is made of the cancellation of the following meeting:

Name: Minimum Wage Study Commission.

Date: July 8, 1980.

Original notice of this meeting date appeared in the **Federal Register** May 30, 1980.

Next meeting of the Commission will be held Tuesday, August 12, 1980.

All communications regarding this Commission should be addressed to: Mr. Louis E. McConnell, Executive Director, 1430 K St. NW, Suite 500, Washington, D.C. 20005, telephone (202) 376-2450.

Louis E. McConnell,

Executive Director.

June 16, 1980.

[FR Doc. 80-19764 Filed 6-30-80; 8:45 am]

BILLING CODE 4510-23-M

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Engineering and Applied Science; Open Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Advisory Committee for Engineering and Applied Science—Task Group on Information Dissemination and Evaluation.

Date: July 25, 1980.

Place: North Carolina State University at Raleigh, Room 234—Riddick Building, Raleigh, North Carolina 27650.

Type of Meeting: Open.

Contact Person: Mr. Paul J. Herer, Room 1110, National Science Foundation, Washington, D.C. 20550, Telephone: (202) 357-9774.

Summary Minutes: Ms. Mary Chezmar, Special Assistant, Directorate for Engineering and Applied Science, Room 537, National Science Foundation, Washington, D.C. 20550.

Purpose of Advisory Meeting: To provide advice, recommendations, and counsel on major goals and policies pertaining to Engineering and Applied Science activities and programs.

Agenda: July 25—8:30 a.m.-5:00 p.m.—Discussion of the draft report for the Task Group on Information Dissemination and Evaluation concerning dissemination and evaluation policies and procedures.

M. Rebecca Winkler,

Committee Management Coordinator.

June 26, 1980.

[FR Doc. 80-19751 Filed 6-30-80; 8:45 am]

BILLING CODE 7535-01-M

Subcommittee for Science and Technology To Aid the Handicapped of the Advisory Committee for Engineering and Applied Science; Meeting

In accordance with the Federal Advisory Committee Act, as amended, P.L. 92-463, the National Science Foundation announces the following meeting:

Name: Subcommittee on Science and Technology to Aid the Handicapped of the Advisory Committee for Engineering and Applied Science.

Date and Time: July 10, 1980—9 a.m.-5 p.m. July 11, 1980—9 a.m.-3:30 p.m.

Place: Park Central Hotel, 705 18th St. NW., Washington, D.C. (Room number will be posted in lobby).

Type of Meeting: Closed—9 a.m.-5 p.m. July 10; 9 a.m.-12 p.m.; Open—1 p.m.-3:30 p.m. July 11.

Contact Person: Dr. Donald McNeal, Program Manager, Program for Science and Technology to Aid the Handicapped, Room 1134B, NSF, 1800 G Street NW., Washington, D.C. 20550, (202) 357-7734.

Summary of Minutes: May be obtained from the contact person, Dr. McNeal, at the above stated address.

Purpose of Subcommittee: To provide advice and recommendations concerning support for research and research-related projects.

Agenda: Closed—Thursday 7/10 all day; Friday 7/11 9-12; Review and evaluation of unsolicited research proposals. Open—Friday 7/11 1-3:30; Discussion of program objectives and directions to be undertaken in the coming year.

Reason for Closing: The proposals being reviewed include information of proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals These matters are within exemptions (4) and (6)

of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to Close Meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of P.L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF on July 9, 1979.

Reason for Late Notice: Difficulty in arriving at an acceptable meeting date for the subcommittee members.

M. Rebecca Winkler,

Committee Management Coordinator.

June 26, 1980

[FR Doc. 80-19752 Filed 6-30-80; 8:45 am]

BILLING CODE 7535-01-M

OFFICE OF MANAGEMENT AND BUDGET

Federal Information Locator System Task Force Report; Request for Comments and Suggestions

AGENCY: Office of Management and Budget, Executive Office of the President.

ACTION: Notice for Public Comment.

SUMMARY: The Office of Management and Budget is seeking comments and suggestions on the Federal Information Locator System Task Force report. In November 1978, the Deputy Director of the Office of Management and Budget, John P. White, established a Federal Task Force to evaluate existing Federal Government information locator systems and to consider the need for a comprehensive dictionary of common terms, codes, symbols, etc. In December 1979, the Task Force recommended the development of an automated system under control of the Office of Management and Budget which would contain a descriptive "profile" of both information collected from the public and of the information that Federal agencies collect from each other. In addition, the system should be developed on a two-tiered basis. That is, a central module would contain a core of information about government-wide data holdings, and more detailed information about agency data would be contained in agency level modules. FILS will not contain any actual information collected from the public.

DATE: Comments must be received on or before September 2, 1980.

ADDRESS: Please address written comments to the Assistant Director for Regulatory and Information Policy Office, Room 3236, New Executive Office Building, 726 Jackson Place, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: Howard A. Howell, Economic and Natrual Resources, Office of Regulatory and Information Policy, Room 3228, New Executive Office Building, 726 Jackson Place, Washington, D.C. 20503. Telephone Number: 395–7340.

SUPPLEMENTRY INFORMATION: We are asking the public for comments and suggestions on the recommendations of the Federal Information Locator Systems Task Force.

In July 1977, the Commission on Federal Paperwork published a report recommending that a Federal Information Locator System (FILS) be established to assist the Office of Management and Budget, the General Accounting Office and the Federal agencies in identifying unnecessary duplication in information collected from the public. Specifically, the Commission recommended that FILS be used to:

—identify unnecessary differences in existing or new agency reporting requirements;

—locate existing information that may meet the needs of an agency and thereby promote sharing to avoid unnecessary duplication;

—provide a central coordinating mechanism for Federal, State and local government requirements for information;

—maximize the use of information by identifying available sources of information for Congress prior to drafting legislation and information requirements for the executive branch, and

—make visible public burdens from this reporting so that effective action can be applied to reduce these burdens.

In repsonse to this recommendation, OMB Deputy Director John P. White directed in November 1978 that a task force be established to ". . . evaluate several existing systems and consider the need for a comprehensive dictionary of common terms, codes, symbols, etc. . . ." and to ". . . conduct a pilot test of the Department of Defense's Information Requirements Control Automated System (IRCAS) . . ." The Federal Information Locator System Task Force was formed with representatives from 27 Federal agencies and in January 1979, began a six-month pilot test of DOD's IRCAS. The results of this test demonstrated the feasibility of agencies sharing information in order to prevent or reduce the collection of unnecessary data. In December 1979, the Task Force issued its final report.

The Task Force report has been distributed to the Federal agencies for review and comment. It recommends that:

—OMB be responsible for the development of FILS as an automated locator system;

—FILS be structured in a mixed centralized/decentralized configuration, which means that some information will be maintained by jOMB or GAO at the central level for government-wide use, and some information will be maintained by agencies at their level for unique, agency-specific purposes. The data processing workload is thus apportioned between OMB/GAO and the agencies, and redundant data handling is minimized;

—FILS be developed as an index or card catalog of the Federal Government's Public-Use (information collected from the public) and Interagency reports to be used much like a library patron uses a card catalog—to help find information needed through indexes. The system would also identify the information's location (i.e., which agency has it), and any restrictions to access since the actual data is under complete agency control; and

—a Data Element Dictionary be developed which will serve as a central, authoritative register of all the definitions in use for a given comonly used name, term abbreviation, code or symbol.

The primary use of FILS is to help officials determine if information they are planning to collect from the public is already available in an agency and, if so, subject to appropriate Freedom of Information Act, Privacy Act and other constraints to interagency sharing, whether such available information might be used to avoid the recollection of duplicative data from the public. In addition, researchers, analysts and other ofiicials can more effectively search for and retrieve information they may need to support decisionmaking and problem solving, subject to any limits on data sharing.

Copies of the FILS Task Force report or available on request.

Write to: Ms. Diane Steed, Acting Deputy Assistant Director for Regulatory Policy, Room 3228, NEOB, 726 Jackson Place, N.W., Washington, D.C. 20503.

David R. Leuthold,

Budget and Management Officer.

[FR Doc. 80-19667 Filed 6-30-80; 8:45 am]

BILLING CODE 3110-01-M

U.S. OFFICE OF PERSONNEL MANAGEMENT

Notice of Establishment of Prescribed Minimum Education Requirements; Veterinary Medical Science Series, GS-701

AGENCY: U.S. Office of Personnel Management.

ACTION: Notice.

SUMMARY: The Office of Personnel Management has established a prescribed minimum educational requirement for veterinary medical officers employed within the Federal service. Veterinary medical science is a professional occupation and the prescribed requirement will assure fair and equitable recruitment and placement actions with respect to the duties of individual positions.

EFFECTIVE DATE: June 19, 1980.

FOR FURTHER INFORMATION CONTACT: Donald G. Brauer, Chief, Engineering and Science Occupations Branch, Standards Development Center, Staffing Services Group, 1900 E Street NW, Washington, D.C. 20415, 202-632-5612.

SUPPLEMENTARY INFORMATION: In accordance with Section 3308 of Title 5, United States Code, the Office of Personnel Management has established a prescribed minimum educational requirement for veterinary medical officers employed within the Federal service. The requirement, the duties of the positions, and the reasons for the Office of Personnel Management's decision that the requirement is necessary are set forth below:

The Veterinary Medical Science Series, GS-701 GS-9 Through GS-15

Minimum Educational Requirements: Candidates must show successful completion of a full course of study in the profession for the degree of Doctor of Veterinary Medicine or equivalent at an approved veterinary medical school. These requirements also may be satisfied when candidates submit positive evidence of possession of equivalent qualification through recognition, certification, or approval by one of the following qualifying organizations in the United States:

A department of higher eduction of one of the fifty States.

An approved veterinary medical school (i.e., by acceptance of completed D.V.M. or equivalent degree work for advanced degree work).

A Board of Veterinary Medical Examiners of one of the fifty States.

The Educational Commission on Foreign Veterinary Graduates, American Veterinary Medical Association.

The Special Advisory Committee, U. S. National Board of Veterinary Medical Examiners.

The Council on Education, American Veterinary Medical Association. Graduates of a foreign veterinary medical school must furnish proof of (a) graduation, (b) comprehension and ability to communicate in the English language as may be required, and (c) having passed the written examination in veterinary medicine as administered by either the Educational Commission on Foreign Veterinary Graduates, American Veterinary Medical Association or the Special Advisory Commnittee, U. S. National Board of Veterinary Medical Examiners. Proof of English language proficiency may be met by passing the indicated written examination or earning an advanced degree (i.e., an MS or Ph.D) in the profession at an acceptable U. S. college or university, or graduating from a U. S. or Canadian English-speaking high school. Exceptions to these requirements are as follows:

Certificates held by veterinarians who qualified between 1965 and 1972, under the program of the Educational Commission for Foreign Veterinary Graduates will be honored.

Veterinarians who are graduates of foreign veterinary colleges which were included on the September 1, 1963 list entitled, "Foreign Veterinary Colleges Evaluated by the Council on Education, American Veterinary Medical Association", and who entered the United States or Canada and qualified as eligible for private practice or Federal employment on or before December 31, 1972, will be accepted.

Duties: Veterinary medical officers perform professional work requiring the application of a knowledge of current, advanced, or specialized veterinary medical arts and science principles and practices of gross and microscopic anatomy; general, special, and post mortem pathology; microbioloogy and immunology; pharmacology and therapeutics; comparative physiology; toxicology; epidemiology; surgery; medicine; hygiene; reproduction; or other specialties of the profession to a variety of programs that are established to protect and improve the health, products, and environment of or for the Nation's livestock, poultry, or other species for the benefit of human, as well as animal, wellbeing. These veterinary medical officers investigate, inspect, and deal with problems such as animal diseases, animal pollution, contamination of food of animal origin, health and safety of imported animals and animal products, safety and efficacy of animal, as well as human, drugs and biological products, and cooperative enforcement activities involving both the public and private sectors.

Reason for Establishing Requirements: The duties of these positions require the application of professional competence in the veterinary medical arts and sciences. Proficiency to perform professionally can only be acquired through the successful completion of a full course of study in the profession for the degree of Doctor of Veterinary Medicine or equivalent at an approved veterinary medical school which has thoroughly trained instructors who give expert guidance, evaluate progress competently, and provide course work in the veterinary medical arts and sciences, laboratory and library research, and course-related practicum necessary for the full development of professional competency. In certain instances, it may be necessary to obtain positive evidence of possession of equivalent qualification through recognition, certification, or approval by any one of the six listed qualifying organizations in the United States which not only establish the essentials of an acceptable veterinary medical school but may also formulate and administer written examinations on the principles and practices of the veterinary medical arts and sciences that ensure and determine the successful development of professional competency.

Office of Personnel Management

Beverly M. Jones,

Issuance System Manager.

[FR Doc. 80-19617 Filed 6-30-80; 8:45 am]

BILLING CODE 6325-01-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Implementation of Customs Valuation Law

Reubin O'D. Askew, the United States Trade Representative, announced today that the United States plans to implement the new customs valuation law provided for in the Title II of the Trade Agreements Act of 1979 on July 1, 1980. The European Communities will join the United States by also putting in place a new customs valuation system which, like the new U.S. law, is based on the Multilateral Trade Negotiations Agreement on Customs Valuation.

The formal action implementing the new law will be a part of the Presidential Proclamation that will implement other customs related tariff

modifications authorized by Title II of the Trade Agreements Act of 1979.

Contact: Mr. William Merkin, Office of U.S. Trade Representative, Phone No. 395–6843.

Robert C. Cassidy, Jr.,

General Counsel.

[FR Doc. 80–19672 Filed 6–30–80; 8:45 am]

BILLING CODE 3190–01–M

SMALL BUSINESS ADMINISTRATION

[Application No. 10/10–5169]

Northwest Venture Capital, Inc.; Application for License to Operate as a Small Business Investment Company

An application for a license to operate as a small business investment company under section 301(d) of the Small Business Investment Act of 1958, as amended (the Act) (15 U.S.C. 661 *et seq.*), has been filed by Northwest Venture Capital, Inc. (Applicant), with the Small Business Administration (SBA) pursuant to 13 CFR 107.102 (1980).

The officers, directors and stockholders of the Applicant are as follows:

Roger A. Nelson, 11045 S.W., Berkshire Street, Portland, Oregon 97225, President, Director, General Manager, 30 percent Stockholder

J. Michael Magimnis, 9960 S.W. Melnore Street, Portland, Oregon 97225, Vice President, Director, 20 percent Stockholder

Joseph H. Wright 13650 L.W. Burton Street Portland, Oregon 97229, Secretary-Treasurer, Director, 30 percent Stockholder

Donald E. Ehrlich, 9365 S.W. Carriage Way, Beaverton, Oregon 97005, Director, 20 percent Stockholder

The Applicant, an Oregon corporation, with its principal place of business at 3755 S.W. 104th Avenue, Beaverton, Oregon 97005, will begin operations with $500,000 of paid-in capital and paid-in surplus derived from the sale of 52,500 shares of common stock.

The Applicant will conduct its activities initially in the state of Oregon and subsequently on a national basis.

Applicant intends to provide assistance to all qualified socially or economically disadvantaged small business concerns as the opportunity to profitably assist such concerns is presented.

As a small business investment company under section 301(d) of the Act, the applicant has been organized and chartered solely for the purpose of performing the functions and conducting the activities contemplated under the Small Business Investment Act of 1958, as amended, from time to time, and will provide assistance solely to small business concerns which will contribute to a well-balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages.

Matters involved in SBA's consideration of the Applicant include the general business reputation and character of the proposed owners and management, and the probability of successful operation of the Applicant under their management, including adequate profitability and financial soundness, in accordance with the Small Business Investment Act and the SBA Rules and Regulations.

Notice is hereby given that any person may, or on before July 16, 1980, submit to SBA written comments on the propose Applicant. Any such communication should be addressed to the Associate Administrator for Investment, Small Business Administration, 1441 L Street, N.W., Washington, D.C. 20416.

A copy of this notice shall be published in a newspaper of general circulation in Beaverton, Oregon.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: June 19, 1980.

Michael K. Casey,

Associate Administrator for Investment.

[FR Doc. 80–19725 Filed 6–30–80; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Urban Mass Transportation Administration

Energy Impact Assessment Panel Discussion

AGENCY: Federal Highway Administration (FHWA), Urban Mass Transportation Administration UMTA), DOT.

ACTION: Notice of public meeting.

SUMMARY: Notice is hereby given of a panel discussion addressing energy impact assessments sponsored by FHWA and UMTA.

DATES: Meetings will be held July 7 from 9 a.m. until 4 p.m. and July 8 from 9 a.m. until 3 p.m.

ADDRESS: Meetings will be held at the Department of Transportation Building, Room 3200, 400 Seventh Street SW, Washington, D.C.

FOR FURTHER INFORMATION CONTACT: For FHWA, Bruce Cannon, Office of Highway Planning, 202–426–1045, or Thomas P. Holian, Office of the Chief Counsel, 202–426–0761, Federal Highway Administration, 400 Seventh Street SW, Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday. For UMTA, Douglas A. Kerr, Office of Planning Assistance, 202–472–5140, Urban Mass Transportation Administration, 400 Seventh Street SW, Washington, DC 20590. Office hours are from 8:30 a.m. to 5:00 p.m., ET, Monday through Friday.

SUPPLEMENTARY INFORMATION: The Federal Highway Administration and the Urban Mass Transportation Administration, as part of their continuing responsibility to ensure that energy considerations are incorporated into transportation planning, intend to offer technical assistance on energy impact assessments to State, regional, and local governments and transit operators. The subject panel discussion is designed to provide FHWA and UMTA with technical background information on energy impact assessment techniques for internal analysis. This information will form, in part, the basis for future technical assistance to be provided to State, regional, and local government units and transit operators on energy impact assessment. The panel discussion will be attended by eight representatives of various State, regional, and local governmental units with experience in energy impact analysis and energy related transportation planning issues. The discussion will focus on the techniques presently available to assess the energy impacts of highway and transit improvements at the systems and project levels. The discussion will address these energy impact assessment techniques from technical and implementation perspectives. The public is invited to attend this meeting subject to available space.

Issued on: June 27, 1980.

John S. Hassell, Jr.,

Deputy Federal Highway Administrator.

Theodore C. Lutz,

UMTA Administrator.

[FR Doc. 80–19858 Filed 6–30–80; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF THE TREASURY

Customs Service

[TMK–2–RRUEE]

Washington Stove Works; Application for Recordation of Trade Name

Application has been filed pursuant to section 133.12, Customs Regulations (19 CFR 133.12), for recordation under

section 42 of the Act of July 5, 1946, as amended (15 U.S.C. 1124) of the trade name Washington Stove Works used by Washington Stove Works, a corporation organized under the laws of the State of Washington, located at 3402 Smith, Everett, Washington 98201.

The application states that the trade name is applied to freestanding fireplaces, wood heaters, marine ranges, cook stoves, both oil and wood/coal, manufactured in Yugoslavia.

The application states further that no foreign firm is authorized to use the trade name sought to be recorded. Appropriate accompanying papers were submitted with the application.

Before final action is taken on the application, consideration will be given to any relevant data, views, or arguments submitted in writing by any person in opposition to the recordation of this trade name. Any such submission should be addressed to the Commissioner of Customs, Washington, D.C. 20229, in time to be received not later than July 31, 1980.

Notice of the action taken on the application of the trade name will be published in the **Federal Register.**

Dated: June 26, 1980.

Donald W. Lewis,

Director, Office of Regulations and Rulings.

[FR Doc. 80-19761 Filed 6-30-80; 8:45 am]

BILLING CODE 4810-22-M

Office of the Secretary

List of Countries Requiring Cooperation With an International Boycott

In order to comply with the mandate of section 999(a)(3) of the Internal Revenue Code of 1954, the Department of the Treasury is publishing a current list of countries which may require participation in, or cooperation with, an international boycott (within the meaning of section 999(b)(3) of the Internal Revenue Code of 1954). The list is the same as the list published in the April 7, 1980 **Federal Register.**

On the basis of the best information currently available to the Department of the Treasury, the following countries may require participation in, or cooperation with, an international boycott (within the meaning of section 999(b)(3) of the Internal Revenue Code of 1954).

Bahrain
Iraq
Jordan
Kuwait
Lebanon
Libya
Oman
Qatar
Saudi Arabia
Syria
United Arab Emirates
Yemen Arab Republic
Yemen, Peoples Democratic Republic of

Dated: June 23, 1980.

Donald C. Lubick,

Assistant Secretary (Tax Policy).

[FR Doc. 80-19500 Filed 6-30-80; 8:45 am]

BILLING CODE 4810-25-M

[Amdt. and Supplement to Department Circular, Public Debt Series—No. 20-80]

Treasury Notes of Series E-1984

June 25, 1980

Pursuant to the announcement by the Secretary on June 24, 1980, Department of the Treasury Circular, Public Debt Series—No. 20-80, dated June 16, 1980, descriptive of the Treasury Notes of Series E-1984, is hereby amended to reduce the offering amount from $3,250 million to $3,200 million. The Secretary also announced on June 24 that the interest rate on the notes will be 8⅞ percent. Interest on the notes will be payable at the rate of 8⅞ percent per annum.

SUPPLEMENTARY STATEMENT: The announcement set forth above does not meet the Department's criteria for significant regulations and, accordingly, may be published without compliance with the Departmental procedures applicable to such regulations.

Paul H. Taylor,

Fiscal Assistant Secretary.

[FR Doc. 80-19657 Filed 6-30-80; 8:45 am]

BILLING CODE 4810-40-M

[General Counsel Order No. 24]

Appointment to the Performance Review Board

I hereby appoint Arnold Intrater to replace Wolf Haber on the General Panel of the Legal Division Performance Review Board.

Effective date: June 25, 1980.

Robert H. Mundheim,

General Counsel.

[FR Doc. 80-19746 Filed 6-30-80; 8:45 am]

BILLING CODE 4810-25-M

VETERANS ADMINISTRATION

Replacement Waste Treatment Plant and Incinerator With Waste Heat Boiler; Finding of No Significant Impact

The Veterans Administration (VA) has assessed the potential environmental impacts that may occur as a result of the construction of a Replacement Waste Treatment Plant and an Incinerator with Waste Heat Boiler at the Veterans Administration Medical and Regional Office Center (VAMROC), Togus, Maine.

The replacement waste treatment plant project proposes the construction of an onsite secondary sewage treatment system using an oxidation ditch with discharge of treated effluent into Togus Stream. Four alternative treatment systems, including the selected alternative, were evaluated prior to determining the scope of this project. The treatment system will be located adjacent to the existing sewage plant at the southernmost edge of the medical center property.

The incinerator with waste heat boiler project proposes the construction of an incineration system which will utilize heat produced in the combustion process to supply hot water for the laundry and boiler make-up system. This new incinerator will be located in a structural addition on the west end of the boiler plant, building No. 238.

The mitigation of the projects' impacts on the environment include: Implementation of erosion and sedimentation controls; onsite noise abatement measures; construction traffic controls; and air quality controls. Short term impacts of dust and fumes associated with the construction of the projects will be minimized.

This Environmental Assessment has been performed in accordance with the requirements of the National Environmental Policy Act Regulations, §§ 1501.3 and 1508.9, Title 40, Code of Federal Regulations. A "Finding of No Significant Impact" has been reached based on the information presented in this assessment.

The assessment is being placed for public examination at the Veterans Administration, Washington, D.C. Persons wishing to examine a copy of the document may do so at the following office: Mr. Willard Sitler, P.E., Director, Office of Environmental Affairs (003A), Room 1027A, Veterans Administration, 810 Vermont Avenue, N.W., Washington, D.C. 20420, (202-389-2526). Questions or requests for single copies of the Environmental Assessment may be addressed to the above office.

Dated: June 23, 1980.

By direction of the Administrator.

Maury S. Crallé, Jr.,

Associate Deputy Administrator.

[FR Doc. 80-19730 Filed 6-30-80; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 45, No. 128
Tuesday, July 1, 1980

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

CONTENTS

1

FEDERAL COMMUNICATIONS COMMISSION.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m., Tuesday, July 1, 1980.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Special Open Commission Meetings.

CHANGES IN THE MEETING: Additional items to be considered:

Agenda, Item Number, and Subject

Assignment and Transfer—1—*Title:* Applications to assign the licenses of stations WJAR, Providence, Rhode Island, WHIM, Providence, Rhode Island and WRLM(FM), Taunton, Massachusetts and three informal objection thereto. *Summary:* Franks Broadcasting Co. seeks to acquire the license of WRLM(FM) which it proposes to exchange for the license of WJAR which is licensed to the Outlet Co. Since the Outlet Co. is also the licensee of WJAR–TV, Providence, it has requested waiver of the Commission's FM one-to-a-market rule. Franks Broadcasting also proposes to assign the license of WHIM to minority-controlled East Providence Broadcasting and has requested issuance of a tax certificate pursuant to the Commission's *Policy on Minority Ownership of Broadcasting Facilities*, 68 FCC 2d 979 (1978).

Broadcast—3—*Title:* Memorandum Opinion and Order regarding NAB's petition for reconsideration of the Commission's revised EEO processing guidelines for broadcast renewal applicants, FCC 80–61, and NAB's petition for rule making to reassess the Commission's EEO regulatory program (RM–3635). *Summary:* The Commission will consider the petitions for reconsideration of its EEO processing guidelines, adopted February 13, 1980, and a related petition for rule making, both filed by the National Association of Broadcasters.

The prompt and orderly conduct of Commission business requires that less than 7-days notice given consideration of these additional items.

Additional information concerning this meeting may be obtained from Edward Dooley, FCC Public Affairs Office, telephone number (202) 254–7674.

Issued: June 27, 1980.

[S–1265–80 Filed 6–27–80; 2:36 am]

BILLING CODE 6712–01–M

2

POSTAL RATE COMMISSION.

TIME AND DATE: 11 a.m., Monday, July, 7, 1980.

PLACE: Conference room, room 500, 2000 L Street, NW., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Consideration of Draft Commission Order Concerning Postal Service's Failure to Comply with a Lawful Order of the Commission in Docket No. R80–1. (Closed pursuant to 5 U.S.C. § 552b (c)(10)).

CONTACT PERSON FOR MORE INFORMATION: Dennis Watson, Information Officer, Postal Rate Commission room 500, 2000 L Street, N.W., Washington, D.C. 20268, Telephone (202) 254–5614.

[S–1262–80 Filed 6–27–80; 9:55 am]

BILLING CODE 7715–01–M

3

SECURITIES AND EXCHANGE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 45 FR 41261, June 18, 1980.

STATUS: Open meeting/closed meeting.

PLACE: Room 825, 500 North Capitol Street, Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: Monday, June 16, 1980.

CHANGES IN THE MEETING: Deletion/additional item. The following item was not considered at an open meeting scheduled for Thursday, June 26, 1980, at 10:00 a.m.:

Consideration of whether to grant the appeal off Michael J. Shearn from the April 28, 1980 determination of the Freedom of Information Act Officer denying him access to certain inter- or intra-agency memoranda pursuant to Exemption 5, 5 U.S.C. 552(b)(5), on the ground that they reflect the deliberate or policy making processes of the Commission's staff. For further information, please contact David Knight at (202) 272–2454.

The following additional item was considered at a closed meeting scheduled for Thursday, June 26, 1980, following the 10:00 a.m. open meeting:

Institution of injunctive action.

Chairman Williams and Commissioners Loomis, Evans, and Friedman determined that Commission business required the above changes and that no earlier notice thereof was possible.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Nancy Wojtas at (202) 272–2178.

June 26, 1980.

[S–1263–80 Filed 6–27–80; 10:56 am]

BILLING CODE 6010–01–M

federal register

Tuesday
July 1, 1980

Part II

Department of Labor

Mine Safety and Health Administration

Procedures and Requirements for Identification of Independent Contractors

DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Part 45

Independent Contractors

AGENCY: Mine Safety and Health Administration (MSHA), Department of Labor.

ACTION: Final rule.

SUMMARY: This final rule sets forth procedures and requirements for the identification of independent contractors performing services or construction at mines under the Federal Mine Safety and Health Act of 1977. The rule will facilitate implementation of MSHA's enforcement policy of holding independent contractors responsible for violations committed by them or their employees. Under the final rule, independent contractors may obtain an MSHA identification number by filing certain information. Procedures are also provided for service of documents upon independent contractors. Persons who operate, control or supervise mines are required to maintain certain information for each independent contractor at their mine.

EFFECTIVE DATE: July 31, 1980.

FOR FURTHER INFORMATION CONTACT: Roy L. Bernard, Deputy Administrator, Metal and Nonmetal Safety and Health, Room 701, or Joseph A. Lamonica, Deputy Administrator, Coal Mine Safety and Health, Room 830, Ballston Tower No. 3, 4015 Wilson Boulevard, Arlington, Virginia 22203, phone: (703) 235-1661; 235-1140.

SUPPLEMENTARY INFORMATION:

I. Rulemaking Background

A. General Discussion

The Federal Mine Safety and Health Amendments Act of 1977, Pub. L. 95-164, amended the Federal Coal Mine Health and Safety Act of 1969, Pub. L. 91-173 (Coal Act) and repealed the Metal and Nonmetallic Mine Safety Act, Pub. L. 89-577 (Metal Act). The resulting law, the Federal Mine Safety and Health Act of 1977 (Act), applies to all coal and other (metal and nonmetal) mines.

The Coal Act definition of "operator" was "any owner, lessee, or other person who operates, controls, or supervises" a mine. The 1977 Act added to this definition ". . . any independent contractor performing services or construction" at a mine. This amendment to the definition of "operator" made it clear that independent contractors performing services or construction at mines are subject to the Act. Several factors have made the implementation of this provision a difficult task for the Mine Safety and Health Administration (MSHA). For example, independent contractors vary in size, the type of work performed and the time spent working at mine sites. They may be prime contractors or subcontractors. They may be engaged in every type of work from major new mine construction to minor repair to some phases of minerals production. They may do all their work at mines, or they may work at a mine for one time only. Independent contractors may also move from mine to mine and may even be present at several mines at once.

Based upon review of the legislative history of the 1977 Act and relevant case law, which were thoroughly discussed in the preamble to the proposed rule, MSHA determined that it had broad discretion to define the respective compliance responsibilities of owners, lessees or other persons who operate, control or supervise mines (production-operators) and independent contractors working at mines. MSHA's original approach was to develop a regulation that would generally define how this enforcement flexibility would be exercised with respect to independent contractors. Rulemaking was begun by developing a draft proposed rule and circulating the draft for comment to persons known to be interested. A notice announcing the availability of the draft proposal was published in the **Federal Register** on October 31, 1978 (43 FR 50716). Several important issues were raised by the more than 75 persons and organizations who commented on the draft proposal. As a result, changes in the draft were made before it was published in the **Federal Register** as a proposed rule on August 14, 1979 (44 FR 47746).

A series of public hearings was announced on September 14, 1979, in the **Federal Register** (44 FR 54540), and the hearings were conducted between October 11 and October 30, 1979. The comments and testimony concerning the proposed rule have in large part persuaded MSHA to reevaluate its original approach to the problem. The final rule responds directly to many of the concerns raised during the comment period.

B. Draft and Proposed Rules

MSHA's general approach in the draft and proposed rules was to provide for the identification of certain independent contractors as operators based upon criteria and guidelines set forth in the rule. The criteria and guidelines were to have been applied on a job-by-job basis. Each independent contractor identified as an operator pursuant to the proposed rule would then have been held responsible for compliance with the Act, standards and regulations with respect to its activities at that particular mine. At those mines where an independent contractor performing work had not been identified as an operator under the proposed criteria and guidelines, the independent contractor would generally not have been cited for violations.

There were several considerations which prompted MSHA to propose this approach. There was concern over the possible fragmentation of safety and health responsibilities between the production-operator and independent contractors, particularly those performing short-term or intermittent work on mine property. There was also concern that many small contractors who only performed occasional mine-related work would be unable to respond as effectively as production-operators to the responsibilities imposed under the 1977 Act.

II. Discussion of the Final Rule

During the course of the rulemaking process, MSHA has been persuaded that the interest of miner safety and health will be best served by placing responsibility for compliance with the Act, standards and regulations upon each independent contractor. Thus, as a general rule, MSHA will issue citations and, where appropriate, orders to independent contractors for violations of the Act, standards and regulations committed by them and their employees. This policy is based on the 1977 Act's definition of "operator," and the final rule does not restate or interpret that provision.

However, as was fully discussed in the preambles to the draft and proposed rules, the legislative history to the revised definition and the case law make it clear that the production-operator remains ultimately responsible for the safety and health of persons working at the mine. As a result, in appropriate circumstances MSHA may take enforcement action against the production-operator for violations involving an independent contractor. Although the final rule does not address the circumstances under which production-operators should be held jointly or severally liable for violations involving independent contractors, MSHA will be issuing enforcement guidelines in conjunction with this rule which will discuss this issue. These guidelines are summarized in Section IV of this preamble and published in full in Appendix A following the final rule.

The purpose of the final rule is to facilitate implementation of MSHA's enforcement policy of holding independent contractors responsible for violations of the Act, standards and regulations committed by them or their employees. At the same time, MSHA has endeavored to minimize the paperwork and other burdens normally associated with integrating a new category of persons into a regulatory program.

Under the final rule, independent contractors may voluntarily obtain an MSHA identification number by submitting to MSHA the contractor's trade name and business address; a telephone number; an estimate of the annual hours worked by the contractor on mine property for the previous calendar year; and an address of record for service of documents upon the contractor. The independent contractor's address of record may be the same as the business address or any other address designated by the contractor. This information should be submitted to the District Manager in the MSHA District where the independent contractor is located. No special form is required for submitting the information. Each independent contractor will be assigned only one identification number. Accordingly, each independent contractor should apply for an identification number only once and at only one MSHA District Office, even though some independent contractors may be located in more than one MSHA District.

MSHA identification numbers assigned to independent contractors will be permanent and will be used in citations, orders and documents involving independent contractors. Independent contractors are encouraged to obtain an MSHA identification number to assure that independent contractors are promptly informed of any enforcement or other actions taken by MSHA involving the independent contractor and to assist MSHA in efficiently incorporating them into the administration of the Act. Any independent contractor performing work at a mine who does not have an MSHA identification number will be assigned one by the appropriate District Manager following the first occasion MSHA enforcement action is taken involving the independent contractor.

The final rule also requires minor recordkeeping by production-operators. Production-operators are required to maintain at the mine a written summary of information concerning each independent contractor present. The information required is the trade name, business address and telephone number of each independent contractor; a brief description of the nature of the work to be performed by each contractor, including where at the mine the work is to be performed; each contractor's MSHA identification number, if any; and each independent contractor's address of record. This information is required by the rule to be provided to the production-operator in writing by the independent contractor. MSHA will rely on this independent contractor information for inspection and enforcement purposes and it must be made available by the production-operator to any MSHA inspector upon request.

Procedures for service of citations, orders or other documents by MSHA upon independent contractors are also set forth in the final rule. MSHA may complete service by hand delivering citations, orders or documents involving the independent contractor to supervisory personnel of the independent contractor. Under the rule, MSHA may also complete service of documents, including citations and proposed civil penalty assessments by mailing the documents to the independent contractor's address of record.

III. Discussion of Major Comments and Changes

Commenters objected both to the general approach of categorizing only certain contractors as "operators" and to the specific criteria and considerations proposed to determine whether an independent contractor would be identified as an operator under the proposed rule. The proposed criteria would have required the contractor to be independent of the production-operator and to have effective control over an area of the mine while performing the work. In evaluating whether the "control" criterion was satisfied, MSHA would have considered whether the independent contractor was engaged in "major work" and had a "continuing presence" at the mine. Commenters argued that functional control by the independent contractor over the work being performed and over the contractor's employees should be the primary criterion. They also argued that such functional control was by definition characteristic of all independent contractors. Commenters also objected to the consideration of "major work" and "continuing presence" as irrelevant and arbitrary.

The commenters' analysis of the concept that independent contractors are generally in the best position to prevent safety and health violations in the course of their own work, and to abate those violations that may occur, has persuaded MSHA that holding all independent contractors responsible for their violations will in the majority of instances improve the overall safety and health of miners. MSHA has concluded that a regulation that would distinguish some contractors from others in formulating a comprehensive enforcement scheme could, at this time, be overly complex, imprecise and lead to arbitrary decisions that would not promote the safety and health of miners. Therefore, MSHA believes that enforcement decisions should be made on the basis of the facts pertaining to each particular case, at least until MSHA gains more experience with independent contractors under the Act. Independent contractors and production-operators will have notice of their compliance responsibilities through this final rule and through enforcement guidelines which will be made available to all interested persons. The enforcement guidelines will be used by inspectors as guidance in making individual enforcement decisions.

Several commenters objected to the filing procedures of the proposed rule. Under the proposal, both the independent contractor and the production-operator would be required to submit certain information to the District Manager prior to the performance of work at the mine by the independent contractor. The proposed information requirements related to the independent contractor's identity and the type of work to be performed by the independent contractor. This information would have formed the basis for the District Manager's decision whether to identify the independent contractor as an operator. Commenters maintained that these pre-work filing procedures would be too cumbersome to meet the needs of production-operators and independent contractors. For example, several commenters indicated that the proposed filing requirements could not be satisfied when emergency work at the mine needed to be done by an independent contractor. Other commenters argued there would be such a large number of production-operators and independent contractors filing under the proposed procedures that the decision whether to identify an independent contractor as an operator would not be timely.

To remedy this problem, some commenters suggested that independent contractors could register at mine sites prior to performing their work, making the necessary identifying information

available to MSHA and avoiding the proposed filing procedures. As discussed in the summary of the final rule, MSHA has implemented this suggestion by requiring production-operators to keep a register of basic information concerning independent contractors at the mine and by permitting a voluntary one-time filing procedure for independent contractors who wish to receive an MSHA identification number. The mandatory prework filing requirements of the proposal have been deleted from the final rule.

The assessment of civil penalties against independent contractors was also discussed in the proposal, and MSHA solicited comments on how to evaluate the size of independent contractors. As indicated in the proposal, MSHA believes the size of an independent contractor is most logically evaluated in terms of annual hours worked at mines. No other practical suggestions for measuring the size of independent contractors were received and commenters did not object to this approach. Therefore, under the final rule, when independent contractors are assigned identification numbers they will be required to provide MSHA with an estimate of the annual hours worked on mine property in the previous calendar year, or in the instance of a business operating less than one year, prorated to an annual basis. This information will form the basis for determining an independent contractor's size for purposes of civil penalty assessments.

IV. Enforcement Guidelines

MSHA's enforcement policy will be to issue citations and, where appropriate, orders to independent contractors for violations of the Act, standards and regulations committed by them and their employees. The Act also makes each owner, lessee or other person who operates, controls or supervises a mine responsible for compliance with the Act, standards and regulations. With respect to violations involving an independent contractor, it may be appropriate to take enforcement action, either jointly or severally, against the production-operator when the production-operator by either an act or omission has contributed to the occurrence or continued existence of the violations. This general enforcement policy is fully supported by the Act and case law. Enforcement guidelines consistent with this general enforcement policy will be issued by MSHA concurrently with this final rule and made available to interested and affected persons. The guidelines, published in Appendix A following the rule, will be issued to the MSHA District Managers and address MSHA's general enforcement policy with respect to independent contractors and 30 CFR Part 41 (Notification of Legal Identitiy), Part 48 (Training and Retraining of Miners) and Part 50 (Notification, Investigation, Reports, and Records of Accidents, Illnesses, Employment, and Coal Production in Mines). Briefly, these enforcement guidelines provide that MSHA will not require independent contractors to file notice of legal identity under Part 41, since this final rule provides another means for making this information available to MSHA. Under Part 48, MSHA will require that independent contractors and their employees be trained in accordance with that standard. However, these enforcement guidelines will allow independent contractors to comply with the training standard in the manner most suitable for their size and type of business by making arrangements to have their employees trained under an existing approved plan or filing and adopting their own plan. In accordance with the defined terms in Part 48 and previous enforcement guidelines, surface construction workers and shaft and slope workers are not covered by Part 48. The independent contractor enforcement guidelines for Part 50 provide that independent contractors are required to fulfill the requirements of that regulation. In order to assure accurate reporting and avoid duplication, it will be important for production-operators and their independent contractors to carefully coordinate these reporting responsibilities.

V. Drafting Information

The principal persons responsible for preparation of this final rule are Frank A. White, Office of Standards, Regulations and Variances, Mine Safety and Health Administration; Edward P. Clair and Edward C. Hugler, Division of Mine Safety and Health, Office of the Solicitor, Department of Labor.

VI. Regulatory Analysis

It has been determined that this document does not contain a major proposal requiring the preparation of a regulatory analysis under Executive Order No. 12044, or the Department of Labor's final guidelines for implementation of the Executive Order (44 FR 5570, January 28, 1979).

Dated: June 23, 1980.

Robert B. Lagather,

Assistant Secretary for Mine Safety and Health.

1. A new Part 45 is added to Subchapter G, Chapter I, Title 30 Code of Federal Regulations as set forth below:

SUBCHAPTER G—FILING AND OTHER ADMINISTRATIVE REQUIREMENTS

PART 45—INDEPENDENT CONTRACTORS

Sec.

Authority: Secs. 3(d) and 508 of the Federal Mine Safety and Health Act of 1977, Pub. L. 91-173 as amended by Pub. L. 95-164, 91 Stat. 1290, 83 Stat. 803 (30 U.S.C. 802(d) and 957).

§ 45.1 Scope and purpose.

Note: This part sets forth information requirements and procedures for independent contractors to obtain an MSHA identification number and procedures for service of documents upon independent contractors. Production-operators are required to maintain certain information for each independent contractor at the mine. The purpose of this rule is to facilitate implementation of MSHA's enforcement policy of holding independent contractors responsible for violations committed by them and their employees.

§ 45.2 Definitions.

As used in this part:

(a) "Act" means the Federal Mine Safety and Health Act of 1977, Pub. L. 91-173, as amended by Pub. L. 95-164;

(b) "District Manager" means the District Manager of the Mine Safety and Health Administration District in which the independent contractor is located;

(c) "Independent contractor" means any person, partnership, corporation, subsidiary of a corporation, firm, association or other organization that contracts to perform services or construction at a mine; and,

(d) "Production-operator" means any owner, lessee, or other person who operates, controls or supervises a coal or other mine.

§ 45.3 Identification of independent contractors.

(a) Any independent contractor may obtain a permanent MSHA identification number. To obtain an identification number, an independent contractor shall submit to the District

Manager in writing the following information:

(1) The trade name and business address of the independent contractor;

(2) An address of record for service of documents;

(3) A telephone number at which the independent contractor can be contacted during regular business hours; and

(4) The estimated annual hours worked on mine property by the independent contractor in the previous calendar year, or in the instance of a business operating less than one full calendar year, prorated to an annual basis.

§ 45.4 Independent contractor register.

(a) Each independent contractor shall provide the production-operator in writing the following information:

(1) The independent contractor's trade name, business address and business telephone number;

(2) A description of the nature of the work to be performed by the independent contractor and where at the mine the work is to be performed;

(3) The independent contractor's MSHA identification number, if any; and

(4) The independent contractor's address of record for service of citations, or other documents involving the independent contractor.

(b) Each production-operator shall maintain in writing at the mine the information required by paragraph (a) of this section for each independent contractor at the mine. The production-operator shall make this information available to any authorized representative of the Secretary upon request.

§ 45.5 Service of documents; independent contractors.

Service of citations, orders and other documents upon independent contractors shall be completed upon delivery to the independent contractor or mailing to the independent contractor's address of record.

§ 45.6 Address of record and telephone number; independent contractors.

(a) The address and telephone number required under this part shall be the independent contractor's official address and telephone number for purposes of the Act. Service of documents upon independent contractors may be proved by a Post Office return receipt showing that the documents were delivered to the address of record or that the documents could not be delivered to the address of record because the independent contractor is no longer at that address and has established no forwarding address; because delivery was not accepted at that address; or because no such address exists. Independent contractors may request service by delivery to another appropriate address of record provided by the independent contractor. The telephone number required under this part will be used in connection with the proposed penalty assessment procedures in 30 CFR Part 100.

Note.—This appendix will not appear in the CFR.

Appendix A—Enforcement Policy and Guidelines for Independent Contractors

The following Enforcement Policy and Guidelines will be issued to all MSHA District Managers concurrently with this publication of the final rule, 30 CFR 45—Independent Contractors, and are published here to assure that all interested and affected persons have notice of MSHA's enforcement policy regarding independent contractors.

General Enforcement Policy for Independent Contractors

Effective immediately, the general policy of the Mine Safety and Health Administration (MSHA) is to issue citations and, where appropriate, orders to independent contractors for their violations of provisions of the Act, standards or regulations that are applicable to independent contractors. This general policy is based on the amended definition of "operator" in the Federal Mine Safety and Health Act of 1977 (Act), which includes "Independent contractors performing services or construction" at mines.

MSHA's general enforcement policy regarding independent contractors does not change the basic compliance responsibilities of production-operators. Production-operators are subject to all provisions of the Act, standards and regulations which are applicable to their mining operation. This overall compliance responsibility of production-operators includes assuring compliance with the standards and regulations which apply to the work being performed by independent contractors at the mine. As a result, independent contractors and production-operators both are responsible for compliance with the provisions of the Act, standards and regulations applicable to the work being performed by independent contractors.

This "overlapping" compliance responsibility of independent contractors and production-operators means that there may be circumstances in which it is appropriate to issue citations or orders to both the independent contractor and the production-operator for a violation. Enforcement action against production-operators for violations involving independent contractors is ordinarily appropriate in those situations where the production-operator has contributed to the existence of a violation, or the production-operator's miners are exposed to the hazard, or the production-operator has control over the existence of the hazard. Accordingly, as a general rule, a production-operator may be properly cited for a violation involving an independent contractor: (1) when the production-operator has contributed by either an act or an omission to the occurrence of a violation in the course of an independent contractor's work, or (2) when the production-operator has contributed by either an act or omission to the continued existence of a violation committed by an independent contractor, or (3) when the production-operator's miners are exposed to the hazard, or (4) when the production-operator has control over the condition that needs abatement. In addition, the production-operator may also be required to assure continued compliance with standards and regulations applicable to an independent contractor at the mine until the contractor is fully able to assume compliance responsibility.

Initial Enforcement Guidelines for Independent Contractors

Based on MSHA's general policy to include independent contractors in enforcement of the Act, inspectors should cite independent contractors for violations, committed by them or their employees, of provisions of the Act, standards or regulations which are applicable to independent contractors. Whether particular provisions of the Act, standards or regulations apply to independent contractors or to the work they are performing will be apparent in most instances, and independent contractors should be cited for their violations of such provisions. However, some provisions of the Act, standards or regulations may not be directly applicable to independent contractors or their work. Also, independent contractor compliance with certain standards or regulations may not appreciably contribute to safety or health, or may duplicate the production-operator's compliance efforts. As such questions arise, MSHA will develop enforcement guidelines as may be necessary to specifically define independent contractor compliance responsibility.

In anticipation of inquiries concerning the responsibility of independent

contractors for compliance with 30 CFR Parts 41, 48 and 50, the following guidelines already have been developed.

1. *Filing of legal identity reports under 30 CFR Part 41.*

Independent contractors working at mines are not required to file legal identity reports under Part 41. New procedures for the identification of independent contractors are provided in the new 30 CFR Part 45—Independent Contractors.

2. *Training of independent contractors and their employees under 30 CFR Part 48.*

(a) Construction workers.

In accordance with the defined terms in Part 48 and previous enforcement guidelines, surface construction workers and shaft and slope workers are not covered by the existing provisions of Part 48. Accordingly, there is no requirement that independent contractors and their employees performing this type of construction work receive any training, including hazard training. Independent contractors and their employees performing construction or repair of underground facilities while the mine is operational, however, are covered by Subpart A of Part 48. Such independent contractors and all other independent contractors and their employees who are not engaged in construction therefore must be trained as discussed below.

(b) Comprehensive training.

The basic test for determining whether any person at a mine must have comprehensive training in accordance with a training plan approved under Part 48 is whether such person will be regularly exposed to mine hazards. This means that independent contractors and their employees working underground and regularly exposed to mine hazards must be trained in accordance with the requirements of 30 CFR § 48.5 or § 48.6, depending on their experience, and § 48.7 and § 48.8. Independent contractors and their employees working on the surface and regularly exposed to mine hazards must be trained in accordance with the requirements of 30 CFR § 48.25 or § 48.26, depending on their experience, and § 48.27 and § 48.28.

(c) Hazard training.

Independent contractors and their employees are also required to be trained in the hazards at the mine where they are working in accordance with a training plan approved under Part 48. This means that independent contractors and their employees who are within the definition of "miner" as provided by § 48.2(a)(2), must be trained in the hazards at that mine during either their comprehensive training or, if not part of their comprehensive training, then in accordance with § 48.11(a) (underground hazard training) or § 48.31(a) (surface hazard training) under an approved training plan.

(d) Enforcement action for training violations.

(1) Generally.

An order should be issued under section 104(g) of the Act to the direct employer of any miner who has not received the required training under Part 48. This means that a 104(g) order should be issued to the independent contractor for any persons who are directly employed by the independent contractor and not properly trained. Similarly, a 104(g) order should be issued to the production-operator for any untrained persons directly employed by the production-operator.

(2) Violations involving production-operators.

Each production-operator is required to have an approved training plan under Part 48 and to comply with the provisions of such approved plan in training each of the miners employed by the production-operator. Accordingly, the production-operator should be issued a 104(g) order for any miner(s) who are not trained in accordance with the production-operator's approved plan.

(3) Violations involving independent contractors.

Independent contractors are *not* required to have an approved training plan under Part 48. However, as discussed, independent contractors and their employees must be trained in accordance with Part 48 as set forth in these guidelines. This means that independent contractors may comply with these training requirements by either making arrangements to have their employees trained under an existing approved training plan and program, or by filing and adopting their own approved training plan.

In either event, the independent contractor should be issued a 104(g) order for any of the contractor's employees who are not trained in accordance with a plan approved under Part 48. Care should be taken when issuing a 104(g) order to an independent contractor when several contractors or subcontractors are present at the mine. The inspector must be sure that the untrained person is directly employed by the independent contractor to whom the 104(g) order is issued.

The foregoing enforcement guidelines for 30 CFR Part 48 are consistent with the purpose of the training standard which is to assure that all persons at mines will be effectively trained in matters affecting their health and safety and thereby reduce the number and severity of injuries. In addition, these enforcement guidelines recognize that not all independent contractors are able to practically implement their own training programs under Part 48. Accordingly, these enforcement guidelines allow independent contractors to comply with the training requirements in the manner most suitable for their size and type of business by making arrangements to have their employees trained under an existing approved plan or filing and adopting their own approved plan.

3. *Notification, investigation, reporting and recordkeeping requirements under 30 CFR Part 50.*

Independent contractors working at mines are required to comply with all the provisions of Part 50 which pertain to the contractor's employees. In order to assure accurate reporting and recordkeeping and to avoid duplication, it will be important for production-operators and their independent contractors to carefully coordinate these responsibilities.

It is anticipated that additional enforcement guidelines may be necessary as MSHA gains experience in incorporating independent contractors into the enforcement program. All personnel are encouraged to raise problems actually encountered in applying the Act, standards or regulations to independent contractors with the appropriate District Manager. District Managers may submit independent contractor enforcement problems to the Administrator (Coal Mine Safety and Health or Metal and Nonmetal Mine Safety and Health) for review.

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federal register

Tuesday
July 1, 1980

Part III

Department of the Treasury

Fiscal Service, Bureau of Government Financial Operations

Circular 570; 1980 Revision; Surety Companies Acceptable on Federal Bonds

4810-35-190

DEPARTMENT OF THE TREASURY

FISCAL SERVICE, BUREAU OF GOVERNMENT FINANCIAL OPERATIONS

(Dept. Circular 570; 1980 Rev.)

COMPANIES HOLDING CERTIFICATES OF AUTHORITY AS ACCEPTABLE SURETIES ON FEDERAL BONDS AND AS ACCEPTABLE REINSURING COMPANIES

Effective: July 1, 1980

This circular is published annually, as of July 1, solely for the information of Federal bond-approving officers and persons required to give bonds to the United States. Copies of this circular may be obtained from: Audit Staff, Bureau of Government Financial Operations, Department of the Treasury, Washington, D.C. 20226. Telephone: (202) 634-5010. Interim changes in the circular are published in the FEDERAL REGISTER as they occur.

The following companies have complied with the law and the regulations of the Treasury Department and are acceptable as sureties and reinsurers on Federal bonds, to the extent and with respect to the localities indicated.

William E. Douglas
Commissioner
Bureau of Government
Financial Operations

COMPANIES HOLDING CERTIFICATES OF AUTHORITY UNDER SECTIONS 6 TO 13 OF TITLE 6 OF THE UNITED STATES CODE AS ACCEPTABLE SURETIES ON FEDERAL BONDS, INCLUDING REINSURANCE (See Note a/)

IMPORTANT INFORMATION IS CONTAINED IN THE NOTES AT THE END OF THIS TABLE. PLEASE READ THE NOTES CAREFULLY WHEN USING THE CIRCULAR. NOTE D WAS CHANGED EXTENSIVELY TO REFLECT A REVISED TREASURY PROCEDURE.

AID Insurance Company (Mutual). BUSINESS ADDRESS: 701 Fifth Avenue, Des Moines, Iowa 50309. UNDERWRITING LIMITATION b/: $6,973,000. SURETY LICENSES c/: Ariz., Ark., Cal., Colo., D.C., Idaho, Ill., Ind., Iowa, Kans., Okla., Oreg., S. Dak., Tex., Utah, Wash., Wis., Wyo. INCORPORATED IN: Iowa. FEDERAL PROCESS AGENTS d/.

AIU Insurance Company. BUSINESS ADDRESS: 70 Pine Street, New York, N.Y. 10005. UNDERWRITING LIMITATION b/: $1,828,000. SURETY LICENSES c/: All except C.Z., Del., Guam, Hawaii, Puerto Rico, Virgin Islands, Wyo. INCORPORATED IN: N.Y. FEDERAL PROCESS AGENTS d/.

Accredited Surety and Casualty Company, Inc. BUSINESS ADDRESS: 918 South Orange Avenue, Orlando, Fla. 32806. UNDERWRITING LIMITATION b/: $170,000. SURETY LICENSES c/: Ala., Fla., Ga., Ind., La., Miss., Va. INCORPORATED IN: Fla. FEDERAL PROCESS AGENTS d/.

The Aetna Casualty and Surety Company. BUSINESS ADDRESS: 151 Farmington Avenue, Hartford, Conn. 06156. UNDERWRITING LIMITATION b/: $108,507,000. SURETY LICENSES c/: All. INCORPORATED IN: Conn. FEDERAL PROCESS AGENTS d/.

Aetna Casualty & Surety Company of Illinois. BUSINESS ADDRESS: 230 West Monroe Street, Chicago, Ill. 60606. UNDERWRITING LIMITATION b/: $11,953,000. SURETY LICENSES c/: Ariz., Ark., Del., D.C., Ga., Idaho, Ill., Ind., Iowa, Ky., Mich., Miss., Mo., Mont., Okla., Oreg., S.C., S. Dak., Tex., Utah, Wash., W. Va., Wis. INCORPORATED IN: Ill. FEDERAL PROCESS AGENTS d/.

Aetna Fire Underwriters Insurance Company. BUSINESS ADDRESS: 55 Elm Street, Hartford, Conn. 06115. UNDERWRITING LIMITATION b/: $969,000. SURETY LICENSES c/: All except C.Z., Guam, Puerto Rico, Virgin Islands. INCORPORATED IN: Conn. FEDERAL PROCESS AGENTS d/.

Aetna Insurance Company. BUSINESS ADDRESS: 55 Elm Street, Hartford, Conn. 06115. UNDERWRITING LIMITATION b/: $30,869,000. SURETY LICENSES c/: All except C.Z. INCORPORATED IN: Conn. FEDERAL PROCESS AGENTS d/.

Aetna Life and Casualty Company. BUSINESS ADDRESS: 151 Farmington Avenue, Hartford, Conn. 06156. UNDERWRITING LIMITATION b/: $193,585,000. SURETY LICENSES c/: Conn., D.C. INCORPORATED IN: Conn. FEDERAL PROCESS AGENTS d/.

Aetna Reinsurance Company. BUSINESS ADDRESS: 55 Elm Street, Hartford, Conn. 06115. UNDERWRITING LIMITATION b/: $2,123,000. SURETY LICENSES c/: All except Ala., C.Z., Guam, Hawaii, Ill., Ind., La., Ohio, Puerto Rico, Tex., Virgin Islands, W. Va. INCORPORATED IN: Del. FEDERAL PROCESS AGENTS d/.

Alaska Pacific Assurance Company. BUSINESS ADDRESS: 1600 Arch Street, Philadelphia, Pa. 19101. UNDERWRITING LIMITATION b/: $1,314,000. SURETY LICENSES c/: Alaska, Cal., Idaho, Oreg., S. Dak. INCORPORATED IN: Alaska. FEDERAL PROCESS AGENTS d/.

Allegheny Mutual Casualty Company. BUSINESS ADDRESS: 485 Chestnut Street, Meadville, Pa. 16335. UNDERWRITING LIMITATION b/: $164,000. SURETY LICENSES c/: D.C., Fla., Ill., Ind., La., Md., Mich., N.J., Ohio, Okla., Pa., Tenn., Tex., Wis. INCORPORATED IN: Pa. FEDERAL PROCESS AGENTS d/.

*See footnotes at end of table.

Allianz Insurance Company. BUSINESS ADDRESS: Post Office Box 54897, Terminal Annex, Los Angeles, Cal. 90054. UNDERWRITING LIMITATION b/: $3,102,000. SURETY LICENSES c/: All except C.Z., Guam, Okla., Puerto Rico. INCORPORATED IN: Cal. FEDERAL PROCESS AGENTS d/.

Allied Fidelity Insurance Co. BUSINESS ADDRESS: P.O. Box 20112, Indianapolis, Ind. 46220. UNDERWRITING LIMITATION b/: $252,000. SURETY LICENSES c/: All except C.Z., D.C., Guam, Hawaii, Me., Md., Mich., N.J., N.Y., N.C., Pa., Puerto Rico, R.I., S. Dak., Vt., Virgin Islands. INCORPORATED IN: Ind. FEDERAL PROCESS AGENTS d/.

Allstate Insurance Company. BUSINESS ADDRESS: Allstate Plaza, Northbrook, Ill. 60062. UNDERWRITING LIMITATION b/: $198,109,000. SURETY LICENSES c/: All except C.Z., Guam, Puerto Rico, Virgin Islands. INCORPORATED IN: Ill. FEDERAL PROCESS AGENTS d/.

American Agricultural Insurance Co. BUSINESS ADDRESS: 225 Touhy Avenue, Park Ridge, Ill. 60068. UNDERWRITING LIMITATION b/: $3,615,000. SURETY LICENSES c/: Ariz., Colo., Fla., Ga., Idaho, Ill., Ind., Iowa, Mo., N. Mex., N.C., N. Dak., Oreg., Pa., S.C., Tex., Utah, Va., Wash., Wis. (Reinsurance only in Kans., Mass., N.Y.) INCORPORATED IN: Ind. FEDERAL PROCESS AGENTS d/.

American Automobile Insurance Company. BUSINESS ADDRESS: 3333 California Street, San Francisco, Cal. 94119. UNDERWRITING LIMITATION b/: $7,636,000. SURETY LICENSES c/: All except C.Z., Guam, Puerto Rico, Virgin Islands. INCORPORATED IN: Mo. FEDERAL PROCESS AGENTS d/.

American Bonding Company. BUSINESS ADDRESS: 8601 Beverly Boulevard, Los Angeles, Cal. 90048. UNDERWRITING LIMITATION b/: $175,000. SURETY LICENSES c/: Alaska, Ariz., Ark., Cal., Colo., D.C., Idaho, Iowa, Kans., Miss., Mo., Mont., Nebr., Nev., N. Mex., Okla., Oreg., Tex., Utah, Wash. INCORPORATED IN: Nebr. FEDERAL PROCESS AGENTS d/.

American Casualty Company of Reading, Pennsylvania. BUSINESS ADDRESS: CNA Plaza, Chicago, Ill. 60685. UNDERWRITING LIMITATION b/: $5,719,000. SURETY LICENSES c/: All except Guam, Virgin Islands. INCORPORATED IN: Pa. FEDERAL PROCESS AGENTS d/.

American Credit Indemnity Company of New York. BUSINESS ADDRESS: 300 St. Paul Place, Baltimore, Md. 21202. UNDERWRITING LIMITATION b/: $4,244,000. SURETY LICENSES c/: All except Alaska, C.Z., Guam, Hawaii, N. Dak., Puerto Rico, Virgin Islands, Wyo. INCORPORATED IN: N.Y. FEDERAL PROCESS AGENTS d/.

The American Druggists' Insurance Company. BUSINESS ADDRESS: 800 American Building, Cincinnati, Ohio 45202. UNDERWRITING LIMITATION b/: $701,000. SURETY LICENSES c/: Ala., Ark., Cal., Colo., Fla., Ga., Ill., Ind., Iowa, Kans., Ky., La., Me., Md., Mass., Mich., Minn., Miss., Mo., N.Y., N.C., Ohio, Okla., Oreg., Pa., R.I., S.C., Tenn., Tex., Va., Wash., Wis. INCORPORATED IN: Ohio. FEDERAL PROCESS AGENTS d/.

American Economy Insurance Company. BUSINESS ADDRESS: 500 North Meridian Street, Indianapolis, Ind. 46207. UNDERWRITING LIMITATION b/: $9,140,000. SURETY LICENSES c/: All except C.Z., Conn., Guam, N.J., Puerto Rico, Virgin Islands. INCORPORATED IN: Ind. FEDERAL PROCESS AGENTS d/.

American Employers' Insurance Company. BUSINESS ADDRESS: One Beacon Street, Boston, Mass. 02108. UNDERWRITING LIMITATION b/: $6,845,000. SURETY LICENSES c/: All except Guam, Kans., Puerto Rico. INCORPORATED IN: Mass. FEDERAL PROCESS AGENTS d/.

American Fidelity Company. BUSINESS ADDRESS: Post Office Box 960, Manchester, N.H. 03105. UNDERWRITING LIMITATION b/: $598,000. SURETY LICENSES c/: Alaska, Conn., Iowa, Me., Mass., Miss., Nebr., N.H., N. Dak., Okla., R.I., S.C., S. Dak., Utah, Vt. INCORPORATED IN: Vt. FEDERAL PROCESS AGENTS d/.

American Fidelity Fire Insurance Company. BUSINESS ADDRESS: 100 Crossways Park West, Woodbury, N.Y. 11797. UNDERWRITING LIMITATION b/: $673,000. SURETY LICENSES c/: All except C.Z., Colo., Guam, Hawaii, Kans., Mo., Nebr., N.H. Virgin Islands. INCORPORATED IN: N.Y. FEDERAL PROCESS AGENTS d/.

American Fire and Casualty Company. BUSINESS ADDRESS: 136 North Third Street, Hamilton, Ohio 45012. UNDERWRITING LIMITATION b/: $1,281,000. SURETY LICENSES c/: Ala., Ark., Colo., D.C., Fla., Ga., Kans., Ky., La., Md., Miss., Mo., N.C., Okla., S.C., Tenn., Tex., Va. INCORPORATED IN: Fla. FEDERAL PROCESS AGENTS d/.

American General Fire and Casualty Company. BUSINESS ADDRESS: Post Office Box 1502, Houston, Tex. 77001. UNDERWRITING LIMITATION b/: $2,016,000. SURETY LICENSES c/: Ark., La., N. Mex., Okla., Tex. INCORPORATED IN: Tex. FEDERAL PROCESS AGENTS d/.

American General Insurance Company. BUSINESS ADDRESS: Post Office Box 3247, Houston, Tex. 77001. UNDERWRITING LIMITATION b/: $38,315,000. SURETY LICENSES c/: Mich., Pa., Tex. INCORPORATED IN: Tex. FEDERAL PROCESS AGENTS d/.

American Guarantee and Liability Insurance Company. BUSINESS ADDRESS: 111 West Jackson Boulevard, Chicago, Ill. 60604. UNDERWRITING LIMITATION b/: $1,875,000. SURETY LICENSES c/: All except Ala., Guam, Hawaii, Puerto Rico, Virgin Islands. INCORPORATED IN: N.Y. FEDERAL PROCESS AGENTS d/.

American Home Assurance Company. BUSINESS ADDRESS: 70 Pine Street, New York, N.Y. 10005. UNDERWRITING LIMITATION b/: $17,258,000. SURETY LICENSES c/: All except C.Z., Guam, Virgin Islands. INCORPORATED IN: N.Y. FEDERAL PROCESS AGENTS d/.

American Indemnity Company. BUSINESS ADDRESS: Post Office Box 1259, Galveston, Tex. 77553. UNDERWRITING LIMITATION b/: $2,376,000. SURETY LICENSES c/: Ala., Cal., Colo., D.C., Fla., Ill., Ind., Iowa, Kans., Ky., La., Miss., Mo., Mont., Nebr., N. Mex., N.C., Ohio, Okla., S.C., Tenn., Tex., Wis., Wyo. INCORPORATED IN: Tex. FEDERAL PROCESS AGENTS d/.

The American Insurance Company. BUSINESS ADDRESS: 3333 California Street, San Francisco, Cal. 94119. UNDERWRITING LIMITATION b/: $19,430,000. SURETY LICENSES c/: All except C.Z., Virgin Islands. INCORPORATED IN: N.J. FEDERAL PROCESS AGENTS d/.

American Manufacturers Mutual Insurance Company. BUSINESS ADDRESS: Long Grove, Ill. 60049. UNDERWRITING LIMITATION b/: $5,749,000. SURETY LICENSES c/: All except C.Z., Guam, Puerto Rico, Virgin Islands. INCORPORATED IN: Ill. FEDERAL PROCESS AGENTS d/.

*See footnotes at end of table.

American Motorists Insurance Company. BUSINESS ADDRESS: Long Grove, Ill. 60049. UNDERWRITING LIMITATION b/: $9,924,000. SURETY LICENSES c/: All except C.Z., Del., Guam, Virgin Islands. INCORPORATED IN: Ill. FEDERAL PROCESS AGENTS d/.

American Mutual Liability Insurance Company. BUSINESS ADDRESS: Wakefield, Mass. 01880. UNDERWRITING LIMITATION b/: $5,270,000. SURETY LICENSES c/: All except C.Z., Guam, Hawaii, Puerto Rico, Virgin Islands. INCORPORATED IN: Mass. FEDERAL PROCESS AGENTS d/.

American National Fire Insurance Company. BUSINESS ADDRESS: 580 Walnut Street, Cincinnati, Ohio 45202. UNDERWRITING LIMITATION b/: $1,607,000. SURETY LICENSES c/: All except C.Z. INCORPORATED IN: N.Y. FEDERAL PROCESS AGENTS d/.

American Re-Insurance Company. BUSINESS ADDRESS: One Liberty Plaza, 91 Liberty Street, New York, N.Y. 10006. UNDERWRITING LIMITATION b/: $16,079,000. SURETY LICENSES c/: All except Alaska, Guam, Virgin Islands. INCORPORATED IN: Del. FEDERAL PROCESS AGENTS d/.

American Southern Insurance Company. BUSINESS ADDRESS: Post Office Box 7369, Station C, Atlanta, Ga. 30357. UNDERWRITING LIMITATION b/: $430,000. SURETY LICENSES c/: Fla., Ga., S.C. INCORPORATED IN: Ga. FEDERAL PROCESS AGENTS d/.

American States Insurance Company. BUSINESS ADDRESS: 500 North Meridian Street, Indianapolis, Ind. 46207. UNDERWRITING LIMITATION b/: $21,970,000. SURETY LICENSES c/: All except C.Z., Conn., Guam, N.Y., Puerto Rico, Virgin Islands. INCORPORATED IN: Ind. FEDERAL PROCESS AGENTS d/.

Amwest Surety Insurance Company. BUSINESS ADDRESS: 10960 Wilshire Boulevard #2200, Los Angeles, Cal. 90024. UNDERWRITING LIMITATION b/: $67,000. SURETY LICENSES c/: Cal. INCORPORATED IN: Cal. FEDERAL PROCESS AGENTS d/.

Antilles Insurance Company. BUSINESS ADDRESS: P.O. Box 3507, Old San Juan, Puerto Rico. 00904. UNDERWRITING LIMITATION b/: $350,000. SURETY LICENSES c/: Puerto Rico. INCORPORATED IN: Puerto Rico. FEDERAL PROCESS AGENTS d/.

Argonaut Insurance Company. BUSINESS ADDRESS: 250 Middlefield Road, Menlo Park, Cal. 94025. UNDERWRITING LIMITATION b/: $15,305,000. SURETY LICENSES c/: All except C.Z. INCORPORATED IN: Cal. FEDERAL PROCESS AGENTS d/.

Arkwright-Boston Manufacturers Mutual Insurance Company. BUSINESS ADDRESS: 225 Wyman Street, Waltham, Mass. 02154. UNDERWRITING LIMITATION b/: $26,405,000. SURETY LICENSES c/: Cal., Colo., Conn., D.C., Ill., Ind., Iowa, Md., Mass., Mich., Minn., Mo., Nebr., Nev., N.H., N.J., N.Y., N.C., Ohio, R.I., Utah, Vt., Wash., Wyo. INCORPORATED IN: Mass. FEDERAL PROCESS AGENTS d/.

Associated Indemnity Corporation. BUSINESS ADDRESS: 3333 California Street, San Francisco, Cal. 94119. UNDERWRITING LIMITATION b/: $1,959,000. SURETY LICENSES c/: All except C.Z., Guam, Virgin Islands. INCORPORATED IN: Cal. FEDERAL PROCESS AGENTS d/.

Atlanta International Insurance Company. 1* BUSINESS ADDRESS: 1700 Commerce Drive, Suite 100, Atlanta, Ga. 30318. UNDERWRITING LIMITATION b/: $1,170,000. SURETY LICENSES c/: All except Ala., C.Z., Conn., Del., Fla., Guam, Hawaii, Ind., Ky., Me., Nebr., N.H., N.J., Oreg., Pa., Puerto Rico, Vt., Virgin Islands, Wis., Wyo. INCORPORATED IN: N.Y., FEDERAL PROCESS AGENTS d/.

Atlantic Insurance Company. BUSINESS ADDRESS: Post Office Box 1771, Dallas, Tex. 75221. UNDERWRITING LIMITATION b/: $886,000. SURETY LICENSES c/: All except C.Z., Conn., Del., Guam, Hawaii, Idaho, Iowa, La., Me., Mass., Nebr., N.H., N.J., N.Y., N. Dak., Oreg., Puerto Rico, R.I., Vt., Va., Virgin Islands, Wash., Wis., Wyo. INCORPORATED IN: Tex. FEDERAL PROCESS AGENTS d/.

Atlantic Mutual Insurance Company. BUSINESS ADDRESS: Atlantic Building, 45 Wall Street, New York, N.Y. 10005. UNDERWRITING LIMITATION b/: $8,970,000. SURETY LICENSES c/: All except Ala., C.Z., Guam, Hawaii, Virgin Islands, W. Va. INCORPORATED IN: N.Y. FEDERAL PROCESS AGENTS d/.

Auto-Owners Insurance Company. BUSINESS ADDRESS: Post Office Box 30660, Lansing, Mich. 48909. UNDERWRITING LIMITATION b/: $20,155,000. SURETY LICENSES c/: Ala., Fla., Ga., Ill., Ind., Iowa, Mich., Minn., Mo., Nebr., N.C., N. Dak., Ohio, S.C., S. Dak., Tenn., Wis. INCORPORATED IN: Mich. FEDERAL PROCESS AGENTS d/.

The Automobile Insurance Company of Hartford, Connecticut. BUSINESS ADDRESS: 151 Farmington Avenue, Hartford, Conn. 06156. UNDERWRITING LIMITATION b/: $4,017,000. SURETY LICENSES c/: All except C.Z., Guam. INCORPORATED IN: Conn. FEDERAL PROCESS AGENTS d/.

Balboa Insurance Company. BUSINESS ADDRESS: Post Office Box 1770, Newport Beach, Cal. 92663. UNDERWRITING LIMITATION b/: $4,511,000. SURETY LICENSES c/: All except C.Z., La., Puerto Rico. INCORPORATED IN: Cal. FEDERAL PROCESS AGENTS d/.

Bankers Multiple Line Insurance Company. BUSINESS ADDRESS: 4810 North Kenneth Avenue, Chicago, Ill. 60630. UNDERWRITING LIMITATION b/: $2,658,000. SURETY LICENSES c/: All except C.Z., Del., Guam, Hawaii, Idaho, La., Me., Puerto Rico, S.C., Virgin Islands. INCORPORATED IN: Iowa. FEDERAL PROCESS AGENTS d/.

Binford Insurance Company. BUSINESS ADDRESS: 700 Nicholas Blvd., Elk Grove Village, Ill. 60007. UNDERWRITING LIMITATION b/: $51,000. SURETY LICENSES c/: N. Mex. INCORPORATED IN: N. Mex. FEDERAL PROCESS AGENTS d/.

Boston Old Colony Insurance Company. BUSINESS ADDRESS: 80 Maiden Lane, New York, N.Y. 10038. UNDERWRITING LIMITATION b/: $699,000. SURETY LICENSES c/: All except C.Z., Guam. INCORPORATED IN: Mass. FEDERAL PROCESS AGENTS d/.

The Buckeye Union Insurance Company. BUSINESS ADDRESS: Post Office Box 1499, Columbus, Ohio 43216. UNDERWRITING LIMITATION b/: $16,183,000. SURETY LICENSES c/: D.C., Fla., Ill., Ind., Kans., Ky., Mich., Mo., N.Y., Ohio, Pa., Va., W. Va. INCORPORATED IN: Ohio. FEDERAL PROCESS AGENTS d/.

Builders Mutual Surety Company. BUSINESS ADDRESS: 1545 Wilshire Boulevard, Los Angeles, Cal. 90017. UNDERWRITING LIMITATION b/: $98,000. SURETY LICENSES c/: Cal. INCORPORATED IN: Cal. FEDERAL PROCESS AGENTS d/.

The Camden Fire Insurance Association. BUSINESS ADDRESS: General Building, 414 Walnut Street, Philadelphia, Pa. 19106. UNDERWRITING LIMITATION b/: $10,459,000. SURETY LICENCES c/: All except Ark., C.Z., Del., Ga., Guam, Hawaii, Idaho, La., Me., Miss., Mont., Nebr., N.H., Oreg., Puerto Rico, S. Dak., Tenn., Tex., Virgin Islands, Wash. (Fidelity only in Ala., S.C.) INCORPORATED IN: N.J. FEDERAL PROCESS AGENTS d/.

Capitol Indemnity Corporation. BUSINESS ADDRESS: P.O. Box 8, Madison, Wis. 53701. UNDERWRITING LIMITATION b/: $200,000. SURETY LICENSES c/: Ariz., Fla., Idaho, Ill., Ind., Iowa, La., Mich., Minn., Mo., Mont., N. Mex., N. Dak., Okla., S. Dak., Tex., Wis., Wyo. INCORPORATED IN: Wis. FEDERAL PROCESS AGENTS d/.

Centennial Insurance Company. BUSINESS ADDRESS: Atlantic Building, 45 Wall Street, New York, N.Y. 10005. UNDERWRITING LIMITATION b/: $2,894,000. SURETY LICENSES c/: All except Ala., C.Z., Guam, Virgin Islands. INCORPORATED IN: N.Y. FEDERAL PROCESS AGENTS d/.

Central Mutual Insurance Company. BUSINESS ADDRESS: 800 South Washington Street, Van Wert, Ohio 45891. UNDERWRITING LIMITATION b/: $3,905,000. SURETY LICENSES c/: All except Ark., C.Z., Guam, N. Dak., Oreg., Puerto Rico, S. Dak., Virgin Islands, Wis. INCORPORATED IN: Ohio. FEDERAL PROCESS AGENTS d/.

Century Indemnity Company. BUSINESS ADDRESS: 55 Elm Street, Hartford, Conn. 06115. UNDERWRITING LIMITATION b/: $808,000. SURETY LICENSES c/: All except C.Z., Guam, Oreg., Puerto Rico, Virgin Islands. INCORPORATED IN: Conn. FEDERAL PROCESS AGENTS d/.

The Charter Oak Fire Insurance Company. BUSINESS ADDRESS: One Tower Square, Hartford, Conn. 06115. UNDERWRITING LIMITATION b/: $5,504,000. SURETY LICENSES c/: All except C.Z., Guam, Virgin Islands. INCORPORATED IN: Conn. FEDERAL PROCESS AGENTS d/.

The Cincinnati Insurance Company. BUSINESS ADDRESS: Post Office Box 14567, Cincinnati, Ohio 45214. UNDERWRITING LIMITATION b/: $6,587,000. SURETY LICENSES c/: Ala., Ariz., Colo., Fla., Ga., Ill., Ind., Iowa, Ky., Mich., Miss., N.C., Ohio, Pa., S.C., Tenn., Tex., Va., Wis. INCORPORATED IN: Ohio. FEDERAL PROCESS AGENTS d/.

Colonial Surety Company. BUSINESS ADDRESS: 9 Parkway Center, Pittsburgh, Pa. 15220. UNDERWRITING LIMITATION b/: $293,000. SURETY LICENSES c/: Del., N.J., Pa. INCORPORATED IN: Pa. FEDERAL PROCESS AGENTS d/.

Commercial Insurance Company of Newark, N.J. BUSINESS ADDRESS: 80 Maiden Lane, New York, N.Y. 10038. UNDERWRITING LIMITATION b/: $3,621,000. SURETY LICENSES c/: All except C.Z., Guam, Puerto Rico, Virgin Islands. INCORPORATED IN: N.J. FEDERAL PROCESS AGENTS d/.

Commercial Union Insurance Company. BUSINESS ADDRESS: One Beacon Street, Boston, Mass. 02108. UNDERWRITING LIMITATION b/: $23,575,000. SURETY LICENSES c/: All except C.Z., Guam. INCORPORATED IN. Mass. FEDERAL PROCESS AGENTS d/.

Compass Insurance Company. BUSINESS ADDRESS: 1200 Texas American Bank Building, Dallas, Texas 75245. UNDERWRITING LIMITATION b/: $405,000. SURETY LICENSES c/: All except C.Z., Conn., Guam, Hawaii, Ind., Kans., Me., Md., Nev., N.J., N.C., Pa., R.I. INCORPORATED IN: N.Y. FEDERAL PROCESS AGENTS d/.

The Connecticut Indemnity Company. BUSINESS ADDRESS: 1000 Asylum Avenue, Hartford, Conn. 06105. UNDERWRITING LIMITATION b/: $662,000. SURETY LICENSES c/: All except C.Z., Guam, Hawaii, Puerto Rico, Virgin Islands. INCORPORATED IN: Conn. FEDERAL PROCESS AGENTS d/.

Consolidated Insurance Company. BUSINESS ADDRESS: 115 North Pennsylvania Street, Indianapolis, Ind. 46204. UNDERWRITING LIMITATION b/: $841,000. SURETY LICENSES c/: Fla., Idaho, Ill., Ind., Ky., Mich., Ohio, Wash., Wis. INCORPORATED IN: Ind. FEDERAL PROCESS AGENTS d/.

Continental Casualty Company. BUSINESS ADDRESS: CNA Plaza, Chicago, Ill. 60685. UNDERWRITING LIMITATION b/: $60,198,000. SURETY LICENSES c/: All except C.Z., Guam. INCORPORATED IN: Ill. FEDERAL PROCESS AGENTS d/.

The Continental Insurance Company: BUSINESS ADDRESS: 80 Maiden Lane, New York, N.Y. 10038. UNDERWRITING LIMITATION b/: $12,631,000. SURETY LICENSES c/: All. INCORPORATED IN: N.H. FEDERAL PROCESS AGENTS d/.

Continental Reinsurance Corporation. BUSINESS ADDRESS: 80 Maiden Lane, New York, N.Y. 10038. UNDERWRITING LIMITATION b/: $10,025,000. SURETY LICENSES c/: Alaska, Ariz., Ark., Cal., Colo., D.C., Fla., Hawaii, Idaho, Ill., Ind., Iowa, Mich., Mont., Nev., N.J., N. Mex., N.Y., N.C., Okla., Oreg., Tex., Utah, Va., Wash., Wyo. INCORPORATED IN: Cal. FEDERAL PROCESS AGENTS d/.

Continental Surety and Fidelity Insurance Company. BUSINESS ADDRESS: P.O. Box 730, Littleton, Colo. 80160. UNDERWRITING LIMITATION b/: $39,000. SURETY LICENSES c/: Colo. INCORPORATED IN: Colo. FEDERAL PROCESS AGENTS d/.

Continental Western Insurance Company. BUSINESS ADDRESS: P.O. Box 1594, Des Moines, Iowa 50306. UNDERWRITING LIMITATION b/: $2,094,000. SURETY LICENSES c/: Ariz., Ark., Colo., Idaho, Ill., Ind., Iowa, Kans., Ky., Mich., Minn., Mo., Mont., Nebr., Nev., N. Mex., N. Dak., Okla., S. Dak., Utah, Wis., Wyo. INCORPORATED IN: Iowa. FEDERAL PROCESS AGENTS d/.

Contractors Bonding and Insurance Company. BUSINESS ADDRESS: 1213 Valley Street, Seattle, Wash. 98109. UNDERWRITING LIMITATION b/: $86,000. SURETY LICENSES c/: Wash. INCORPORATED IN: Wash. FEDERAL PROCESS AGENTS d/.

Cooperativa de Seguros Multiples de Puerto Rico. BUSINESS ADDRESS: G.P.O. Box 3846, San Juan, Puerto Rico 00936. UNDERWRITING LIMITATION b/: $935,000. SURETY LICENSES c/: Puerto Rico. INCORPORATED IN: Puerto Rico. FEDERAL PROCESS AGENTS d/.

Cornhusker Casualty Company. BUSINESS ADDRESS: 105 North 31st Avenue, Omaha, Nebr. 68131. UNDERWRITING LIMITATION b/: $1,733,000. SURETY LICENSES c/: Colo., Iowa, Nebr., S. Dak., Wyo. INCORPORATED IN: Nebr. FEDERAL PROCESS AGENTS d/.

Cotton Belt Insurance Company, Inc. BUSINESS ADDRESS: Post Office Box 29405, New Orleans, La. 70189. UNDERWRITING LIMITATION b/: $165,000. SURETY LICENSES c/: Ala., Ark., Cal., Colo., Del., Fla., Idaho, Ind., Ky., La., Miss., Mo., Mont., N. Mex., N. Dak., Ohio, Okla., Oreg., Tenn., Tex., Utah, Wash. INCORPORATED IN: Tenn. FEDERAL PROCESS AGENTS d/.

Cotton States Mutual Insurance Company. BUSINESS ADDRESS: Post Office Box 2214, Atlanta, Ga. 30301. UNDERWRITING LIMITATION b/: $2,402,000. SURETY LICENSES c/: Ala., Fla., Ga., Miss., N.C., S.C., Tenn. INCORPORATED IN: Ga. FEDERAL PROCESS AGENTS d/.

*See footnotes at end of table.

Covenant Mutual Insurance Company. BUSINESS ADDRESS: 95 Woodland Street, Hartford, Conn. 06105. UNDERWRITING LIMITATION b/: $1,299,000. SURETY LICENSES c/: Ariz., Cal., Conn., N.H., Oreg., Wash. INCORPORATED IN: Conn. FEDERAL PROCESS AGENTS d/.

Cumis Insurance Society, Inc. BUSINESS ADDRESS: Post Office Box 1084, Madison, Wis. 53701. UNDERWRITING LIMITATION b/: $2,420,000. SURETY LICENSES c/: All except C.Z., Guam, Virgin Islands. INCORPORATED IN: Wis. FEDERAL PROCESS AGENTS d/.

Dependable Insurance Company, Inc. BUSINESS ADDRESS: Post Office Box 10169, Jacksonville, Fla. 32207. UNDERWRITING LIMITATION b/: $859,000. SURETY LICENSES c/: All except C.Z., Col., Conn., Del., Guam, Hawaii, Kans., Me., Mass., Mich., Minn., Mont., N.H., N.J., N.Y., N. Dak., Ohio, Pa., Puerto Rico, R.I., S. Dak., Vt., Virgin Islands, Wis., Wyo. INCORPORATED IN: Fla. FEDERAL PROCESS AGENTS d/.

DEVELOPERS' INSURANCE COMPANY. BUSINESS ADDRESS: P.O. Box 884, Los Alamitos, Cal. 90720. UNDERWRITING LIMITATION b/: $173,000. SURETY LICENSES c/: Cal. INCORPORATED IN: Cal. FEDERAL PROCESS AGENTS d/.

Empire Fire and Marine Insurance Company. BUSINESS ADDRESS: 1624 Douglas Street, Omaha, Nebr. 68102. UNDERWRITING LIMITATION b/: $1,614,000. SURETY LICENSES c/: All except Ark., Cal., C.Z., Conn., Del., D.C., Guam, La., Me., Md., Mass., N.J., N.Y., Oreg., Pa., Puerto Rico, R.I., Tenn., Va., Virgin Islands, W. Va. INCORPORATED IN: Nebr. FEDERAL PROCESS AGENTS d/.

The Employers' Fire Insurance Company. BUSINESS ADDRESS: One Beacon Street, Boston, Mass. 02108. UNDERWRITING LIMITATION b/: $2,454,000. SURETY LICENSES c/: All except C.Z., Guam, Puerto Rico. INCORPORATED IN: Mass. FEDERAL PROCESS AGENTS d/.

EMPLOYERS INSURANCE OF WAUSAU A Mutual Company. 2* BUSINESS ADDRESS: 2000 Westwood Drive, Wausau, Wis. 54401. UNDERWRITING LIMITATION b/: $32,005,000. SURETY LICENSES c/: All except C.Z., Guam, Virgin Islands. INCORPORATED IN: Wis. FEDERAL PROCESS AGENTS d/.

Employers Mutual Casualty Company. BUSINESS ADDRESS: Post Office Box 712, Des Moines, Iowa 50303. UNDERWRITING LIMITATION b/: $6,095,000. SURETY LICENSES c/: All except C.Z., Guam, Puerto Rico, Virgin Islands. INCORPORATED IN: Iowa. FEDERAL PROCESS AGENTS d/.

Employers Reinsurance Corporation. BUSINESS ADDRESS: Post Office Box 2088, Kansas City, Mo. 64142. UNDERWRITING LIMITATION b/: $17,919,000. SURETY LICENSES c/: All except C.Z., Guam, Hawaii, Puerto Rico, Virgin Islands. INCORPORATED IN: Mo. FEDERAL PROCESS AGENTS d/.

Equitable General Insurance Company. BUSINESS ADDRESS: One Equitable General Place, Fort Worth, Tex. 76151. UNDERWRITING LIMITATION b/: $2,507,000. SURETY LICENSES c/: All except C.Z., Guam, Virgin Islands. INCORPORATED IN: Iowa. FEDERAL PROCESS AGENTS d/.

Farmers Alliance Mutual Insurance Company. BUSINESS ADDRESS: 1122 North Main Street, McPherson, Kans. 67460. UNDERWRITING LIMITATION b/: $1,977,000. SURETY LICENSES c/: Ariz., Ark., Cal., Colo., Idaho, Ill., Ind., Iowa, Kans., Md., Mass., Mich., Minn., Mo., Mont., Nebr., N.H., N.J., N. Mex., N.Y., N.C., N. Dak., Ohio, Okla., Oreg., S.C., S. Dak., Tex., Vt., Wash. INCORPORATED IN: Kans. FEDERAL PROCESS AGENTS d/.

Farmland Mutual Insurance Company. BUSINESS ADDRESS: 1963 Bell Avenue, Des Moines, Iowa 50315. UNDERWRITING LIMITATION b/: $1,817,000. SURETY LICENSES c/: Ark., Colo., Ill., Iowa, Kans., Ky., Minn., Mo., Nebr., N. Dak., Okla., S. Dak., Tex., Wyo. INCORPORATED IN: Iowa. FEDERAL PROCESS AGENTS d/.

Federal Insurance Company. BUSINESS ADDRESS: 51 John F. Kennedy Parkway, Short Hills, N.J. 07078. UNDERWRITING LIMITATION b/: $26,115,000. SURETY LICENSES c/: All. INCORPORATED IN: N.J. FEDERAL PROCESS AGENTS d/.

Federated Mutual Insurance Company. BUSINESS ADDRESS: 129 East Broadway, Owatonna, Minn. 55060. UNDERWRITING LIMITATION b/: $11,791,000. SURETY LICENSES c/: All except Alaska, C.Z., Del., Guam, Hawaii, Me., N.H., Puerto Rico, Virgin Islands. INCORPORATED IN: Minn. FEDERAL PROCESS AGENTS d/.

The Fidelity and Casualty Company of New York. BUSINESS ADDRESS: 80 Maiden Lane, New York, N.Y. 10038. UNDERWRITING LIMITATION b/: $6,649,000. SURETY LICENSES c/: All except Guam, Virgin Islands. INCORPORATED IN: N.H. FEDERAL PROCESS AGENTS d/.

Fidelity and Deposit Company. BUSINESS ADDRESS: Charles and Lexington Streets, Baltimore, Md. 21203. UNDERWRITING LIMITATION b/: $226,000. SURETY LICENSES c/: Md., Tex. INCORPORATED IN: Md. FEDERAL PROCESS AGENTS d/.

Fidelity and Deposit Company of Maryland. BUSINESS ADDRESS: Charles and Lexington Streets, Baltimore, Md. 21203. UNDERWRITING LIMITATION b/: $7,501,000. SURETY LICENSES c/: All except C.Z., Guam. INCORPORATED IN: Md. FEDERAL PROCESS AGENTS d/.

Financial Indemnity Company. BUSINESS ADDRESS: P.O. Box 7754, Burbank, Cal. 91510. UNDERWRITING LIMITATION b/: $1,010,000. SURETY LICENSES c/: Ala., Ariz., Cal., Colo., Fla., Idaho, Ind., Mo., Mont., Nev., N. Mex., Oreg., Tex., Utah, Wash. INCORPORATED IN: Cal. FEDERAL PROCESS AGENTS d/.

Fireman's Fund Insurance Company. BUSINESS ADDRESS: 3333 California Street, San Francisco, Cal. 94119. UNDERWRITING LIMITATION b/: $67,816,000. SURETY LICENSES c/: All except C.Z. INCORPORATED IN: Cal. FEDERAL PROCESS AGENTS d/.

Firemen's Insurance Company of Newark, New Jersey. BUSINESS ADDRESS: 80 Maiden Lane, New York, N.Y. 10038. UNDERWRITING LIMITATION b/: $33,067,000. SURETY LICENSES c/: All except C.Z., Guam, Puerto Rico, Virgin Islands. INCORPORATED IN: N.J. FEDERAL PROCESS AGENTS d/.

First Financial Insurance Company. BUSINESS ADDRESS: 222 West Adams Street, Chicago, Ill. 60606. UNDERWRITING LIMITATION b/: $303,000. SURETY LICENSES c/: Ala., Alaska, Ariz., Ark., Colo., Del., Ga., Idaho, Ill., Ind., Iowa, Ky., Md., Miss., Mo., Mont., Nev., N. Mex., N. Dak., Okla., Oreg., S. Dak., Utah, Wash. INCORPORATED IN: Ill. FEDERAL PROCESS AGENTS d/.

*See footnotes at end of table.

First Insurance Company of Hawaii, Ltd. BUSINESS ADDRESS: Post Office Box 2866, Honolulu, Hawaii 96803. UNDERWRITING LIMITATION b/: $1,717,000. SURETY LICENSES c/: Alaska, Ariz., Cal., Colo., Guam, Hawaii, Ill., Ind., La., Minn., Mo., N.Y., Oreg., Utah, Wash. INCORPORATED IN: Hawaii. FEDERAL PROCESS AGENTS d/.

First National Insurance Company of America. BUSINESS ADDRESS: SAFECO Plaza, Seattle, Wash. 98185. UNDERWRITING LIMITATION b/: $4,100,000. SURETY LICENSES c/: All except Alaska, C.Z., Guam, Hawaii, Me., Puerto Rico, Vt., Virgin Islands. INCORPORATED IN: Wash. FEDERAL PROCESS AGENTS d/.

First State Insurance Company. BUSINESS ADDRESS: 60 Batterymarch Street, Boston, Mass. 02110. UNDERWRITING LIMITATION b/: $5,742,000. SURETY LICENSES c/: Del., Mass. INCORPORATED IN: Del. FEDERAL PROCESS AGENTS d/.

FLORIDA FARM BUREAU MUTUAL INSURANCE COMPANY. BUSINESS ADDRESS: Post Office Box 730, Gainesville, Fla. 32602. UNDERWRITING LIMITATION b/: $502,000. SURETY LICENSES c/: Fla. INCORPORATED IN: Fla. FEDERAL PROCESS AGENTS d/.

Fremont Indemnity Company. BUSINESS ADDRESS: 1709 West Eighth Street, Los Angeles, Cal. 90017. UNDERWRITING LIMITATION b/: $7,974,000. SURETY LICENSES c/: Alaska, Ariz., Cal., Idaho, Ill., Iowa, Nev., N. Mex., Oreg., Pa., Tex., Wash. INCORPORATED IN: Cal. FEDERAL PROCESS AGENTS d/.

Fritz Insurance Company. BUSINESS ADDRESS: 700 Nicholas Boulevard, Elk Grove Village, Ill. 60007. UNDERWRITING LIMITATION b/: $44,000. SURETY LICENSES c/: N. Mex. INCORPORATED IN: N. Mex. FEDERAL PROCESS AGENTS d/.

General Insurance Company of America. BUSINESS ADDRESS: SAFECO Plaza, Seattle, Wash. 98185. UNDERWRITING LIMITATION b/: $17,311,000. SURETY LICENSES c/: All. INCORPORATED IN: Wash. FEDERAL PROCESS AGENTS d/.

General Reinsurance Corporation. BUSINESS ADDRESS: 600 Steamboat Road, Greenwich, Conn. 06830. UNDERWRITING LIMITATION b/: $54,248,000. SURETY LICENSES c/: All except C.Z., Guam, Hawaii, Puerto Rico, Virgin Islands. INCORPORATED IN: Del. FEDERAL PROCESS AGENTS d/.

The Glens Falls Insurance Company. BUSINESS ADDRESS: 80 Maiden Lane, New York, N.Y. 10038. UNDERWRITING LIMITATION b/: $1,736,000. SURETY LICENSES c/: All except C.Z., Guam, Virgin Islands. INCORPORATED IN: Del. FEDERAL PROCESS AGENTS d/.

Global Surety & Insurance Co. BUSINESS ADDRESS: 135 Kiewit Plaza, Omaha, Nebr. 68131. UNDERWRITING LIMITATION b/: $1,815,000. SURETY LICENSES c/: Ariz., Cal., Mont., Nebr., S. Dak. INCORPORATED IN: Nebr. FEDERAL PROCESS AGENTS d/.

Globe Indemnity Company. BUSINESS ADDRESS: 150 William Street, New York, N.Y. 10038. UNDERWRITING LIMITATION b/: $11,353,000. SURETY LICENSES c/: All except C.Z., Guam, Puerto Rico, Virgin Islands. INCORPORATED IN: N.Y. FEDERAL PROCESS AGENTS d/.

Grain Dealers Mutual Insurance Company. BUSINESS ADDRESS: Post Office Box 1747, Indianapolis, Ind. 46206. UNDERWRITING LIMITATION b/: $1,584,000. SURETY LICENSES c/: All except Ala., Alaska, C.Z., Conn., Del., D.C., Fla., Guam, Idaho, Me., Md., Mass., Mont., N.H., N.J., N.Y., N. Dak., Pa., Puerto Rico, R.I., Utah, Vt., Virgin Islands, W. Va. INCORPORATED IN: Ind. FEDERAL PROCESS AGENTS d/.

Granite State Insurance Company. BUSINESS ADDRESS: Post Office Box 960, Manchester, N.H. 03107. UNDERWRITING LIMITATION b/: $535,000. SURETY LICENSES c/: All except C.Z., Conn., Del., Guam, Hawaii, Idaho, Puerto Rico. INCORPORATED IN: N.H. FEDERAL PROCESS AGENTS d/.

Great American Insurance Company. BUSINESS ADDRESS: 580 Walnut Street, Cincinnati, Ohio 45202. UNDERWRITING LIMITATION b/: $42,225,000. SURETY LICENSES c/: All except C.Z. INCORPORATED IN: Ohio. FEDERAL PROCESS AGENTS d/.

Great Northern Insurance Company. BUSINESS ADDRESS: 190 River Road, Summit, N.J. 07901. UNDERWRITING LIMITATION b/: $1,446,000. SURETY LICENSES c/: All except Ala., Ark., Cal., C.Z., Conn., Guam, Hawaii, Idaho, Ky., Mass., N.J., N.C., Puerto Rico, Tenn., Tex., Virgin Islands, W. Va., Wis. INCORPORATED IN: Minn. FEDERAL PROCESS AGENTS d/.

Greater New York Mutual Insurance Company. BUSINESS ADDRESS: 215 Lexington Avenue, New York, N.Y. 10016. UNDERWRITING LIMITATION b/: $5,347,000. SURETY LICENSES c/: All except Alaska, Ark., C.Z., Guam, Hawaii, La., Oreg., S.C., Tenn., Virgin Islands. INCORPORATED IN: N.Y. FEDERAL PROCESS AGENTS d/.

Gulf Insurance Company. BUSINESS ADDRESS: Post Office Box 1771, Dallas, Tex. 75221. UNDERWRITING LIMITATION b/: $5,607,000. SURETY LICENSES c/: All except C.Z., Conn., Guam, Idaho, N.J., Puerto Rico, Virgin Islands. INCORPORATED IN: Mo. FEDERAL PROCESS AGENTS d/.

The Hamilton Mutual Insurance Company of Cincinnati, Ohio. BUSINESS ADDRESS: 1520 Madison Road, Cincinnati, Ohio 45206. UNDERWRITING LIMITATION b/: $417,000. SURETY LICENSES c/: Ind., Ky., Mich., Ohio. INCORPORATED IN: Ohio. FEDERAL PROCESS AGENTS d/.

The Hanover Insurance Company. BUSINESS ADDRESS: 440 Lincoln Street, Worcester, Mass. 01605. UNDERWRITING LIMITATION b/: $13,061,000. SURETY LICENSES c/: All except C.Z., Guam, Puerto Rico, Virgin Islands. INCORPORATED IN: N.H. FEDERAL PROCESS AGENTS d/.

Harleysville Mutual Insurance Company. BUSINESS ADDRESS: 355 Maple Avenue, Harleysville, Pa. 19438. UNDERWRITING LIMITATION b/: $7,400,000. SURETY LICENSES c/: Cal., Colo., Del., D.C., Ga., Ill., Ind., Iowa, Kans., Md., Mich., Minn., Miss., Mo., N.J., N. Mex., N.C., Ohio, Okla., Pa., S.C., Tex., Utah, Va., W. Va. INCORPORATED IN: Pa. FEDERAL PROCESS AGENTS d/.

Hartford Accident and Indemnity Company. BUSINESS ADDRESS: Hartford Plaza, Hartford, Conn. 06115. UNDERWRITING LIMITATION b/: $53,647,000. SURETY LICENSES c/: All except Guam. INCORPORATED IN: Conn. FEDERAL PROCESS AGENTS d/.

Hartford Casualty Insurance Company. BUSINESS ADDRESS: Hartford Plaza, Hartford, Conn. 06115. UNDERWRITING LIMITATION b/: $6,504,000. SURETY LICENSES c/: All except C.Z., Guam, Puerto Rico, Virgin Islands. INCORPORATED IN: N.J. FEDERAL PROCESS AGENTS d/.

*See footnotes at end of table.

Hartford Fire Insurance Company. BUSINESS ADDRESS: Hartford Plaza, Hartford, Conn. 06115. UNDERWRITING LIMITATION b/: $80,296,000. SURETY LICENSES c/: All except C.Z. INCORPORATED IN: Conn. FEDERAL PROCESS AGENTS d/.

Hawkeye-Security Insurance Company. BUSINESS ADDRESS: 1017 Walnut Street, Des Moines, Iowa 50307. UNDERWRITING LIMITATION b/: $1,990,000. SURETY LICENSES c/: Ariz., Colo., D.C., Idaho, Ill., Ind., Iowa, Kans., Md., Mich., Minn., Mo., Mont., Nebr., Nev., N. Mex., N.C., Ohio, Pa., S. Dak., Tex., Utah, Va., Wis., Wyo. INCORPORATED IN: Iowa. FEDERAL PROCESS AGENTS d/.

Heritage Insurance Company of America. BUSINESS ADDRESS: 7366 North Lincoln Avenue, Lincolnwood, Ill. 60646. UNDERWRITING LIMITATION b/: $343,000. SURETY LICENSES c/: Alaska, Ariz., Ark., Colo., Fla., Ga., Ill., Mo., Nev., Okla., Oreg., Va., Wash. INCORPORATED IN: Ill. FEDERAL PROCESS AGENTS d/.

Highlands Insurance Company. BUSINESS ADDRESS: 600 Jefferson Street, Houston, Tex. 77002. UNDERWRITING LIMITATION b/: $9,929,000. SURETY LICENSES c/: All except C.Z., Guam, Virgin Islands. INCORPORATED IN: Tex. FEDERAL PROCESS AGENTS d/.

Highlands Underwriters Insurance Company. BUSINESS ADDRESS: 600 Jefferson Street, Houston, Tex. 77002. UNDERWRITING LIMITATION b/: $909,000. SURETY LICENSES c/: Ala., Ariz., Ark., Cal., Fla., La., Miss., N. Mex., Okla., S.C., Tex. INCORPORATED IN: Tex. FEDERAL PROCESS AGENTS d/.

The Home Indemnity Company. BUSINESS ADDRESS: 59 Maiden Lane, New York, N.Y. 10038. UNDERWRITING LIMITATION b/: $5,401,000. SURETY LICENSES c/: All except C.Z., Guam, Puerto Rico, Virgin Islands. INCORPORATED IN: N.H. FEDERAL PROCESS AGENTS d/.

The Home Insurance Company. BUSINESS ADDRESS: 59 Maiden Lane, New York, N.Y. 10038. UNDERWRITING LIMITATION b/: $45,216,000. SURETY LICENSES c/: All except C.Z., Virgin Islands. INCORPORATED IN: N.H. FEDERAL PROCESS AGENTS d/.

Houston General Insurance Company. BUSINESS ADDRESS: One Equitable General Place, Fort Worth, Tex. 76151. UNDERWRITING LIMITATION b/: $1,251,000. SURETY LICENSES c/: Ala., Ariz., Ark., Cal., Colo., D.C., Fla., Ga., Ill., Iowa, Kans., Ky., La., Mich., Miss., Mo., N. Mex., N.C., Okla., S.C., S. Dak., Tenn., Tex., Utah. INCORPORATED IN: Tex. FEDERAL PROCESS AGENTS d/.

Hudson Insurance Company. BUSINESS ADDRESS: 280 Park Avenue, New York, N.Y. 10017. UNDERWRITING LIMITATION b/: $1,014,000. SURETY LICENSES c/: Del., Ind., Iowa, N.H., N.Y., Tenn., Tex. (Reinsurance only in Fla., Md., Mich.) INCORPORATED IN: Del. FEDERAL PROCESS AGENTS d/.

IGF Insurance Company. BUSINESS ADDRESS: 315 Shops Building, Des Moines, Iowa 50309. UNDERWRITING LIMITATION b/: $291,000. SURETY LICENSES c/: Colo., Iowa, Mo., Mont., Nebr., N. Dak., S. Dak. INCORPORATED IN: Iowa. FEDERAL PROCESS AGENTS d/.

INA Reinsurance Company. BUSINESS ADDRESS: 1600 Arch Street, Philadelphia, Pa. 19101. UNDERWRITING LIMITATION b/: $9,245,000. SURETY LICENSES c/: All except C.Z., Guam, Me., Virgin Islands. INCORPORATED IN: Del. FEDERAL PROCESS AGENTS d/.

INA Underwriters Insurance Company. BUSINESS ADDRESS: 1600 Arch Street, Philadelphia, Pa. 19101. UNDERWRITING LIMITATION b/: $8,739,000. SURETY LICENSES c/: All except Hawaii, La., Puerto Rico. INCORPORATED IN: Cal. FEDERAL PROCESS AGENTS d/.

Illinois National Insurance Co. BUSINESS ADDRESS: 133 South 4th. Street, Springfield, Ill. 62700. UNDERWRITING LIMITATION b/: $991,000. SURETY LICENSES c/: Alaska, Ill., Ind., Iowa, Ky., Mo., Mont., Nebr., N. Mex., N.Y., N. Dak., Ohio, S. Dak., Tex., Utah, Vt. INCORPORATED IN: Ill. FEDERAL PROCESS AGENTS d/.

Indemnity Company of California. BUSINESS ADDRESS: 820 North Parton Street, Santa Ana, Cal. 92701. UNDERWRITING LIMITATION b/: $124,000. SURETY LICENSES c/: Cal. INCORPORATED IN: Cal. FEDERAL PROCESS AGENTS d/.

Indemnity Insurance Company of North America. BUSINESS ADDRESS: 1600 Arch Street, Philadelphia, Pa. 19101. UNDERWRITING LIMITATION b/: $2,806,000. SURETY LICENSES c/: All. INCORPORATED IN: N.Y. FEDERAL PROCESS AGENTS d/.

Indiana Insurance Company. BUSINESS ADDRESS: 115 North Pennsylvania Street, Indianapolis, Ind. 46204. UNDERWRITING LIMITATION b/: $4,838,000. SURETY LICENSES c/: Fla., Idaho, Ill., Ind., Ky., Mich., Ohio, Wash., Wis. INCORPORATED IN: Ind. FEDERAL PROCESS AGENTS d/.

Indiana Lumbermens Mutual Insurance Company. BUSINESS ADDRESS: Post Office Box 1985, Indianapolis, Ind. 46206. UNDERWRITING LIMITATION b/: $782,000. SURETY LICENSES c/: Ala., Ark., Fla., Ga., Ill., Ind., Iowa, Kans., Ky., La., Mich., Minn., Miss., Mo., N. Mex., N.C., Ohio, Okla., S.C., Tenn., Tex., Va., Wis. INCORPORATED IN: Ind. FEDERAL PROCESS AGENTS d/.

Industrial Indemnity Company. BUSINESS ADDRESS: Post Office Box 3660, San Francisco, Cal. 94120. UNDERWRITING LIMITATION b/: $9,287,000. SURETY LICENSES c/: All except C.Z., Conn., Puerto Rico, Virgin Islands, W. Va. INCORPORATED IN: Cal. FEDERAL PROCESS AGENTS d/.

Inland Insurance Company. BUSINESS ADDRESS: Post Office Box 80468, Lincoln, Nebr. 68501. UNDERWRITING LIMITATION b/: $941,000. SURETY LICENSES c/: Colo., Iowa, Kans., Minn., Nebr., N. Dak., Okla., S. Dak., Wyo. INCORPORATED IN: Nebr. FEDERAL PROCESS AGENTS d/.

Insurance Company of North America. BUSINESS ADDRESS: 1600 Arch Street, Philadelphia, Pa. 19101. UNDERWRITING LIMITATION b/: $67,423,000. SURETY LICENSES c/: All. INCORPORATED IN: Pa. FEDERAL PROCESS AGENTS d/.

Insurance Company of the Pacific Coast. BUSINESS ADDRESS: Post Office Box 7220, Newport Beach, Cal. 92660. UNDERWRITING LIMITATION b/: $494,000. SURETY LICENSES c/: Cal. INCORPORATED IN: Cal. FEDERAL PROCESS AGENTS d/.

The Insurance Company of the State of Pennsylvania. BUSINESS ADDRESS: 70 Pine Street, New York, N.Y. 10005. UNDERWRITING LIMITATION b/: $3,443,000. SURETY LICENSES c/: All except C.Z., Guam, Kans., Virgin Islands. INCORPORATED IN: Pa. FEDERAL PROCESS AGENTS d/.

*See footnotes at end of table.

Insurance Company of the West. BUSINESS ADDRESS: Post Office Box 81063, San Diego, Cal. 92138. UNDERWRITING LIMITATION b/: $1,068,000. SURETY LICENSES c/: Cal., Nev. INCORPORATED IN: Cal. FEDERAL PROCESS AGENTS d/.

Integon Indemnity Corporation. BUSINESS ADDRESS: Post Office Box 3199, Winston-Salem, N.C. 27102. UNDERWRITING LIMITATION b/: $506,000. SURETY LICENSES c/: Ala., Alaska, Ariz., Ark., Fla., Ga., Idaho, Iowa, Ky., La., Miss., Nebr., Nev., N. Mex., N.C., Okla., Oreg., S.C., Tenn., Tex., Utah, Va., Wash. INCORPORATED IN: N.C. FEDERAL PROCESS AGENTS d/.

Integrity Insurance Company. BUSINESS ADDRESS: Mack Centre Drive, Paramus, N.J. 07652. UNDERWRITING LIMITATION b/: $2,021,000. SURETY LICENSES c/: All except C.Z., Conn., Guam, Hawaii, Nebr., Puerto Rico, Virgin Islands, Wyo. INCORPORATED IN: N.J. FEDERAL PROCESS AGENTS d/.

Integrity Mutual Insurance Company. BUSINESS ADDRESS: Post Office Box 539, Appleton, Wis. 54912. UNDERWRITING LIMITATION b/: $333,000. SURETY LICENSES c/: Minn., Wis. INCORPORATED IN: Wis. FEDERAL PROCESS AGENTS d/.

International Cargo and Surety Insurance Company. BUSINESS ADDRESS: 2150 Landmeier Road, Elk Grove Village, Ill. 60007. UNDERWRITING LIMITATION: $40,000. SURETY LICENSES c/: N. Mex. INCORPORATED IN: N. Mex. FEDERAL PROCESS AGENTS d/.

International Fidelity Insurance Company. BUSINESS ADDRESS: 24 Commerce Street, Newark, N.J. 07102. UNDERWRITING LIMITATION b/: $193,000. SURETY LICENSES c/: Alaska, Ariz., Colo., Del., Fla., Idaho, Ill., Ind., La., Md., Mass., Mich., Miss., Mo., Mont., Nev., N.J., N. Mex., N.Y., N. Dak., Okla., Oreg., Pa., Puerto Rico, S. Dak., Tex., Utah, Wash., Wyo. INCORPORATED IN: N.J. FEDERAL PROCESS AGENTS d/.

International Insurance Company. BUSINESS ADDRESS: 233 South Wacker Drive, Chicago, Ill. 60606. UNDERWRITING LIMITATION b/: $2,117,000. SURETY LICENSES c/: All except C.Z., Del., Guam, Hawaii, Kans., La., S.C., Virgin Islands. INCORPORATED IN: Ill. FEDERAL PROCESS AGENTS d/.

International Service Insurance Company. BUSINESS ADDRESS: Post Office Box 1040, Fort Worth, Tex. 76101. UNDERWRITING LIMITATION b/: $2,121,000. SURETY LICENSES c/: Alaska, Cal., C.Z., Nebr., N. Mex., Tex. INCORPORATED IN: Tex. FEDERAL PROCESS AGENTS d/.

Investors Insurance Company of America. BUSINESS ADDRESS: 100 Eisenhower Drive, Paramus, N.J. 07652. UNDERWRITING LIMITATION b/: $760,000. SURETY LICENSES c/: Fla., Ga., N.J., N.Y. INCORPORATED IN: N.J. FEDERAL PROCESS AGENTS d/.

John Deere Insurance Company. BUSINESS ADDRESS: 400 19th. Street, Moline, Ill. 61265. UNDERWRITING LIMITATION b/: $2,642,000. SURETY LICENSES c/: All except C.Z., Guam, Puerto Rico, Virgin Islands. INCORPORATED IN: N.Y. FEDERAL PROCESS AGENTS d/.

The Kansas Bankers Surety Company. BUSINESS ADDRESS: 1110 First National Bank Tower, Topeka, Kans. 66603. UNDERWRITING LIMITATION b/: $146,000. SURETY LICENSES c/: D.C., Kans. INCORPORATED IN: Kans. FEDERAL PROCESS AGENTS d/.

Kansas City Fire and Marine Insurance Company. BUSINESS ADDRESS: 80 Maiden Lane, New York, N.Y. 10038. UNDERWRITING LIMITATION b/: $851,000. SURETY LICENSES c/: All except C.Z., Del., Guam, Hawaii, Puerto Rico, Virgin Islands. INCORPORATED IN: Mo. FEDERAL PROCESS AGENTS d/.

Lawyers Surety Corporation. BUSINESS ADDRESS: 1820 Regal Row, Dallas, Tex. 75235. UNDERWRITING LIMITATION b/: $249,000. SURETY LICENSES c/: Ala., Ark., Fla., Ga., Ill., Ky., Miss., N.C., Okla., Tenn., Tex. INCORPORATED IN: Tex. FEDERAL PROCESS AGENTS d/.

Liberty Mutual Insurance Company. BUSINESS ADDRESS: 175 Berkeley Street, Boston, Mass. 02117. UNDERWRITING LIMITATION b/: $81,107,000. SURETY LICENSES c/: All except Guam, Virgin Islands. INCORPORATED IN: Mass. FEDERAL PROCESS AGENTS d/.

Lumbermens Mutual Casualty Company. BUSINESS ADDRESS: Long Grove, Ill. 60049. UNDERWRITING LIMITATION b/: $55,095,000. SURETY LICENSES c/: All except C.Z., Guam, Puerto Rico, Virgin Islands. INCORPORATED IN: Ill. FEDERAL PROCESS AGENTS d/.

MGIC Indemnity Corporation. BUSINESS ADDRESS: Post Office Box 756, Milwaukee, Wis. 53201. UNDERWRITING LIMITATION b/: $4,946,000. SURETY LICENSES c/: All except C.Z., Guam, Puerto Rico, Virgin Islands. INCORPORATED IN: N.Y. FEDERAL PROCESS AGENTS d/.

Maine Bonding and Casualty Company. BUSINESS ADDRESS: 400 Congress Street, Portland, Me. 04111. UNDERWRITING LIMITATION b/: $796,000. SURETY LICENSES c/: Me., Mass., N.H., R.I., Vt. INCORPORATED IN: Me. FEDERAL PROCESS AGENTS d/.

Maryland Casualty Company. BUSINESS ADDRESS: Post Office Box 1228, Baltimore, Md. 21203. UNDERWRITING LIMITATION b/: $26,366,000. SURETY LICENSES c/: All except C.Z., Guam, Mass. INCORPORATED IN: Md. FEDERAL PROCESS AGENTS d/.

Massachusetts Bay Insurance Company. BUSINESS ADDRESS: 440 Lincoln Street, Worcester, Mass. 01605. UNDERWRITING LIMITATION b/: $532,000. SURETY LICENSES c/: Ark., Cal., Colo., Conn., D.C., Fla., Ga., Ill., Ind., Iowa, Kans., Me., Md., Mass., Mich., Minn., Miss., Mo., Nebr., N.H., N.J., N.Y., N.C., Ohio, Okla., Pa., R.I., S.C., Tenn., Tex., Vt., Va., Wash., Wis. INCORPORATED IN: Mass. FEDERAL PROCESS AGENTS d/.

Mead Reinsurance Corporation. BUSINESS ADDRESS: Courthouse Plaza, N.E., Dayton, Ohio 45463. UNDERWRITING LIMITATION b/: $431,000. SURETY LICENSES c/: Ala., Ariz., Cal., Colo., Del., Fla., Ga., Idaho, Ill., Ind., Iowa, Ky., La., Mich., Minn., Miss., Mo., Nebr., Nev., N.J., N. Mex., N.Y., N.C., N. Dak., Ohio, Okla., Oreg., Pa., S.C., Tenn., Tex., Utah, Va., Wash., Wis. (Reinsurance only in Kans., W. Va.) INCORPORATED IN: Ill. FEDERAL PROCESS AGENTS d/.

The Mercantile and General Reinsurance Company of America. BUSINESS ADDRESS: 130 John Street, New York, N.Y. 10038. UNDERWRITING LIMITATION b/: $1,131,000. SURETY LICENSES c/: Cal., D.C., Idaho, Iowa, Nebr., N.Y., Ohio, Pa., Utah, Wis. (Reinsurance only in Colo., Conn., Fla., Ind., Kans., Md., Mich., N.J., Okla., S.C., Tenn., Tex., Vt., W. Va.) INCORPORATED IN: N.Y. FEDERAL PROCESS AGENTS d/.

*See footnotes at end of table.

Merchants Mutual Bonding Company. BUSINESS ADDRESS: 2100 Grand Avenue, Des Moines, Iowa 50312. UNDERWRITING LIMITATION b/: $191,000. SURETY LICENSES c/: Ariz., Iowa, Kans., Nebr., Okla., Tex. INCORPORATED IN: Iowa. FEDERAL PROCESS AGENTS d/.

Meritplan Insurance Company. BUSINESS ADDRESS: Post Office Box 1770, Newport Beach, Cal. 92663. UNDERWRITING LIMITATION b/: $722,000. SURETY LICENSES c/: Ariz., Cal., Colo., Del., Fla., Ga., Hawaii, Ind., Iowa, Ky., Mich., Miss., Mont., Nev., N.Y., Ohio, S.C., Utah, Wash. INCORPORATED IN: Cal. FEDERAL PROCESS AGENTS d/.

Michigan Millers Mutual Insurance Company. BUSINESS ADDRESS: Post Office Box 30060, Lansing, Mich. 48909. UNDERWRITING LIMITATION b/: $3,299,000. SURETY LICENSES c/: Ark., Cal., Colo., Fla., Ill., Ind., Kans., Ky., Md., Mich., Mo., Nebr., N.J., N.Y., N.C., Ohio, Okla., Pa., Tenn., Tex., Va. INCORPORATED IN: Mich. FEDERAL PROCESS AGENTS d/.

Michigan Mutual Insurance Company. BUSINESS ADDRESS: 28 West Adams Avenue, Detroit, Mich. 48226. UNDERWRITING LIMITATION b/: $8,052,000. SURETY LICENSES c/: All except C.Z., Del., Guam, Hawaii, Oreg., Puerto Rico, Virgin Islands. (Fidelity only in D.C.) INCORPORATED IN: Mich. FEDERAL PROCESS AGENTS d/.

Mid-Century Insurance Company. BUSINESS ADDRESS: Post Office Box 2478, Terminal Annex, Los Angeles, Cal. 90051. UNDERWRITING LIMITATION b/: $1,997,000. SURETY LICENSES c/: Ariz., Ark., Cal., Colo., Del., Idaho, Ill., Ind., Iowa, Kans., Mich., Minn., Mo., Mont., Nebr., Nev., N. Mex., N. Dak., Ohio, Okla., Oreg., Tex., Utah, Vt., Wash., Wis., Wyo. INCORPORATED IN: Cal. FEDERAL PROCESS AGENTS d/.

Midland Insurance Company. BUSINESS ADDRESS: 160 Water Street, New York, N.Y. 10038. UNDERWRITING LIMITATION b/: $655,000. SURETY LICENSES c/: All except C.Z., Guam, Virgin Islands. INCORPORATED IN: N.Y. FEDERAL PROCESS AGENTS d/.

Midwestern Casualty & Surety Company. BUSINESS ADDRESS: 7628 Hickman Road, Des Moines, Iowa 50322. UNDERWRITING LIMITATION b/: $96,000. SURETY LICENSES c/: Iowa. INCORPORATED IN: Iowa. FEDERAL PROCESS AGENTS d/.

The Millers Mutual Fire Insurance Company of Texas. BUSINESS ADDRESS: Post Office Box 2269, Fort Worth, Tex. 76113. UNDERWRITING LIMITATION b/: $2,287,000. SURETY LICENSES c/: Ark., Cal., Colo., D.C., Idaho, Ill., Ind., Iowa, La., Minn., Miss., Mo., Mont., Nebr., N.J., N. Mex., Okla., Oreg., Pa., Tex., Wash., Wis., Wyo. INCORPORATED IN: Tex. FEDERAL PROCESS AGENTS d/.

Millers' Mutual Insurance Association of Illinois. BUSINESS ADDRESS: 111 East Fourth Street, Alton, Ill. 62002. UNDERWRITING LIMITATION b/: $3,747,000. SURETY LICENSES c/: Ala., Ark., Colo., D.C., Ga., Ill., Ind., Iowa, Kans., La., Minn., Miss., Mo., N.C., S. Dak., Tenn., Wis. INCORPORATED IN: Ill. FEDERAL PROCESS AGENTS d/.

Millers National Insurance Company. BUSINESS ADDRESS: 29 North Wacker Drive, Chicago, Ill. 60606. UNDERWRITING LIMITATION b/: $719,000. SURETY LICENSES c/: All except Alaska, C.Z., Colo., Conn., Del., Guam, Hawaii, La., Me., Miss., Nev., N.H., Pa., Puerto Rico, R.I., Vt., Wash. INCORPORATED IN: Ill. FEDERAL PROCESS AGENTS d/.

Minnesota Trust Company of Austin. BUSINESS ADDRESS: 209 3rd. Avenue, N.W., Box 463, Austin, Minn. 55912. UNDERWRITING LIMITATION b/: $78,000. SURETY LICENSES c/: Minn. INCORPORATED IN: Minn. FEDERAL PROCESS AGENTS d/.

Mission Insurance Company. BUSINESS ADDRESS: 2600 Wilshire Boulevard, Los Angeles, Cal. 90057. UNDERWRITING LIMITATION b/: $8,674,000. SURETY LICENSES c/: Ala., Alaska, Ariz., Cal., Colo., Hawaii, Idaho, Ill., Iowa, La., Miss., Mo., Mont., Nev., N. Mex., N.Y., Okla., Oreg., Tex., Wash. INCORPORATED IN: Cal. FEDERAL PROCESS AGENTS d/.

Morrison Assurance Company, Inc. BUSINESS ADDRESS: 5109 South Lois Avenue, Tampa, Fla. 33681. UNDERWRITING LIMITATION b/: $198,000. SURETY LICENSES c/: Ala., Ark., Fla., Ga., Ky., La., Miss., Okla., S.C., Tenn., Tex. INCORPORATED IN: Fla. FEDERAL PROCESS AGENTS d/.

MOTORS INSURANCE CORPORATION. BUSINESS ADDRESS: 767 Fifth Avenue, New York, N.Y. 10022. UNDERWRITING LIMITATION b/: $18,815,000. SURETY LICENSES c/: All except Ark., Cal., C.Z., Colo., Conn., Guam, Hawaii, Kans., La., Mass., Mo., Mont., Nebr., N.H., Ohio, Oreg., Pa., Puerto Rico, Tenn., Utah, Va., Virgin Islands, Wis. INCORPORATED IN: N.Y. FEDERAL PROCESS AGENTS d/.

Munich American Reinsurance Company. BUSINESS ADDRESS: 410 Park Avenue, New York, N.Y. 10022. UNDERWRITING LIMITATION b/: $3,282,000. SURETY LICENSES c/: Ark., Cal., Colo., D.C., Ga., Ill., Ind., Iowa, Kans., La., N.H., N.J., N.Y., Ohio, Okla., Pa., S.C., Tex. INCORPORATED IN: N.Y. FEDERAL PROCESS AGENTS d/.

National American Insurance Company of New York. BUSINESS ADDRESS: 1105 Hamilton Street, Allentown, Pa. 18101. UNDERWRITING LIMITATION b/: $1,419,000. SURETY LICENSES c/: All except Ariz., C.Z., Del., Guam, Hawaii, Mo., N. Mex., Puerto Rico, Virgin Islands, Wyo. INCORPORATED IN: N.Y. FEDERAL PROCESS AGENTS d/.

National Automobile and Casualty Insurance Company. BUSINESS ADDRESS: Post Office Box 7040, Pasadena, Cal. 91109. UNDERWRITING LIMITATION b/: $607,000. SURETY LICENSES c/: Alaska, Ariz., Cal., Nev., Tex., Wash. INCORPORATED IN: Cal. FEDERAL PROCESS AGENTS d/.

National-Ben Franklin Insurance Company of Illinois. BUSINESS ADDRESS: 360 West Jackson Boulevard, Chicago, Ill. 60606. UNDERWRITING LIMITATION b/: $10,010,000. SURETY LICENSES c/: D.C., Ill., Ind., Iowa, Ky., Minn., N.Y., N.C., N. Dak., Wis. INCORPORATED IN: Ill. FEDERAL PROCESS AGENTS d/.

National-Ben Franklin Insurance Company of Michigan. BUSINESS ADDRESS: 26500 Northwestern Highway, Southfield, Mich. 48076. UNDERWRITING LIMITATION b/: $3,184,000. SURETY LICENSES c/: Mich. INCORPORATED IN: Mich. FEDERAL PROCESS AGENTS d/.

National Bonding and Accident Insurance Company. BUSINESS ADDRESS: 4242 Lindell Boulevard, St. Louis, Mo. 63108. UNDERWRITING LIMITATION b/: $335,000. SURETY LICENSES c/: All except C.Z., Guam, Mass., N.C., Puerto Rico, Virgin Islands, Wis. INCORPORATED IN: N.Y. FEDERAL PROCESS AGENTS d/.

*See footnotes at end of table.

National Farmers Union Property and Casualty Company. BUSINESS ADDRESS: 12025 East 45th. Avenue, Denver, Colo. 80251. UNDERWRITING LIMITATION b/: $1,418,000. SURETY LICENSES c/: Ariz., Colo., D.C., Idaho, Ill., Ind., Iowa, Kans., Mich., Minn., Mo., Mont., Nebr., Nev., N. Mex., N. Dak., Ohio, Okla., Oreg., Pa., S. Dak., Tex., Utah, Va., Wash., Wis., Wyo. INCORPORATED IN: Utah. FEDERAL PROCESS AGENTS d/.

National Fire Insurance Company of Hartford. BUSINESS ADDRESS: CNA Plaza, Chicago, Ill. 60685. UNDERWRITING LIMITATION b/: $12,119,000. SURETY LICENSES c/: All except C.Z., Guam, Virgin Islands. INCORPORATED IN: Conn. FEDERAL PROCESS AGENTS d/.

National Grange Mutual Insurance Company. BUSINESS ADDRESS: 55 West Street, Keene, N.H. 03431. UNDERWRITING LIMITATION b/: $3,202,000. SURETY LICENSES c/: Conn., Del., D.C., Ill., Ind., Iowa, Me., Md., Mass., Mich., N.H., N.J., N.Y., N.C., Ohio, Pa., R.I., S.C., Tenn., Vt., Va., W. Va., Wis. INCORPORATED IN: N.H. FEDERAL PROCESS AGENTS d/.

National Indemnity Company. BUSINESS ADDRESS: 3024 Harney Street, Omaha, Nebr. 68131. UNDERWRITING LIMITATION b/: $21,776,000. SURETY LICENSES c/: All except C.Z., Guam, Hawaii, Mass., N.J., N.Y., Puerto Rico, Virgin Islands. INCORPORATED IN: Nebr. FEDERAL PROCESS AGENTS d/.

The National Reinsurance Corporation. BUSINESS ADDRESS: 123 William Street, New York, N.Y. 10038. UNDERWRITING LIMITATION b/: $6,682,000. SURETY LICENSES c/: All except Ala., C.Z., Conn., Fla., Ga., Guam, La., Me., Miss., Mo., N.C., Oreg., S.C., S. Dak., Tenn., Virgin Islands, W. Va. INCORPORATED IN: Del. FEDERAL PROCESS AGENTS d/.

National Standard Insurance Company. BUSINESS ADDRESS: Post Office Box 1502, Houston, Tex. 77001. UNDERWRITING LIMITATION b/: $556,000. SURETY LICENSES c/: La., N. Mex., Tex. INCORPORATED IN: Tex. FEDERAL PROCESS AGENTS d/.

National Surety Corporation. BUSINESS ADDRESS: 200 West Monroe Street, Chicago, Ill. 60606. UNDERWRITING LIMITATION b/: $9,793,000. SURETY LICENSES c/: All except Guam, Virgin Islands. INCORPORATED IN: Ill. FEDERAL PROCESS AGENTS d/.

National Union Fire Insurance Company of Pittsburgh, Pa. BUSINESS ADDRESS: 70 Pine Street, New York, N.Y. 10005. UNDERWRITING LIMITATION b/: $13,069,000. SURETY LICENSES c/: All except C.Z., Guam, Puerto Rico, Virgin Islands. INCORPORATED IN: Pa. FEDERAL PROCESS AGENTS d/.

Nationwide Mutual Insurance Company. BUSINESS ADDRESS: One Nationwide Plaza, Columbus, Ohio 43218. UNDERWRITING LIMITATION b/: $79,763,000. SURETY LICENSES c/: All. INCORPORATED IN: Ohio. FEDERAL PROCESS AGENTS d/.

The Netherlands Insurance Company. 3* BUSINESS ADDRESS: 62 Maple Avenue, Keene, N.H. 03431. UNDERWRITING LIMITATION b/: $701,000. SURETY LICENSES c/: Me., Md., Mass., Mich., N.H., N.J., N.C., Oreg., R.I., Utah, Va., Wis. INCORPORATED IN: N.H. FEDERAL PROCESS AGENTS d/.

New England Reinsurance Corporation. BUSINESS ADDRESS: 60 Batterymarch Street, Boston, Mass. 02110. UNDERWRITING LIMITATION b/: $3,926,000. SURETY LICENSES c/: Ala., Alaska, Ark., Cal., Conn., Del., D.C., Idaho, Ill., Ind., Iowa, Ky., Mass., Minn., Miss., Nev., N.J., N.Y., Ohio, Okla., R.I., Tenn., Wash. (Reinsurance only in Fla., Kans., Mo., N.H., S.C., Tex.) INCORPORATED IN: Mass. FEDERAL PROCESS AGENTS d/.

New Hampshire Insurance Company. BUSINESS ADDRESS: Post Office Box 960, Manchester, N.H. 03107. UNDERWRITING LIMITATION b/: $17,001,000. SURETY LICENSES c/: All. INCORPORATED IN: N.H. FEDERAL PROCESS AGENTS d/.

New York Underwriters Insurance Company. BUSINESS ADDRESS: Hartford Plaza, Hartford, Conn. 06115. UNDERWRITING LIMITATION b/: $5,227,000. SURETY LICENSES c/: All except C.Z., Guam, Puerto Rico, Virgin Islands. INCORPORATED IN: N.Y. FEDERAL PROCESS AGENTS d/.

Newark Insurance Company. BUSINESS ADDRESS: 150 William Street, New York, N.Y. 10038. UNDERWRITING LIMITATION b/: $2,385,000. SURETY LICENSES c/: All except C.Z., Guam, Oreg., Puerto Rico, Virgin Islands. INCORPORATED IN: N.J. FEDERAL PROCESS AGENTS d/.

Niagara Fire Insurance Company. BUSINESS ADDRESS: 80 Maiden Lane, New York, N.Y. 10038. UNDERWRITING LIMITATION b/: $1,819,000. SURETY LICENSES c/: All except C.Z., Guam. INCORPORATED IN: Del. FEDERAL PROCESS AGENTS d/.

North American Reinsurance Corporation. BUSINESS ADDRESS: 245 Park Avenue, New York, N.Y. 10017. UNDERWRITING LIMITATION b/: $11,008,000. SURETY LICENSES c/: All except C.Z., Guam, Virgin Islands, Wyo. INCORPORATED IN: N.Y. FEDERAL PROCESS AGENTS d/.

The North River Insurance Company. BUSINESS ADDRESS: Post Office Box 2387, Morristown, N.J. 07960. UNDERWRITING LIMITATION b/: $8,035,000. SURETY LICENSES c/: All except C.Z., Guam, Virgin Islands. INCORPORATED IN: N.J. FEDERAL PROCESS AGENTS d/.

Northbrook Property and Casualty Insurance Company. BUSINESS ADDRESS: Allstate Plaza, Northbrook, Ill. 60062. UNDERWRITING LIMITATION b/: $4,037,000. SURETY LICENSES c/: All except C.Z., Guam, Puerto Rico, Virgin Islands. INCORPORATED IN: Ill. FEDERAL PROCESS AGENTS d/.

Northeastern Insurance Company of Hartford. BUSINESS ADDRESS: 1017 Walnut Street, Des Moines, Iowa 50307. UNDERWRITING LIMITATION b/: $3,197,000. SURETY LICENSES c/: Cal., Colo., Conn., Ill., Ind., Iowa, Kans., N.H., N.J., N.Y., Ohio, Pa., Tex., W. Va., Wis. INCORPORATED IN: Conn. FEDERAL PROCESS AGENTS d/.

The Northern Assurance Company of America. BUSINESS ADDRESS: One Beacon Street, Boston, Mass. 02108. UNDERWRITING LIMITATION b/: $1,487,000. SURETY LICENSES c/: All except C.Z., Guam, Puerto Rico. INCORPORATED IN: Mass. FEDERAL PROCESS AGENTS d/.

Northern Insurance Company of New York. BUSINESS ADDRESS: Post Office Box 91, Baltimore, Md. 21203. UNDERWRITING LIMITATION b/: $2,229,000. SURETY LICENSES c/: All except C.Z., Guam, Puerto Rico, Virgin Islands. INCORPORATED IN: N.Y. FEDERAL PROCESS AGENTS d/.

Northwestern National Casualty Company. BUSINESS ADDRESS: Post Office Box 2070, Milwaukee, Wis. 53201. UNDERWRITING LIMITATION b/: $459,000. SURETY LICENSES c/: All except Alaska, C.Z., Conn., Guam, Hawaii, Me., Mass., Nev., N.H., N.J., N.Y., Puerto Rico, Vt., Virgin Islands. INCORPORATED IN: Wis. FEDERAL PROCESS AGENTS d/.

Northwestern National Insurance Company of Milwaukee, Wisconsin. BUSINESS ADDRESS: Post Office Box 2070, Milwaukee, Wis. 53201. UNDERWRITING LIMITATION b/: $5,499,000. SURETY LICENSES c/: All except C.Z., Guam, Virgin Islands. INCORPORATED IN: Wis. FEDERAL PROCESS AGENTS d/.

The Ohio Casualty Insurance Company. BUSINESS ADDRESS: 136 North Third Street, Hamilton, Ohio 45025. UNDERWRITING LIMITATION b/: $24,605,000. SURETY LICENSES c/: All except C.Z., Guam. INCORPORATED IN: Ohio. FEDERAL PROCESS AGENTS d/.

Ohio Farmers Insurance Company. BUSINESS ADDRESS: Westfield Center, Ohio 44251. UNDERWRITING LIMITATION b/: $8,432,000. SURETY LICENSES c/: All except Alaska, C.Z., Conn., Guam, Hawaii, Kans., Puerto Rico, Virgin Islands. INCORPORATED IN: Ohio. FEDERAL PROCESS AGENTS d/.

Oklahoma Surety Company. BUSINESS ADDRESS: Post Office Box 1409, Tulsa, Okla. 74101. UNDERWRITING LIMITATION b/: $200,000. SURETY LICENSES c/: Okla. INCORPORATED IN: Okla. FEDERAL PROCESS AGENTS d/.

Old Republic Insurance Company. BUSINESS ADDRESS: Post Office Box 789, Greensburg, Pa. 15601. UNDERWRITING LIMITATION b/: $4,504,000. SURETY LICENSES c/: All except C.Z., Puerto Rico, Virgin Islands. INCORPORATED IN: Pa. FEDERAL PROCESS AGENTS d/.

The Omaha Indemnity Company. BUSINESS ADDRESS: 3201 Farnam Street, Omaha, Nebr. 68131. UNDERWRITING LIMITATION b/: $750,000. SURETY LICENSES c/: All except La., N.H., N.J. INCORPORATED IN: Wis. FEDERAL PROCESS AGENTS d/.

Oregon Automobile Insurance Company. BUSINESS ADDRESS: Post Office Box 74, Portland, Oreg. 97207. UNDERWRITING LIMITATION b/: $2,144,000. SURETY LICENSES c/: Idaho, Nev., Oreg., Utah, Wash. INCORPORATED IN: Oreg. FEDERAL PROCESS AGENTS d/.

Pacific Employers Insurance Company. BUSINESS ADDRESS: 1600 Arch Street, Philadelphia, Pa. 19101. UNDERWRITING LIMITATION b/: $4,611,000. SURETY LICENSES c/: All except Puerto Rico. INCORPORATED IN: Cal. FEDERAL PROCESS AGENTS d/.

Pacific Indemnity Company. BUSINESS ADDRESS: Post Office Box 3099, Los Angeles, Cal. 90051. UNDERWRITING LIMITATION b/: $6,680,000. SURETY LICENSES c/: All except C.Z., Guam, Puerto Rico, Virgin Islands. INCORPORATED IN: Cal. FEDERAL PROCESS AGENTS d/.

Pacific Insurance Company, Limited. BUSINESS ADDRESS: Post Office Box 1140, Honolulu, Hawaii 96807. UNDERWRITING LIMITATION b/: $2,322,000. SURETY LICENSES c/: D.C., Hawaii. INCORPORATED IN: Hawaii. FEDERAL PROCESS AGENTS d/.

Peerless Insurance Company. BUSINESS ADDRESS: 62 Maple Avenue, Keene, N.H. 03431. UNDERWRITING LIMITATION b/: $3,452,000. SURETY LICENSES c/: All except C.Z., Guam, Hawaii, N.J., Puerto Rico, Virgin Islands. INCORPORATED IN: N.H. FEDERAL PROCESS AGENTS d/.

Pekin Insurance Company. BUSINESS ADDRESS: 2505 Court Street, Pekin, Ill. 61558. UNDERWRITING LIMITATION b/: $588,000. SURETY LICENSES c/: Ill., Ind., Iowa. INCORPORATED IN: Ill. FEDERAL PROCESS AGENTS d/.

Pennsylvania Manufacturers' Association Insurance Company. BUSINESS ADDRESS: 925 Chestnut Street, Philadelphia, Pa. 19107. UNDERWRITING LIMITATION b/: $7,882,000. SURETY LICENSES c/: All except Ala., Alaska, Ark., C.Z., Conn., Guam, Hawaii, Kans., Me., Minn., Nebr., N.Dak., Oreg., Puerto Rico, R.I., S.Dak., Vermont, Virgin Islands, Wyo. INCORPORATED IN: Pa. FEDERAL PROCESS AGENTS d/.

Pennsylvania Millers Mutual Insurance Company. BUSINESS ADDRESS: 15 Public Square, Wilkes-Barre, Pa. 18773. UNDERWRITING LIMITATION b/: $1,812,000. SURETY LICENSES c/: Ark., Conn., D.C., Fla., Ga., Ind., Kans., Ky., Me., Md., Mass., Miss., Mo., N.H., N.J., N.Y., N.C., N. Dak., Pa., R.I., S.C., Tenn., Vt., Va. INCORPORATED IN: Pa. FEDERAL PROCESS AGENTS d/.

Pennsylvania National Mutual Casualty Insurance Company. BUSINESS ADDRESS: 1900 Derry Street, Harrisburg, Pa. 17105. UNDERWRITING LIMITATION b/: $5,883,000. SURETY LICENSES c/: All except Cal., C.Z., Conn., Guam, Hawaii, Nev., N.H., N. Dak., Puerto Rico, Virgin Islands, Wyo. INCORPORATED IN: Pa. FEDERAL PROCESS AGENTS d/.

The Personal Service Insurance Co. BUSINESS ADDRESS: 100 East Gay Street, Columbus, Ohio 43215. UNDERWRITING LIMITATION b/: $457,000. SURETY LICENSES c/: Ind., Ohio. INCORPORATED IN: Ohio. FEDERAL PROCESS AGENTS d/.

Phoenix Assurance Company of New York. BUSINESS ADDRESS: 80 Maiden Lane, New York, N.Y. 10038. UNDERWRITING LIMITATION b/: $6,170,000. SURETY LICENSES c/: All except C.Z., Guam, Virgin Islands. INCORPORATED IN: N.H. FEDERAL PROCESS AGENTS d/.

The Phoenix Insurance Company. BUSINESS ADDRESS: One Tower Square, Hartford, Conn. 06115. UNDERWRITING LIMITATION b/: $23,495,000. SURETY LICENSES c/: All except C.Z., Guam, Puerto Rico. INCORPORATED IN: Conn. FEDERAL PROCESS AGENTS d/.

Potomac Insurance Company. BUSINESS ADDRESS: 414 Walnut Street, Philadelphia, Pa. 19106. UNDERWRITING LIMITATION b/: $22,735,000. SURETY LICENSES c/: All except Alaska, Ark., C.Z., Del., Guam, Hawaii, Idaho, Me., Mont., Nev., N.H., N. Dak., Puerto Rico, S. Dak., Vt., Virgin Islands. (Fidelity only in Ala., S.C.) INCORPORATED IN: Pa. FEDERAL PROCESS AGENTS d/.

Progressive Casualty Insurance Company. BUSINESS ADDRESS: 6300 Wilson Mills Road, Mayfield Village, Ohio 44143. UNDERWRITING LIMITATION b/: $5,131,000. SURETY LICENSES c/: All except Ariz., C.Z., Conn., Del., D.C., Guam, Hawaii, Ill., Kans., La., Md., Nebr., N.H., N.Y., Pa., Puerto Rico, S.C., Tex., Utah, Va., Virgin Islands, W. Va., Wis. INCORPORATED IN: Ohio. FEDERAL PROCESS AGENTS d/.

The Progressive Mutual Insurance Company. BUSINESS ADDRESS: 6300 Wilson Mills Road, Mayfield Village, Ohio 44143. UNDERWRITING LIMITATION b/: $506,000. SURETY LICENSES c/: N.J., Ohio. INCORPORATED IN: Ohio. FEDERAL PROCESS AGENTS d/.

*See footnotes at end of table.

Protective Insurance Company. BUSINESS ADDRESS: 3100 North Meridian Street, Indianapolis, Ind. 46208. UNDERWRITING LIMITATION b/: $2,400,000. SURETY LICENSES c/: All except C.Z., Guam, Hawaii, Puerto Rico, Virgin Islands. INCORPORATED IN: Ind. FEDERAL PROCESS AGENTS d/.

Prudential Reinsurance Company. BUSINESS ADDRESS: 213 Washington Street, Post Office Box 908, Newark, N.J. 07101. UNDERWRITING LIMITATION b/: $9,779,000. SURETY LICENSES c/: All except C.Z., Guam, La., Nev., Okla., Puerto Rico, S.C., Va., Virgin Islands, Wyo. (Reinsurance only in N.C., W. Va.) INCORPORATED IN: Del. FEDERAL PROCESS AGENTS d/.

Public Service Mutual Insurance Company. BUSINESS ADDRESS: 393 Seventh Avenue, New York, N.Y. 10001. UNDERWRITING LIMITATION b/: $4,602,000. SURETY LICENSES c/: Conn., Del., D.C., Fla., Ga., Idaho, Ill., Ind., Iowa, Me., Md., Mass., Mich., Minn., N.H., N.J., N.Y., N.C., Pa., R.I., S.C., Vt., Va., W. Va., Wis. INCORPORATED IN: N.Y. FEDERAL PROCESS AGENTS d/.

Puerto Rican-American Insurance Company. BUSINESS ADDRESS: Post Office Box S-112, San Juan, Puerto Rico 00902. UNDERWRITING LIMITATION b/: $2,311,000. SURETY LICENSES c/: Puerto Rico, Virgin Islands. INCORPORATED IN: Puerto Rico. FEDERAL PROCESS AGENTS d/.

Puritan Insurance Company. BUSINESS ADDRESS: Post Office Box 8900, Stamford, Conn. 06904. UNDERWRITING LIMITATION b/: $3,730,000. SURETY LICENSES c/: All except Ala., C.Z., Del., Guam, Virgin Islands. INCORPORATED IN: Conn. FEDERAL PROCESS AGENTS d/.

Ranger Insurance Company. BUSINESS ADDRESS: Post Office Box 2807, Houston, Tex. 77001. UNDERWRITING LIMITATION b/: $1,971,000. SURETY LICENSES c/: All except C.Z., Colo., Conn., Guam, Hawaii, Ky., Md., N.J., Oreg., Puerto Rico, Virgin Islands, Wash., Wis. INCORPORATED IN: N.Y. FEDERAL PROCESS AGENTS d/.

The Reinsurance Corporation of New York. BUSINESS ADDRESS: 99 John Street, New York, N.Y. 10038. UNDERWRITING LIMITATION b/: $2,725,000. SURETY LICENSES c/: All except C.Z., Guam, Hawaii, Puerto Rico, Virgin Islands. (Co-surety only in Fla., Mass., Va.) INCORPORATED IN: N.Y. FEDERAL PROCESS AGENTS d/.

Reliance Insurance Company. BUSINESS ADDRESS: 4 Penn Center Plaza, Philadelphia, Pa. 19103. UNDERWRITING LIMITATION b/: $33,863,000. SURETY LICENSES c/: All except C.Z., Guam. INCORPORATED IN: Pa. FEDERAL PROCESS AGENTS d/.

Reliance Insurance Company of New York. BUSINESS ADDRESS: 4 Penn Center Plaza, Philadelphia, Pa. 19103. UNDERWRITING LIMITATION b/: $505,000. SURETY LICENSES c/: N.Y. INCORPORATED IN: N.Y. FEDERAL PROCESS AGENTS d/.

Republic-Franklin Insurance Company. BUSINESS ADDRESS: Post Office Box 1438, Columbus, Ohio 43216. UNDERWRITING LIMITATION b/: $277,000. SURETY LICENSES c/: Ohio. INCORPORATED IN: Ohio. FEDERAL PROCESS AGENTS d/.

Republic Insurance Company. BUSINESS ADDRESS: Post Office Box 223000, Dallas, Texas 75222. UNDERWRITING LIMITATION b/: $9,091,000. SURETY LICENSES c/: All except Ala., Alaska, C.Z., Fla., Guam, Hawaii, Me., Mass., Mont., N.H., N. Dak., R.I., S. Dak., Vt., Virgin Islands. INCORPORATED IN: Tex. FEDERAL PROCESS AGENTS d/.

Royal Globe Insurance Company. BUSINESS ADDRESS: 150 William Street, New York, N.Y. 10038. UNDERWRITING LIMITATION b/: $13,886,000. SURETY LICENSES c/: All except C.Z., Guam, Puerto Rico, Virgin Islands. INCORPORATED IN: Ill. FEDERAL PROCESS AGENTS d/.

Royal Indemnity Company. BUSINESS ADDRESS: 150 William Street, New York, N.Y. 10038. UNDERWRITING LIMITATION b/: $8,183,000. SURETY LICENSES c/: All except Puerto Rico, Virgin Islands. INCORPORATED IN: N.Y. FEDERAL PROCESS AGENTS d/.

S & H Insurance Company. BUSINESS ADDRESS: 2049 Century Park East, Suite 2200, Los Angeles, Cal. 90067. UNDERWRITING LIMITATION b/: $768,000. SURETY LICENSES c/: Ariz., Cal., Md., Nev., N. Mex., Okla., Oreg., S.C., Tex., Utah, Wash. INCORPORATED IN: Cal. FEDERAL PROCESS AGENTS d/.

SAFECO Insurance Company of America. BUSINESS ADDRESS: SAFECO Plaza, Seattle, Wash. 98185. UNDERWRITING LIMITATION b/: $18,577,000. SURETY LICENSES c/: All except C.Z., Puerto Rico, Vermont, Virgin Islands. INCORPORATED IN: Wash. FEDERAL PROCESS AGENTS d/.

SAFECO National Insurance Company. BUSINESS ADDRESS: SAFECO Plaza, Seattle, Wash. 98185. UNDERWRITING LIMITATION b/: $1,389,000. SURETY LICENSES c/: Mo., N.Y. INCORPORATED IN: Mo. FEDERAL PROCESS AGENTS d/.

St. Paul Fire and Marine Insurance Company. BUSINESS ADDRESS: 385 Washington Street, St. Paul, Minn. 55102. UNDERWRITING LIMITATION b/: $51,794,000. SURETY LICENSES c/: All except C.Z. INCORPORATED IN: Minn. FEDERAL PROCESS AGENTS d/.

Seaboard Surety Company. BUSINESS ADDRESS: 90 William Street, New York, N.Y. 10038. UNDERWRITING LIMITATION b/: $3,803,000. SURETY LICENSES c/: All. INCORPORATED IN: N.Y. FEDERAL PROCESS AGENTS d/.

Security Insurance Company of Hartford. BUSINESS ADDRESS: 1000 Asylum Avenue, Hartford, Conn. 06105. UNDERWRITING LIMITATION b/: $2,877,000. SURETY LICENSES c/: All except C.Z., Mass., Puerto Rico, Virgin Islands. INCORPORATED IN: Conn. FEDERAL PROCESS AGENTS d/.

Security National Insurance Company. BUSINESS ADDRESS: Post Office Box 225028, Dallas, Tex. 75265. UNDERWRITING LIMITATION b/: $572,000. SURETY LICENSES c/: Ark., Cal., Colo., Ill., Ind., Kans., Ky., N. Mex., Ohio, Okla., Oreg., Tex., Wash., Wis., Wyo. INCORPORATED IN: Tex. FEDERAL PROCESS AGENTS d/.

Select Insurance Company. BUSINESS ADDRESS: Post Office Box 1771, Dallas, Tex. 75221. UNDERWRITING LIMITATION b/: $960,000. SURETY LICENSES c/: All except Ariz., C.Z., Conn., Del., Guam, Hawaii, La., Me., Md., Mass., N.H., N.J., N.Y., N. Dak., Pa., Puerto Rico, R.I., Tenn., Utah, Va., Virgin Islands. INCORPORATED IN: Tex. FEDERAL PROCESS AGENTS d/.

Selected Risks Insurance Company. BUSINESS ADDRESS: Wantage Avenue, Branchville, N.J. 07826. UNDERWRITING LIMITATION b/: $4,300,000. SURETY LICENSES c/: Del., D.C., Md., N.J., Pa., Va. INCORPORATED IN: N.J. FEDERAL PROCESS AGENTS d/.

Sentry Indemnity Company. BUSINESS ADDRESS: 1800 North Point Drive, Stevens Point, Wis. 54481. UNDERWRITING LIMITATION b/: $963,000. SURETY LICENSES c/: All except Alaska, C.Z., Conn., Del., D.C., Guam, Hawaii, Me., Mass., Mich., Nebr., N.H., N.J., N.Y., Pa., Puerto Rico, R.I., Vt., Va., Virgin Islands, W. Va. INCORPORATED IN: Wis. FEDERAL PROCESS AGENTS d/.

Sentry Insurance a Mutual Company. BUSINESS ADDRESS: 1800 North Point Drive, Stevens Point, Wis. 54481. UNDERWRITING LIMITATION b/: $8,006,000. SURETY LICENSES c/: All except C.Z., Guam, Virgin Islands. INCORPORATED IN: Wis. FEDERAL PROCESS AGENTS d/.

Skandia America Reinsurance Corporation. BUSINESS ADDRESS: 280 Park Avenue, New York, N.Y. 10017. UNDERWRITING LIMITATION b/: $5,532,000. SURETY LICENSES c/: Ariz., Cal., Del., D.C., Ill., Ind., Iowa, Mich., Miss., Nebr., N.J., N.Y., Ohio, Okla., Pa., Utah, Wash., Wis. (Reinsurance only in Alaska, Colo., Fla., Ga., Kans., Md., Mass., N.H., S.C., Tex., Vt., W. Va.) INCORPORATED IN: Del. FEDERAL PROCESS AGENTS d/.

South Carolina Insurance Company. BUSINESS ADDRESS: Post Office Box #1, Columbia, S.C. 29202. UNDERWRITING LIMITATION b/: $3,130,000. SURETY LICENSES c/: Ala., Alaska, Ariz., Cal., Colo., D.C., Fla., Ga., Ill., Ind., Iowa, Kans., Ky., Md., Mich., Minn., Miss., Mo., Mont., Nebr., Nev., N.J., N. Mex., N.Y., N.C., N. Dak., Ohio, Okla., Pa., S.C., S. Dak., Tenn., Tex., Utah, Va., W. Va., Wis., Wyo. (Reinsurance only in Conn.) INCORPORATED IN: S.C. FEDERAL PROCESS AGENTS d/.

The Standard Fire Insurance Company. BUSINESS ADDRESS: 151 Farmington Avenue, Hartford, Conn. 06156. UNDERWRITING LIMITATION b/: $8,698,000. SURETY LICENSES c/: All except C.Z., Guam, N.J. INCORPORATED IN: Conn. FEDERAL PROCESS AGENTS d/.

State Automobile Mutual Insurance Company. BUSINESS ADDRESS: 518 East Broad Street, Columbus, Ohio 43216. UNDERWRITING LIMITATION b/: $9,728,000. SURETY LICENSES c/: Ala., Ark., Fla., Ga., Ill., Ind., Ky., Md., Mich., Miss., Mo., N.J., N.C., Ohio, Pa., S.C., Tenn., Va., W. Va. INCORPORATED IN: Ohio. FEDERAL PROCESS AGENTS d/.

State Farm Fire and Casualty Company. BUSINESS ADDRESS: 112 East Washington Street, Bloomington, Ill. 61701. UNDERWRITING LIMITATION b/: $77,784,000. SURETY LICENSES c/: All except C.Z., Guam, Puerto Rico, Virgin Islands. INCORPORATED IN: Ill. FEDERAL PROCESS AGENTS d/.

State Surety Company. BUSINESS ADDRESS: 645 Insurance Exchange Building, Des Moines, Iowa 50309. UNDERWRITING LIMITATION b/: $280,000. SURETY LICENSES c/: Ariz., Colo., D.C., Ill., Iowa, Kans., Minn., Mo., Mont., Nebr., N. Dak., Okla., S. Dak., Wis., Wyo. INCORPORATED IN: Iowa. FEDERAL PROCESS AGENTS d/.

Surety Company of the Pacific. BUSINESS ADDRESS: Post Office Box 2105, Santa Monica, Cal. 90406. UNDERWRITING LIMITATION b/: $120,000. SURETY LICENSES c/: Cal. INCORPORATED IN: Cal. FEDERAL PROCESS AGENTS d/.

Surety Insurance Company of California. BUSINESS ADDRESS: Post Office Box 2430, La Habra, Cal. 90631. UNDERWRITING LIMITATION b/: $165,000. SURETY LICENSES c/: Ala., Alaska, Ariz., Ark., Cal., Colo., Ga., Kans., Miss., Mo., Nev., N. Mex., Okla., Oreg., Tex., Wash. INCORPORATED IN: Cal. FEDERAL PROCESS AGENTS d/.

Transamerica Insurance Company. BUSINESS ADDRESS: 1150 South Olive Street, Los Angeles, Cal. 90015. UNDERWRITING LIMITATION b/: $18,508,000. SURETY LICENSES c/: All except C.Z., Puerto Rico, Virgin Islands. INCORPORATED IN: Cal. FEDERAL PROCESS AGENTS d/.

Transcontinental Insurance Company. BUSINESS ADDRESS: CNA Plaza, Chicago, Ill. 60685. UNDERWRITING LIMITATION b/: $2,927,000. SURETY LICENSES c/: All except C.Z., Guam, Hawaii, Virgin Islands. INCORPORATED IN: N.Y. FEDERAL PROCESS AGENTS d/.

Transport Indemnity Company. BUSINESS ADDRESS: 3670 Wilshire Boulevard, Los Angeles, Cal. 90010. UNDERWRITING LIMITATION b/: $2,387,000. SURETY LICENSES c/: All except C.Z., Guam, Puerto Rico, Virgin Islands. INCORPORATED IN: Cal. FEDERAL PROCESS AGENTS d/.

Transportation Insurance Company. BUSINESS ADDRESS: CNA Plaza, Chicago, Ill. 60685. UNDERWRITING LIMITATION b/: $1,587,000. SURETY LICENSES c/: All except C.Z., Guam, Puerto Rico, Virgin Islands, W. Va. INCORPORATED IN: Ill. FEDERAL PROCESS AGENTS d/.

The Travelers Indemnity Company. BUSINESS ADDRESS: One Tower Square, Hartford, Conn. 06115. UNDERWRITING LIMITATION b/: $97,060,000. SURETY LICENSES c/: All. INCORPORATED IN: Conn. FEDERAL PROCESS AGENTS d/.

The Travelers Indemnity Company of Rhode Island. BUSINESS ADDRESS: One Tower Square, Hartford, Conn. 06115. UNDERWRITING LIMITATION b/: $7,907,000. SURETY LICENSES c/: All except C.Z., Guam. INCORPORATED IN: R.I. FEDERAL PROCESS AGENTS d/.

Trinity Universal Insurance Company. BUSINESS ADDRESS: Post Office Box 225028, Dallas, Tex. 75265. UNDERWRITING LIMITATION b/: $19,781,000. SURETY LICENSES c/: Ala., Ariz., Ark., Cal., Colo., Ga., Idaho, Ill., Ind., Iowa, Kans., Ky., La., Mich., Miss., Mo., Nebr., N. Mex., (Reinsurance only in N.Y.), Ohio, Okla., Oreg., Tex., Wash., Wis., Wyo. INCORPORATED IN: Tex. FEDERAL PROCESS AGENTS d/.

Trinity Universal Insurance Company of Kansas, Inc. BUSINESS ADDRESS: Post Office Box 225028, Dallas, Tex. 75265. UNDERWRITING LIMITATION b/: $323,000. SURETY LICENSES c/: Ala., Ariz., Colo., Ga., Kans., La., Ohio, Okla., Tex. INCORPORATED IN: Kans. FEDERAL PROCESS AGENTS d/.

Tri-State Insurance Company. BUSINESS ADDRESS: Post Office Box 3269, Tulsa, Okla. 74102. UNDERWRITING LIMITATION b/: $889,000. SURETY LICENSES c/: Ala., Ariz., Ark., Colo., Fla., Ga., Idaho, Ill., Ind., Iowa, Kans., Ky., La., Minn., Miss., Mo., Mont., Nebr., N. Mex., N. Dak., Okla., S. Dak., Tenn., Tex., Utah, Wash., Wyo. INCORPORATED IN: Okla. FEDERAL PROCESS AGENTS d/.

Twin City Fire Insurance Company. BUSINESS ADDRESS: Hartford Plaza, Hartford, Conn. 06115. UNDERWRITING LIMITATION b/: $2,177,000. SURETY LICENSES c/: All except C.Z., Guam, Puerto Rico, Virgin Islands. INCORPORATED IN: Minn. FEDERAL PROCESS AGENTS d/.

*See footnotes at end of table.

United Fire & Casualty Company. BUSINESS ADDRESS: Post Office Box 4909, Cedar Rapids, Iowa 52407. UNDERWRITING LIMITATION b/: $1,871,000. SURETY LICENSES c/: Ariz., Colo., Ill., Ind., Iowa, Kans., La., Minn., Miss., Mo., Mont., Nebr., N.Y., N. Dak., Ohio, S.C., S. Dak., Utah, Wis., Wyo. INCORPORATED IN: Iowa. FEDERAL PROCESS AGENTS d/.

United Pacific Insurance Company. BUSINESS ADDRESS: 4 Penn Center Plaza, Philadelphia, Pa. 19103. UNDERWRITING LIMITATION b/: $4,903,000. SURETY LICENSES c/: All except C.Z., Guam, Puerto Rico, Virgin Islands. INCORPORATED IN: Wash. FEDERAL PROCESS AGENTS d/.

United Pacific Insurance Company of New York. BUSINESS ADDRESS: 4 Penn Center Plaza, Philadelphia, Pa. 19103. UNDERWRITING LIMITATION b/: $504,000. SURETY LICENSES c/: N.Y. INCORPORATED IN: N.Y. FEDERAL PROCESS AGENTS d/.

United States Fidelity and Guaranty Company. BUSINESS ADDRESS: 100 Light Street, Post Office Box 1138, Baltimore, Md. 21203. UNDERWRITING LIMITATION b/: $74,884,000. SURETY LICENSES c/: All except C.Z., Guam, Virgin Islands. INCORPORATED IN: Md. FEDERAL PROCESS AGENTS d/.

United States Fire Insurance Company. BUSINESS ADDRESS: Post Office Box 2387, Morristown, N.J. 07960. UNDERWRITING LIMITATION b/: $18,555,000. SURETY LICENSES c/: All except C.Z., Guam. INCORPORATED IN: N.Y. FEDERAL PROCESS AGENTS d/.

Universal Surety Company. BUSINESS ADDRESS: Post Office Box 80468, Lincoln, Nebr. 68501. UNDERWRITING LIMITATION b/: $562,000. SURETY LICENSES c/: Ariz., Colo., Ill., Iowa, Kans., Minn., Mo., Mont., Nebr., N. Mex., N. Dak., Ohio, Okla., S. Dak., Utah, Wash., Wis., Wyo. INCORPORATED IN: Nebr. FEDERAL PROCESS AGENTS d/.

Universal Underwriters Insurance Company. BUSINESS ADDRESS: 5115 Oak Street, Kansas City, Mo. 64112. UNDERWRITING LIMITATION b/: $9,224,000. SURETY LICENSES c/: All except C.Z., Guam, Puerto Rico, Virgin Islands. INCORPORATED IN: Mo. FEDERAL PROCESS AGENTS d/.

Utica Mutual Insurance Company. BUSINESS ADDRESS: Post Office Box 530, Utica, N.Y. 13503. UNDERWRITING LIMITATION b/: $6,326,000. SURETY LICENSES c/: All except C.Z., Guam, Virgin Islands. INCORPORATED IN: N.Y. FEDERAL PROCESS AGENTS d/.

Valley Forge Insurance Company. BUSINESS ADDRESS: CNA Plaza, Chicago, Ill. 60685. UNDERWRITING LIMITATION b/: $2,071,000. SURETY LICENSES c/: All except Alaska, C.Z., Guam, Hawaii, Puerto Rico, Virgin Islands. INCORPORATED IN: Pa. FEDERAL PROCESS AGENTS d/.

Van Tol Surety Company, Incorporated. BUSINESS ADDRESS: 501 Eighth Street, Brookings, S. Dak. 57006. UNDERWRITING LIMITATION b/: $112,000. SURETY LICENSES c/: S. Dak. INCORPORATED IN: S. Dak. FEDERAL PROCESS AGENTS d/.

Vigilant Insurance Company. BUSINESS ADDRESS: 100 William Street, New York, N.Y. 10038. UNDERWRITING LIMITATION b/: $4,307,000. SURETY LICENSES c/: All except Alaska, C.Z., Guam, Hawaii, Puerto Rico. INCORPORATED IN: N.Y. FEDERAL PROCESS AGENTS d/.

Washington International Insurance Company. BUSINESS ADDRESS: 650 N. Second Avenue, Phoenix, Arizona 85003. UNDERWRITING LIMITATION b/: $233,000. SURETY LICENSES c/: Ariz., Fla., Ill., Md., Mass., Oreg. INCORPORATED IN: Ariz. FEDERAL PROCESS AGENTS d/.

West American Insurance Company. BUSINESS ADDRESS: 136 North Third Street, Hamilton, Ohio 45026. UNDERWRITING LIMITATION b/: $14,641,000. SURETY LICENSES c/: All except Alaska, C.Z., Conn., Guam, Hawaii, Me., Mass., Mont., N.H., Puerto Rico, R.I., Vt., Virgin Islands, W. Va. INCORPORATED IN: Cal. FEDERAL PROCESS AGENTS d/.

Westchester Fire Insurance Company. BUSINESS ADDRESS: Post Office Box 2387, Morristown, N.J. 07960. UNDERWRITING LIMITATION b/: $8,501,000. SURETY LICENSES c/: All except C.Z., Guam, Virgin Islands. INCORPORATED IN: N.Y. FEDERAL PROCESS AGENTS d/.

The Western Casualty and Surety Company. BUSINESS ADDRESS: 14 East First Street, Fort Scott, Kans. 66701. UNDERWRITING LIMITATION b/: $14,989,000. SURETY LICENSES c/: All except C.Z., Conn., Guam, Hawaii, Me., Mass., N.H., N.Y., Puerto Rico, Vt., Va., Virgin Islands. INCORPORATED IN: Kans. FEDERAL PROCESS AGENTS d/.

The Western Fire Insurance Company. BUSINESS ADDRESS: 14 East First Street, Fort Scott, Kans. 66701. UNDERWRITING LIMITATION b/: $9,240,000. SURETY LICENSES c/: All except Ala., C.Z., Conn., Del., D.C., Ga., Guam, Hawaii, Idaho, La., Me., Md., Mass., Mont., N.H., N.J., Oreg., Puerto Rico, S.C., Vt., Virgin Islands. INCORPORATED IN: Kans. FEDERAL PROCESS AGENTS d/.

Western National Assurance Company. BUSINESS ADDRESS: 5350 West 78th Street, Minneapolis, Minn. 55435. UNDERWRITING LIMITATION b/: $277,000. SURETY LICENSES c/: Alaska, Ariz., Cal., Colo., D.C., Hawaii, Idaho, Ind., Minn., Mont., Nev., Oreg., Utah, Wash. INCORPORATED IN: Wash. FEDERAL PROCESS AGENTS d/.

Western Surety Company. BUSINESS ADDRESS: 908 West Avenue, North, Sioux Falls, S. Dak. 57192. UNDERWRITING LIMITATION b/: $1,864,000. SURETY LICENSES c/: All except C.Z., Guam, Hawaii, N.Y., Puerto Rico, Virgin Islands. INCORPORATED IN: S. Dak. FEDERAL PROCESS AGENTS d/.

Westfield Insurance Company. BUSINESS ADDRESS: Westfield Center, Ohio 44251. UNDERWRITING LIMITATION b/: $3,588,000. SURETY LICENSES c/: All except Alaska, C.Z., Conn., Fla., Guam, Hawaii, Me., Puerto Rico, Virgin Islands. INCORPORATED IN: Ohio. FEDERAL PROCESS AGENTS d/.

Wilshire Insurance Company. BUSINESS ADDRESS: 5670 S. Syracuse Circle, Suite 500, Englewood, Colo. 80111. UNDERWRITING LIMITATION b/: $851,000. SURETY LICENSES c/: Ariz., Cal., Colo., Hawaii, Idaho, Iowa, Kans., Mont., Nebr., Nev., N. Mex., Oreg., S. Dak., Utah, Wash. INCORPORATED IN: Cal. FEDERAL PROCESS AGENTS d/.

Wolverine Insurance Company. BUSINESS ADDRESS: 1150 South Olive Street, Los Angeles, Cal. 90015. UNDERWRITING LIMITATION b/: $6,256,000. SURETY LICENSES c/: Ark., Cal., Ill., Ind., Iowa, Kans., Mich., Minn., Ohio, S. Dak. INCORPORATED IN: Mich. FEDERAL PROCESS AGENTS d/.

*See footnotes at end of table.

COMPANIES HOLDING CERTIFICATES OF AUTHORITY AS ACCEPTABLE REINSURING COMPANIES
UNDER SECTION 223.3(b) of TREASURY CIRCULAR NO. 297, REVISED SEPTEMBER 1, 1978 (See Note (e))

Alliance Assurance Company, Limited, London, England. BUSINESS ADDRESS (U.S. Office): 190 River Road, Summit, N.J. 07901. UNDERWRITING LIMITATION b/: $1,821,000. FEDERAL PROCESS AGENTS: D.C.

The Canadian Indemnity Company, Winnipeg, Manitoba, Canada. BUSINESS ADDRESS (U.S. Office): 675 South Park View Street, Los Angeles, Cal. 90057. UNDERWRITING LIMITATION b/: $792,000. FEDERAL PROCESS AGENTS: D.C.

General Accident Fire and Life Assurance Corporation, Limited, Perth, Scotland. BUSINESS ADDRESS (U.S. Office): Fourth and Walnut Streets, Philadelphia, Pa. 19106. UNDERWRITING LIMITATION b/: $44,728,000. FEDERAL PROCESS AGENTS: D.C.

The London Assurance, London, England. BUSINESS ADDRESS (U.S. Office): 100 William Street, New York, N.Y. 10038. UNDERWRITING LIMITATION b/: $2,729,000. FEDERAL PROCESS AGENTS: D.C.

Munich Reinsurance Company, Munich, Germany. BUSINESS ADDRESS (U.S. Office): 410 Park Avenue, New York, N.Y. 10022. UNDERWRITING LIMITATION b/: $3,291,000. FEDERAL PROCESS AGENTS: D.C.

Rochdale Insurance Company. BUSINESS ADDRESS: 99 John Street, New York, N.Y. 10038. UNDERWRITING LIMITATION b/: $547,000. FEDERAL PROCESS AGENTS: D.C.

The Sea Insurance Company, Limited, London, England. BUSINESS ADDRESS (U.S. Office): 190 River Road, Summit, N.J. 07901. UNDERWRITING LIMITATION b/: $1,422,000. FEDERAL PROCESS AGENTS: D.C.

Sun Insurance Office, Limited, London, England. BUSINESS ADDRESS (U.S. Office): 190 River Road, Summit, N.J. 07901. UNDERWRITING LIMITATION b/: $2,534,000. FEDERAL PROCESS AGENTS: D.C.

Swiss Reinsurance Company, Zurich, Switzerland. BUSINESS ADDRESS (U.S. Office): 245 Park Avenue, New York, N.Y. 10017. UNDERWRITING LIMITATION b/: $13,013,000. FEDERAL PROCESS AGENTS: D.C.

The Tokio Marine and Fire Insurance Company, Limited, Tokyo, Japan. BUSINESS ADDRESS (U.S. OFFICE): 55 Water Street, New York, N.Y. 10041. UNDERWRITING LIMITATION b/: $2,912,000. FEDERAL PROCESS AGENTS: D.C.

"Winterthur" Swiss Insurance Company, Winterthur, Switzerland. BUSINESS ADDRESS (U.S. Office): One World Trade Center, Suite 8419, New York, N.Y. 10048. UNDERWRITING LIMITATION b/: $5,134,000. FEDERAL PROCESS AGENTS: D.C.

Zurich Insurance Company, Zurich, Switzerland. BUSINESS ADDRESS (U.S. Office): 111 West Jackson Boulevard, Chicago, Ill. 60604. UNDERWRITING LIMITATION b/: $15,233,000. FEDERAL PROCESS AGENTS: D.C.

FOOTNOTES

1* Drake Insurance Company of New York, Cranford, N.J. -- changed its name to Atlanta International Insurance Company (See Federal Register of February 27, 1980, pgs. 12943-12944)

2* Employers Mutual Liability Insurance Company of Wisconsin, Wausau, Wis. -- changed its name to EMPLOYERS INSURANCE OF WAUSAU A Mutual Company (See Federal Register of October 29, 1979, pg. 62111)

3* N.V. The Netherlands Insurance Company, Est. 1845, The Hague, Holland (U.S. Branch), New York, N.Y. -- domesticated and changed its name to The Netherlands Insurance Company (See Federal Register of November 6, 1979, pgs. 64149 - 64150)

PLEASE READ THE SUPPORTING NOTES
ON THE NEXT PAGE

NOTES

(a) All certificates of authority expire June 30, and are renewable July 1, annually. Companies holding certificates of authority as acceptable sureties on Federal bonds are also acceptable as reinsuring companies.

(b) Treasury requirements do not limit the penal sum of bonds which surety companies may execute. The net retention, however, cannot exceed the underwriting limitation, and excess risks must be protected by co-insurance, reinsurance, or other methods in accordance with Treasury Circular 297, Revised September 1, 1978 (31 CFR Section 223.10, Section 223.11). When excess risks on bonds in favor of the United States are protected by reinsurance, such reinsurance is to be effected by use of a Treasury reinsurance form to be filed with the bond or within 45 days thereafter. Risks in excess of the limit fixed herein must be reported for the quarter in which they are executed. In protecting such excess, the rating in force on the date of the execution of the risk will govern absolutely. This limit applies until a new rating is established by the Treasury Department.

(c) A surety company must be licensed in the State or other area in which it executes (signs) a bond, but need not be licensed in the State or other area in which the principal resides or where the contract is to be performed (28 Op. Atty. Gen. 127, Dec. 24, 1909; 31 CFR Section 223.5(b)). The term "other area" includes the Canal Zone, District of Columbia, Guam, Puerto Rico, and the Virgin Islands.

(d) FEDERAL PROCESS AGENTS: Treasury approved surety companies are required to appoint Federal process agents in accord with 6 U.S.C. 7 and 31 C.F.R. 224 in the following districts: Where the principal resides; where the obligation is to be performed; and in the District of Columbia where the bond is returnable or filed. No process agent is required in the state or other area wherein the company is incorporated (31 CFR Section 224.2). Beginning with the 1980 publication of the Treasury Circular 570, surety companies' individual listings of Federal process agent appointments will no longer be printed in the Circular 570. However, the name and address of a particular surety's process agent in a particular Federal Judicial District may be obtained from the Clerk of the U.S. District Court in that district. (The appointment documents are on file with the clerks.) (NOTE: A surety company's underwriting agent who furnishes its bonds may or may not be its authorized process agent.)

SERVICE OF PROCESS: Process should be served on the Federal process agent appointed by a surety in a judicial district, except where the appointment of such agent is pending or during the absence of such agent from the district. Only in the event an agent has not been duly appointed, or the appointment is pending, or the agent is absent from the district, should process be served directly on the Clerk of the court pursuant to the provisions of 6 U.S.C. 7.

Title 6, Section 7 of the U.S. Code provides that in the absence of any agent of a company, service of process may be made upon the Clerk of the court within the district where suit is brought, with like effect as upon an agent appointed by the company. The officer serving process upon the Clerk should immediately transmit a copy of the summons by mail to the corporate secretary of the company (at the business address shown in Treasury Circular 570), and state such fact in his return. A judgment, decree, or order of a court entered or made after service of process will be as valid and binding on the company as if served with process in said district.

Currently, legislation is being considered to permit nationwide service of process by mail, thereby eliminating the need to appoint process agents. If the legislation is enacted, appropriate notice will be issued by the Treasury.

(e) Companies holding certificates of authority as acceptable reinsuring companies are acceptable only as reinsuring companies on Federal bonds.

[FR Doc. 19444 Filed 6-30-80; 8:45 am]

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federal register

Tuesday
July 1, 1980

Part IV

Department of the Interior

Bureau of Land Management

Federal Land Policy and Management Act; Management of Rights-of-Way and Related Facilities on Public Lands and Reimbursement of Costs

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 2800

[Circular No. 2468]

Rights-of-Way, Principals and Procedures; Federal Land Policy and Management Act; Management of Rights-of-Way and Related Facilities on Public Lands and Reimbursement of Costs

AGENCY: Bureau of land Management, Interior.

ACTION: Final rulemaking.

SUMMARY: This final rulemaking establishes procedures for the management of all rights-of-way on public lands except pipelines for oil, natural gas and petroleum products; Federal Aid Highways; cost-share roads; and access to mining claims. Title V of the Federal Land Policy and Management Act of 1976 gives the management responsibility for these rights-of-way to the Secretary of the Interior.

EFFECTIVE DATE: July 31, 1980.

ADDRESS: Any recommendations or suggestions should be addressed to: Director (330), Bureau of Land Management, 1800 C Street, N.W., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Bob Mollohan (202) 343–5537.

SUPPLEMENTARY INFORMATION: The proposed rulemaking on Management of Rights-of-Way and Related Facilities on Public Lands and Reimbursement of Costs under the provisions of title V of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1761), was published in the Federal Register on October 9, 1979 (44 FR 58106). The proposed rulemaking invited comments for 90 days ending on January 7, 1980. During the comment period and several days thereafter, a total of 73 comments were received, Thirty-two of the comments came from business sources, mostly utilities, fifteen from State and local governments, twelve from Federal agencies, six from local rural electric associations and two from individuals.

General Comments

Many of the comments wanted to know what action had been taken on the suggestions made on the notice of intent to propose rulemaking. The preamble to the proposed rulemaking contained a detailed discussion of the comments received on the notice of intent to propose rulemaking and the action taken on these comments. It would serve little purpose to discuss the comments again in this document.

Generally, the comments on the proposed rulemaking expressed the opinion that the Bureau of Land Management had made a real effort to adopt the points raised by those commenting on the procedures for granting rights-of-way outlined in the notice of intent. Several of the comments stated that they thought the proposed rulemaking was a good effort to meet users needs. Other comments were of the opinion that the proposed rulemaking needed extensive revision in order to provide users with an effective procedure for obtaining rights-of-way on public lands. The proposed rulemaking represented a conscious effort by the Bureau of Land Management to incorporate the changes recommended in the many comments received both in writing and during public hearings to provide a procedure that would be an effective tool both for users and for bureau personnel who issue the rights-of-way. Some of the suggested changes could not be accepted and every effort was made to adopt changes to the extent consistent with the law and regulations to provide the least burdensome rules possible.

One comment commended the efforts made in the proposed rulemaking to remove sexist terms, but recommended further efforts. While appreciating this comment, no further changes have been made in this regard.

In addition to the general comments, comments were received covering specific areas of the proposed rulemaking. The following segment of this preamble addresses those specific comments, setting forth only those sections on which comments were received.

Specific Comments

Objectives

A comment requested that section 102(a)(2) of the Federal Land Policy and Management Act of 1976 be repeated in the Objectives section of the final rulemaking. Even though this suggestion has not been adopted, the Objectives section makes reference to land use plans, which requires compliance with the provisions of 43 CFR Part 1601, the Bureau of Land Management's land use planning regulations. Further, the rulemaking requires compliance with existing Federal and State law, including the requirement to comply with the provisions of the Federal Land Policy and Management Act of 1976, the basic authority for the issuance of this rulemaking.

Another comment recommended that the Objectives section include a listing of the types of grants that could be made under this rulemaking. This suggestion has not been adopted because the type of grant that will be made as a result of an application for a right-of-way will be determined at the time of granting and the granting document will provide the terms of the grant.

A final comment on this section wanted a specific reference to the environmental analysis process to be included in the rulemaking. This general section of the final rulemaking has not been amended to include a specific reference to the environmental analysis process. Other sections of the rulemaking, § 2802.3–4, make specific provision for carrying out the environmental analysis process.

Authority

A comment requested that additional authority be listed for the issuance of rights-of-way. This rulemaking is concerned with the right-of-way authority granted by title V of the Federal Land Policy and Management Act. Other authority used for the granting of rights-of-way is covered in other parts of Title 43 of the Code of Federal Regulations. Therefore, no change has been made in the authority section of the final rulemaking.

Definitions

Several comments were directed at the various paragraphs of this section. A couple of comments recommended that the definition of the term "authorized officer" be changed. The comments argued that the definition was not specific enough and should list the qualifications of the authorized officer. The term "authorized officer" has not been changed. The term "authorized officer", as used in this section, refers in most cases to the District Manager who has management responsibility over the lands covered by a right-of-way application. These individuals are land managers with varied backgrounds. They do not work alone, but have in their district offices trained personnel who can give them the advice they need to use as the basis of their decision on a right-of-way application.

A few comments suggested amending the term "right-of-way grant" to include the type of right or interest in the lands that would be granted by the grant. The comments specifically wanted to include in the definition such terms as "easement", "lease", "permit", etc., and to define these terms in the definition section. As discussed above, the

granting document will specify the terms of the right-of-way. This approach is in keeping with the intent of title V of the Federal Land Policy and Management Act. Title V authorizes the Secretary of the Interior to grant, issue or renew rights-of-way over, upon, under or through the public lands for purposes listed in the title. Title V then gives the Secretary discretion as to the terms that will be part of any right-of-way grant. The rulemaking is designed to carry out this concept and reflect the discretionary authority contained in title V to the authorized officer. The terms of a right-of-way will be worked out using the application and the requirements it contains as the basis for the grant. Once the grant and its terms are offered and accepted by the applicant, it will represent an agreement between the parties as to the extent of the grant, and will detail the rights of the holder. The definition of the term "right-of-way grant" has not been changed as recommended by the comments.

A few comments requested that the definition of the term "temporary use permit" be amended to provide a more permanent type of grant for temporary use. The definition expresses the authorization that will be given for temporary use of the public lands. These permits will be issued in connection with a right-of-way and will provide for related activities for a short time period. A person who wants a greater use than that provided for in this part can apply for a right-of-way grant for the use or might consider other land use provisions of Title 43 of the Code of Federal Regulations. The definition and the provisions for granting temporary use permits in connection with right-of-way grants is consistent with the provisions of the Federal Land Policy and Management Act and no change has been made.

A couple of comments wanted an expanded definition of the term "project" to include related facilities, etc. The definition used in the rulemaking covers a system and the grant will include within its terms the extent of the project. No change has been made in the definition.

A few comments pointed out that the term "casual use" is used several times in the rulemaking and is not defined. it was suggested that the term be defined. This suggestion has been adopted and the term "casual use" has been defined.

Scope

One comment questioned the applicability of this rulemaking to areal grants. This rulemaking covers all the types of rights-of-way authorized by title V of the Federal Land Policy and Management Act. Most rights-of-way are linear, but there are certain types of rights-of-way, such as communications sites, that are areal. This rulemaking covers those types of rights-of-way.

A comment raised the point that this rulemaking could be used to limit public use of the public lands. The rulemaking applies to rights-of-way provided for in title V of the Federal Land Policy and Management Act.

There is no requirement for a right-of-way for general use of the public lands by the public. The limitations on the public's use of the public lands are covered in other provisions of Title 43 of the Code of Federal Regulations. Further, the access roads built under a right-of-way granted pursuant to this rulemaking will afford the public greater access to the public lands because virtually all roads built on public lands pursuant to a grant are open to public use.

Nature of Right-of-Way Interest

This section of the proposed rulemaking was the focus of several comments. One matter commented on was the continuing right of access to the right-of-way grant area granted in this section. Most of the comments wanted what amounts to a right of exclusive use of the right-of-way grant area. A few of the comments objected to the right of entry set out in the proposed rulemaking. The right granted by a right-of-way grant will be commensurate with the needs of the user, but will grant exclusive use only in those instances when it is required to protect the public health and safety. Some of those making comments expressed the view that the requirement in the section went further than was needed. We have rewritten the paragraph on the continuing right of access to more clearly define what the right of the United States is with reference to the grant area.

Another area that generated comments was the language on common use of the right-of-way grant area. The comments wanted to limit the right of common use, with some recommending that the common use be granted only after permission had been obtained from the holder. These comments, like earlier comments on this section, appear to be aimed at obtaining what amounts to exclusive use or the right to control the use of a right-of-way area. The provision has not been changed and continues the right of common use and the right to authorize compatible uses of the right-of-way.

A comment raised the question of what would be the responsibilities of a right-of-way holder if there was a need to trim, prune or clear vegetative material in the performance of normal maintenance on the right-of-way. This subject was not covered in this part of the proposed rulemaking. The final rulemaking has been amended to clarify the rights of a right-of-way holder in carrying out normal maintenance on the right-of-way.

After careful consideration, paragraph (f) has been rewritten to clarify its provisions and to make clear what a holder can authorize in the way of use of his/her right-of-way grant area.

While endorsing long term grants, including grants in perpetuity, a question was raised in the comments concerning the clarity of the language giving the authorized officer authority to determine the period of a grant or permit. In response to that question, the language has been rewritten and clarified. In this same paragraph, a comment suggested that language be added to the factors to be considered in determining the period of a grant or permit which would cover any other conditions or limitations imposed by law on the holder which might affect the term of a right-of-way grant. After careful consideration, language to that effect has been added to the factors to be considered.

A few comments wanted the language covering periodic review of long-term right-of-way grants to be changed to give such a holder a long period when the grant would be relatively free of review. In considering this suggestion, it was decided that the holder of a long term grant should be allowed to exercise his use of the grant over a fairly long period of time without concern about review. In keeping with this decision, the review language has been amended to provide that there will be no review for the first twenty years of the grant, with periodic review thereafter at least every ten years. Part of the basis for this decision is the realization that the Bureau of Land Management should, prior to giving a long term grant, have considered all of the consequences of that grant and included the necessary terms and conditions. This language does not override the provision allowing for review of the rental to assure that fair market value is being received, nor does it override the provisions which give the Secretary of the Interior authority to require the removal of the right-of-way during its term if it is found necessary to accommodate Federal action under the provisions of this rulemaking.

Reciprocal Grants

One of the comments on this section questioned the authority for this provision. The authority to grant a right-

of-way is discretionary. Further, title V of the Federal Land Policy and Management Act gives the Secretary of the Interior authority to impose terms and conditions on a right-of-way grant. In the exercise of the authority granted the Secretary by Title V, it has been determined that a requirement for reciprocal grants will be imposed as a condition for the granting of a right-of-way. It is true, as several of the comments pointed out, that the proposed rulemaking could be interpreted as authority to require rights from an applicant that are greater than those granted by the United States. In response to these comments, the section has been amended to clarify that the reciprocal rights required from an applicant will be equivalent to the rights granted the applicant by the right-of-way grant or temporary use permit.

Terms and Conditions of Interest Granted

This section of the proposed rulemaking drew a sizeable number of comments. One group of comments was concerned about the requirement that a right-of-way grant comply with all the Federal and State laws applicable to the use authorized in the grant, particularly laws enacted after the grant is made. There is no way these regulations can excuse a holder from meeting the requirements of the law. Therefore, no change has been made in this provision.

A large number of comments expressed discontent with the requirement that a right-of-way grant or temporary use permit be subject to modification without costs to the United States if the Secretary of the Interior determines that the lands are needed for another purpose that will better serve the national interest. Some of the comments objected to the lack of compensation, while others expressed the view that the conditions under which the modification could be made were too broad. Even though the requirement for modification of a right-of-way grant by decision of the Secretary of the Interior has been a requirement of the regulations for some time, this provision has been deleted from the final rulemaking. After careful study of the rulemaking, it has been determined that placing a blanket requirement for modification of all right-of-way grants in the final rulemaking is not consonant with the purposes and intent of Title V of the Federal Land Policy and Managment Act when taken as a whole. Each right-of-way grant will now be studied to determine if it is appropriate to include in its provisions a specific stipulation requiring modification of the grant without compensation. Title V clearly gives the Secretary authority to make this determination on a case-by-case basis. Finally, since there is no longer any reference to the "national interest" in the rulemaking, there is no need to take action on the comment that suggested that the term be defined.

A comment questioned the authority for imposing the requirement that the activities carried on under a right-of-way grant not violate applicable air and water quality standards or related facility siting standards established by or pursuant to applicable Federal or State law. This provision of the rulemaking is a restatement of the requirements of section 505(a) of the Federal Land Policy and Management Act, and there has been no change.

Another area that drew comments was the requirement that a right-of-way grant or temporary use permit holder take action, including the requirement to make construction and maintenance forces available, to prevent and suppress fires. A comment was also made that the term "near" was too indefinite and needed to be clarified. The requirement to assist in the prevention or suppression of fires is one that has long been part of the standard requirements for the granting of a right-of-way on the public lands. This requirement works to the benefit of not only the Federal Government, but the users of the public lands whose property would be destroyed by fires. While no change has been made in the requirement for assistance in the area of fire prevention and suppression, the section has been rewritten to clarify the issue of proximity and when that requirement can be levied on the right-of-way grant or permit holder.

A comment raised the point that one of the stipulations imposed by the proposed rulemaking was a provision for the protection of public or private property. The comment questioned the authority for that requirement in the proposed rulemaking. The paragraph containing that provision has been amended to delete the reference to "public and private" property. The paragraph now reflects the provisions of section 505 of the Federal Land Policy and Management Act and requires that action be taken to protect "Federal" property. Another change in this paragraph is the inclusion of cultural values as one of the values to be protected.

Unauthorized Occupancy

A comment on this section suggested that the section was ambiguous and should be deleted from the final rulemaking. The section is not clear and has been revised by the addition of reference to other sections to make clear what casual use is and the kind of activity that will be permitted on the public lands without a grant or permit.

Preapplication Activity

The comments on this section supported the section and felt that it would help the Bureau of Land Management and the using public work together to meet the needs of users for right-of-way grants and permits on the public lands. Only minor editorial changes have been made in this section.

Application Filing

The one comment received on this section recommended that the language covering the filing of an application be clarified. In response to that recommendation, the language on the place of filing of an application has been rewritten.

Coordination of Applications

The few comments received on this section felt that it placed an excessive requirement on an applicant. One comment wanted the provision changed so that the requirement would be discretionary rather than mandatory. The section has been kept mandatory but has been revised to cover applications with Federal departments and agencies only.

Applicant Qualifications

Several comments were directed to this section of the proposed rulemaking. A couple of comments questioned the citizenship requirement in the proposed rulemaking. The citizenship requirement reiterates the requirement that exists in the present right-of-way regulations, and is consistent with the provisions of the recently finalized regulations on rights-of-way for oil and natural gas pipelines. Further, this requirement will be helpful in keeping vital systems that use public lands for rights-of-way from coming under the domination of non-citizens. There is nothing in title V of the Federal Land Policy and Management Act that prevents the Secretary of the Interior from imposing this requirement as part of the regulations authorized by title V. For the reasons set out above, the citizenship requirement has been retained as part of the terms and conditions for the issuance of a right-of-way grant or temporary use permit under title V of the Federal Land Policy and Management Act.

A couple of comments pointed out that the phrase "any appreciable amount" of stock was not clear, especially in light of the fact that section 501(B)(2) of the Federal Land Policy and

Management Act refers to shareholders owning 3 percent or more of shares. These comments are well taken and the language dealing with stock ownership has been amended to follow the language of the Federal Land Policy and Management Act.

One comment objected to the disclosure requirements for corporations, partnerships, associations, etc. The disclosure requirements of the rulemaking have been kept to the minimum consistent with the requirements placed on the Secretary of the Interior by the Federal Land Policy and Management Act. Paragraph (i) of the application coordination section has been amended to reduce the filing requirement of that paragraph from being required with every application to only those instances when the authorized officer requests the information.

A couple of comments questioned the requirement of paragraph (e) of the coordination of application section and pointed out that many corporations have provisions allowing certain officers to act in behalf of the corporation on certain matters without additional specific authority. The language of paragraph (e) would allow the corporation to file such a document as an "other document". Once the document is filed, other portions of the rulemaking relieve the corporation of having to refile the document if it has not been changed or amended. No change has been made in paragraph (e).

Technical and Financial Capability

A comment received on this section complained that the rulemaking should be limited to the construction phase of the right-of-way and should not include operation, maintenance and termination of the project. The rulemaking covers all aspects of a right-of-way project so that the authorized officer can be as certain as possible that an applicant or successor has the capability to carry out the plans set forth in the application to be sure that the right-of-way project will not be abandoned at some point, leaving the United States with the responsibility for reclaiming the area. There has been no change in this section.

Project Description

One comment was concerned with the question of how far into the future description will have to go. Most utilities have long range plans that project their needs for facilities. Normally, those plans show how each of the anticipated projects will interrelate with the total system. The rulemaking requires that that information be made available so that the Bureau of Land Management, as the land manager, can have some idea of anticipated uses of the public lands. The more information given the land manager, the better able that manager will be to assist in meeting the needs of the user when those needs arise. This section has been amended to delete the requirement for information to determine the technical and economic feasibility of the project since that information is covered in a preceding section.

The other comments on the section were generally to the effect that the section was too detailed and required too much information. The section has been carefully reviewed and all of the information required in the section is needed if the authorized officer is to make a proper decision on the issuance of a right-of-way grant or temporary use permit. Therefore, with the exception of the change discussed above, no change has been made in the section.

Environmental Protection Plan

The comments on this section were directed to the process by which the environmental protection plan is to be established. The comments expressed concern that the plan would be developed and finalized without any consideration of the applicant's views or suggestions. While it is true that the authorized officer makes the final decision as to the content of the environmental protection plan because that officer has the ultimate responsibility of protecting the environment, every effort will be made to reach agreement with an applicant as to the contents of the plan. If agreement cannot be reached, the reasons for the various provisions will be explained to the applicant. The pre-application process will assist in the development and finalization of the environmental protection plan. No change has been made in this section.

Additional Information

The comments on this section were concerned that it might be used by an authorized officer to obtain information that is not actually needed to complete the issuance of the right-of-way grant or temporary use permit. This section was included in the rulemaking to allow the authorized officer to obtain information other than that specifically required in the other sections of the rulemaking to assist in his decisionmaking process. If this section were not in the rulemaking, the listing of required or discretionary information items would have been much longer. Generally, prior to making a formal request for the information, the authorized officer will discuss the need for additional information with an applicant, explaining the reasons for the information.

Maps

In addition to the comments supporting the need for this section, other comments raised specific questions. One comment felt that the requirements of the section were unreasonable and excessive. Another comment wanted the section to be made even more specific and to require that surveys be conducted only by a certified surveyor. This comment stated that the existing regulations on rights-of-way made such a requirement. The existing regulations do not require that a survey be made by a certified surveyor. The appendices to the regulations do have forms that require that the survey, if performed, be certified by the company engineer performing the survey or the person employed to perform the survey. Nowhere in those forms is there a requirement that the survey be performed by a certified surveyor. The section sets the general standards for a survey and will permit the authorized officer to request a certified survey, if that is deemed appropriate. No change has been made in the survey standards of the rulemaking.

A few comments recommended that a United States Geological Survey Quadrangle map giving a general outline of the project should be sufficient for the processing of an application. This comment raised a valid point and the section has been rewritten to be more explicit as to those situations where the authorized officer does not feel a need for a detailed map during the application processing process. The change will reduce the burden on many applicants by reducing the requirements placed on them.

A final comment on this section objected to the requirement in the section on public roads constructed under the provisions of R.S. 2477 (43 U.S.C. 932, repealed October 21, 1976), expressing the view that it would place a heavy burden on small units of government and there was no authority for imposing the requirement. The section on R.S. 2477 has been rewritten to make clear the reason why it is being included in the rulemaking. Every effort will be made to work with those individuals covered by the section to obtain the information needed to note to the public land records the roads that have been constructed over the years as a result of the application of R.S. 2477. The Department of the Interior seeks the cooperation of everyone in this important effort.

Application Processing

Among the several comments on this section, was the request that the denial of an application be in writing and that the denial give the reasons for the denial. All denials will be in writing and will contain the reasons for the denial. The documentation will be necessary to any applicant wishing to appeal the decision of the authorized officer. The process for handling the denial is part of the operating procedures for the Bureau of Land Management contained in its manual sections.

One set of comments on this section recommended that the section contain a time limit for action by the authorized officer on an application. This recommendation was not adopted because of the impossibility of setting a time frame that would be generally applicable to all applications.

There is no way of determining the time it might take to do a complicated environmental impact statement or a cultural inventory or any one of several other checks that are required. The pre-application process will allow the parties to discuss time frames and estimate the time that will be required to complete the approval of an application. Every effort will be made to expedite processing of right-of-way applications so that the applicant will not be unnecessarily delayed.

The requirement for additional information drew two comments that there should be some effort to limit the amount of additional information that might be required. The specific suggestion was made that this request be tied to the pre-application process. The authorized officer will only request information that he needs to make a decision on the application. Normally, this process will be unnecessary if the pre-application process has been successful because the information and the reasons why it is needed will have been discussed in the pre-application meetings. This section allows the authorized officer to obtain information essential to the decisionmaking process. The request will usually be made only after the need for the information has been discussed with the applicant. The section has been changed to require that the request for additional information be in writing.

Two comments objected to the inclusion of the public interest as a consideration for action on a right-of-way grant or permit application. The Secretary of the Interior has the responsibility to consider the public interest in actions taken under the provisions of the Federal Land Policy and Management Act. In addition, section 505(b) of that Act requires the imposition of terms and conditions in rights-of-way issued under title V of the Act to protect the public interest in lands traversed by the right-of-way. No change has been made in this provision.

A few of the comments were concerned with the discretionary authority granted by this section to hold public hearings on an application. One comment was concerned that the need for public hearings be coordinated with other agencies, Federal and State. The authority for public hearings on an application will be used when there is sufficient public interest to justify hearings and only after being coordinated. The hearing will give the public an opportunity to express themselves on a right-of-way and will help the applicant and the authorized officer to understand the public's concerns. The section has been retained unchanged in the final rulemaking.

Finally, one comment on this section questioned the need for the authorized officer to have detailed construction plans and requested that the provision be deleted. The provision, which will be used only when necessary, is needed to allow the authorized officer to be sure that appropriate steps are being taken during the construction phase of the project to carry out the terms and conditions of the grant placed there to protect the public lands. This kind of advance checking is especially important in critical areas where irreparable damage could occur if inappropriate construction activities occur. The old adage that an ounce of prevention is worth a pound of cure is especially appropriate in these instances. The provision has not been changed.

Special Application Procedures

One comment on this section requested that the provisions be broadened to include all rights-of-way, not just the ones enumerated in the proposed rulemaking. This suggestion has been adopted and the section rewritten to cover all rights-of-way. A second comment on this section objected to the mapping requirement associated with applications filed under this section. The maps are essential if the Bureau of Land Management is to properly note the rights-of-way to its land records. However, the changes made in the section on maps will greatly reduce the cost associated with filings made under this section. The noting of the public land records will protect the right-of-way holders when the lands are considered for other uses.

A final comment on this section requested that certain organizations be excluded from the requirement to pay the minimum fee for the filing of an application under this section. The provision remains unchanged in the final rulemaking. The minimum fee required by the section will bear a part of the costs of processing the applications and making the needed notation to the public land records. This minimum fee is insignificant when compared to the present costs of processing applications of the type covered by this section.

Reimbursement of Costs

This section drew more comments than any other section of the rulemaking, with most of the comments strongly objecting to the provision. Cost reimbursement was initated by the Bureau of Land Management for all non-governmental rights-of-way in 1975 under existing authorities, including the Independent Offices Appropriations Act of 1952 (31 U.S.C. 483a). In 1976, section 304 of the Federal Land Policy and Management Act specifically gave the Bureau of Land Management authority to recover "reasonable" costs, including the costs of special studies and environmental reports, for applications relating to the public lands. The Secretary of the Interior determined that costs of special studies and environmental reports legally necessary for application processing were reasonable in Secretarial Order 3011 (42 FR 55280).

Since the issuance of that order, two court decisions have upheld the authority of the Federal Government to recover reasonable costs, including the costs of preparing an environmental impact statement under the National Environmental Policy Act of 1969 (42 U.S.C. 4331 et seq.). In *Mississippi Power and Light Co. v. Nuclear Regulatory Commission*, 601 F. 2d 223 (5th Cir. 1979), the court held that the Nuclear Regulatory Commission could, under the Independent Offices Appropriation Act, charge an applicant for a nuclear reactor license the full cost of expenses incurred by the Commission in processing the license application, including the cost of an environmental impact statement. Furthermore, the court specifically stated that it was not necessary to segregate the costs of the private and public benefits of an environmental impact statement, holding that the Commission may recover the full cost of providing a service (i.e. application processing) to an identifiable recipient (i.e. the applicant), regardless of the incidental public benefits flowing from that service. The court virtually ignored the contrary holding in *Public Services of Colorado v. Andrus*, 433 F. Supp. 144 (D. Colo. 1977).

It is more appropriate to follow the interpretation given the Independent Offices Appropriation Act by the court of appeals rather than that of the district court and the rulemaking reflects that position.

In *Alumet v. Andrus*, 607 F. 2d 911 (10th Cir 1979), the court of appeals overturned the ruling of the lower court that section 304 of the Federal Land Policy and Management Act did not authorize the Secretary of the Interior to seek reimbursement from an applicant for any part of the cost of preparing an environmental impact statement. The decision of the district court below was substantially based on the analysis provided in *Public Services of Colorado v. Andrus*. The reversal of the *Alumet* district court decision cast further doubt on the holding of the district court in the *Public Services* case. While the court of appeals in the *Alumet* case left unanswered the question whether full costs of an environmental impact statement can be recovered, when *Alumet* is read together with *Mississippi Power and Light*, one can draw the conclusion that it is within the constitutional and statutory authority of the Secretary of the Interior to impose upon an applicant for a right-of-way the full costs of an environmental impact statement necessary to process the application. The comments on the proposed rulemaking suggest that because the authority of the Secretary of the Interior to seek reimbursement is discretionary, cost reimbursement should be eliminated or that certain organizations, presumably acting in the public interest, should be exempted from cost reimbursement altogether. It is clear that the language of section 304 of the Act is discretionary. Nevertheless, the Secretary's ability to reduce or eliminate cost reimbursement is severely restricted by the Congress in the exercise of its authority over appropriations.

Moneys paid by applicants for processing rights-of-way applications are placed in a revolving account at the Department of the Treasury:

> The moneys received for reasonable costs under this subsection shall be deposited with the Treasury in a special account and are hereby authorized to be appropriated and made available until expended * * *. 43 U.S.C. 1734(b) (1976).

On July 26, 1977, Congress implemented this revolving account through the Department of the Interior and Related Agencies Appropriations Act for Fiscal Year 1978, Pub. L. 95–74, 91 Stat. 285, by authorizing the expenditure of moneys collected under sections 304(a), 304(b), 305(a) and 504(g) of the Federal Land Policy and Management Act. At the same time, Congress appropriated no other funds for processing right-of-way applications. The Senate in its report on the bill which became Pub. L. 95–74 states:

> This self-sustaining account, established under authority of the Federal Land Policy and Management Act, permits the Bureau of Land Management to finance required environmental study costs for rights-of-way applications, using fees assessed against the applicants * * *. S. Rep. No. 276, 95th Cong., 1st Sess. 9 (1977).

The House in its report stated:

> This account uses the revenue collected under specified sections of the Federal Land Policy and Management Act of 1976. These include the collection of reasonable administrative and other costs, including environmental impact statement preparation costs in connection with right-of-way applications from the private sector. This includes such programs as the Trans-Alaska pipeline, and other energy casework functions where the costs of projects will be provided in advance by the applicant before the BLM initiates any work on the application. H.R. Rep. No. 392, 95th Cong., 1st Sess. 20–21 (1977).

This revolving account has been continued on the same basis by Congress through fiscal year 1980. Since at the present time no money for preparation of environmental impact statements is provided by Congress, all funds for such work must be provided by the applicant.

A related problem arose in *Beaver* v. *Andrus*, No. C–76–277 (D. Utah, 1979). There, the district court ruled that the municipalities engaged in the Intermountain Power Project were entitled to the exemption from the cost reimbursement requirements then appearing at 43 CFR 2802.1–2(a)(2)(i) (1976), for instrumentalities of local government where the lands involved will be used for governmental purposes and will continue to serve the general public. This was despite the fact that IPP would be competing with other generators and transporters of electric power. Although that decision is on appeal, it is necessary to close this apparent loophole to cost reimbursement by eliminating the exemption through an amendment to the rulemaking. This is necessary both to insure that there are adequate funds to process rights-of-way applications and to insure that all applicants are treated equitably. The exemption was originally created before the revolving fund in section 304 of the Federal Land Policy and Management Act was established and is no longer practical. Furthermore, to provide a Federal subsidy because of governmental association where an applicant is acting as any private organization in providing services in the marketplace, was not the original intent of this exemption. In eliminating the exemption, it is noted that, in five years, only one applicant formally applied for it.

A few comments objected to the requirement for cost reimbursement when an application is denied and recommended that the requirement be dropped. The provision has been left in the final rulemaking. Even when an application is denied or withdrawn, the Bureau of Land Management will have expended manhours and money in connection with that application—money and manhours that it is entitled to recover. As stated above, the only funds available for processing applications are those recovered through this provision. Failure to recover the cost involved with applications that are denied or withdrawn would have an adverse impact on the total program and cannot be permitted.

Rental Fees

This section was the object of the second highest number of comments. One group of comments wanted certain additional groups of users exempted from the payment of a rental for the use of the public lands for a right-of-way. The rulemaking attempts, with certain enumerated exceptions, to treat all those who use the public lands for the same purpose in the same way. It would not be appropriate to charge one holder a rental based on fair market value for the right-of-way grant and not charge the same fair rental to another holder in like circumstances who is using the public lands for the identical purpose. One change has been made in this section to cover the statutory requirement to collect an annual rental for right-of-way grants and temporary use permits issued under the provisions of subpart 2880 of this title.

One comment objected to the requirement for the payment of the rental in advance on an annual basis, rather than a rental for the term of the grant. Payment of the rental in advance on an annual basis is required by section 504(g) of the Federal Land Policy and Management Act. The rulemaking follows the requirement of the statute and has not been revised.

One comment wanted instructions included in the rulemaking on how the appraisal for fair market value was to be made. For a long time the Bureau of Land Management has had manual guidance on appraisal methods, including use of independent appraisals. Those manual instructions are available to the public upon request. The

rulemaking has not been amended to include this instruction.

A few comments questioned the provision allowing readjustment of rental fees, with one comment suggesting that readjustments be allowed only on renewal, assignment, transfer or review. The readjustment provision is a necessary part of this rulemaking if the Secretary of the Interior is to meet a requirement of section 504(g) of the Federal Land Policy and Management Act and recover the fair market value of the public lands covered by the right-of-way grant or temporary use permit. Readjustments will not be made unless a review of the land values in the area of the grant or permit indicate that there has been sufficient appreciation in land values to justify a readjustment. Normally, such reappraisals will not occur more often than every five years, but when events cause rapid escalation in land values in the area, the authorized officer will have no choce but to make an adjustment in the rental. The rulemaking does require reasonable notice before readjustment is made and the user has the right to appeal any readjustment. The only change in this is the addition of language making it clear that reappraisals will occur at least every five years.

Finally, one comment suggested that the Secretary of the Interior lacked authority to terminate a right-of-way grant or temporary use permit and hold any assets located on the public lands covered by the grant or temporary use permit for failure to make required payments. This provision is nothing more than a requirement that all assessed payments must either be paid or the holder has no right to use the lands covered by the payment and that the assets located on those lands are held subject to the right of the authorized officer to release them or use them to satisfy those obligations. This is a provision that is commonly required and exercised by landowners. There is no reason the United States cannot exercise this practice. No change has been made in this provision.

Bonding

One of the comments on this section suggested that a maximum amount for a bond should be set in the section. It is impossible to set a maximum bond because no one knows how large any project covered by a right-of-way grant on the public lands might be. Therefore, the obligations imposed by the right-of-way grant or temporary use permit cannot be determined. No maximum bond has been set in the rulemaking.

Another comment on this section requested that provision be made for the accrual of interest on bonds posted under this provision. The Secretary of the Interior has no authority to provide for the accrual of interest on bonds and no such provision has been included.

Finally, one comment suggested that the bonding provision be waived for those concerns under the regulatory jurisdiction of agencies that control utility activities. This suggestion has not been adopted because there is no assurance to the United States that a holder of a right-of-way grant or temporary use permit will fulfill its obligations under that grant or permit simply because it came under the regulatory control of an agency or department.

Liability

A large number of comments objected in the strongest terms to the provision in the regulation that imposes strict liability. The comments suggested that the imposition of strict liability was unreasonable, especially in the light of the fact that holders are not normally given exclusive control of the area covered by a right-of-way grant or temporary use permit. The comments argued that holders should not be held strictly liable for activities on right-of-way grant or permit areas when persons other than themselves can cause damage and injury. Section 504(h) of the Federal Land Policy and Managment Act gave the Secretary of the Interior discretionary authority to impose strict liability in connection with right-of-way grants or temporary use permits under the circumstances described. The decision to exercise that authority was made after careful consideration of all aspects of the issue. The overriding reason for imposing strict liability was the need to provide the Federal Government and the tax paying public with protection from damages resulting from extra hazardous activity on the public lands by those holding a right-of-way grant or temporary use permit and gaining a benefit from such use. The liability section has been amended to include "acts of God" as a situation when strict liability will not be imposed.

Holder Activity

The comments on this section made two suggestions. The first suggestion was that paragraph (a) should be broadened because the controls on a holder are too strict. The condition imposed by paragraph (a) will not be used for every right-of-way grant or temporary use permit. The reasons for a notice to proceed will be explained to a holder before it is imposed and such a notice will be a term and condition that has been agreed to by the applicant prior to the acceptance of a right-of-way grant or temporary use permit. No change has been made in paragraph (a) because the notice to proceed will be used when it is determined to be needed to protect the lands.

The second suggestion was that paragraph (b) was too restrictive and should be amended to allow greater flexibility. The condition imposed by paragraph (b) are needed so that the holder will notify the authorized officer when a deviation from location or use is made. This required notice will allow the authorized officer to work with the holder on a change in location and use, if possible, and to protect the holder from later problems because of a change. For these reasons, paragraph (b) has not been amended.

Immediate Temporary Suspension of Activities

One comment questioned the need for the authorized officer to have the authority to order an immediate temporary suspension of activities. The authorized officer needs this authority so that he can immediately stop operations that are found to endanger public health and safety. A delay in stopping operations that are immediately dangerous could cause serious damage to the public health and safety. Likewise, the suggestion that the order for an immediate temporary suspension should only be served on the holder might delay the stopping of a dangerous activity for too long a period and result in damage to the public health and safety. Neither of the suggestions was adopted.

A final comment on this section recommended an on-the-ground inspection in connection with an order to temporarily suspend operations immediately. An inspection could delay the stopping of harmful operations to the detriment of the public. The suggestion has not been adopted.

Suspension and Termination of Right-of-Way Authorizations

Among the comments received on this section, was a suggestion that the words "unwilling and unable", words that are judgmental, be removed from paragraph (b). The suggestion has been adopted and the words have been deleted leaving the failure to comply as the only requirement.

The comments on this section suggested that a provision be included for a hearing on a notice to suspend or terminate a grant or permit. The rulemaking has been amended to provide for an appropriate

administrative hearing pursuant to section 554 of title V of the United States Code for right-of-way grants that constitute an easement. The administrative hearing is required by section 506 of the Federal Land Policy and Management Act and was inadvertently omitted from the proposed rulemaking.

Another comment on the section wanted special consideration given to those right-of-way grants used for silviculture activities with regard to the question of abandonment. This suggestion was not adopted because the section gives any grant or permit holder, including those involved in silviculture activities, an opportunity to show that they have not abandoned a grant or permit.

Disposition of Improvements Upon Termination

The two comments made on this section were contradictory. One comment expressed the view that the section gave the authorized officer too much discretion and another comment wanted the authorized officer to be given discretion to allow a holder to leave improvements on a right-of-way grant or temporary use permit area. The section has been changed to give the authorized officer authority to permit the holder to leave some or all of the improvements on a grant or permit area.

Change in Federal Jurisdiction on Disposal of Lands

One comment on this section was of the view that the reference to assignment in paragraph (b) was not clear and should be clarified. Paragraph (b) provides for an assignment to the new owner as one of the alternatives when the lands covered by a right-of-way grant or temporary use permit are transferred out of Federal ownership. Any one of the alternatives can be used and no change has been made in paragraph (b). Another comment recommended that the section be amended to require that a holder be notified of any change in the land status. No specific notice is provided for in this rulemaking, but the holder will have notice of any transfer or disposal of public lands under procedures provided in other regulations covering transfers and disposals. Further, under most circumstances, the issue will be discussed with the holder by the local Bureau of Land Management office prior to a change. This recommendation was not adopted.

Amendments

The comments on this section were concerned with the requirement that an amendment, either requested by the holder or directed by the authorized officer, would have to be filed under the provisions of this rulemaking and the holder's rights might be infringed. Since the Federal Land Policy and Management Act repealed virtually all existing authority to grant a right-of-way, the only authority remaining for issuing a right-of-way is title V of the Federal Land Policy and Management Act and all changes must be issued under that authority. Every effort, consistent with the law, will be made to accommodate an existing right-of-way that must be amended.

Assignments

The comments on this section were concerned with the requirement that an assignee must meet the requirements of this rulemaking and the fact that assignments had to have the approval of the authorized officer before they could be completed. The authorized officer has a responsibility to be sure that an assignee is qualified to hold a right-of-way grant or temporary use permit and will carry out the obligations imposed by such grant or permit. If these conditions are met, the authorized officer will approve an assignment. If grants or permits could be freely assigned, there would be no way for the authorized officer, in carrying out his responsibility to manage the public lands, to know if the assignee was a responsible individual. This provision is necessary for the proper protection of the public lands and no change has been made.

Renewals of Right-of-Way Grants and Temporary Use Permits

A comment on this section wanted the provision allowing the authorized officer to modify a right-of-way grant upon renewal to include new requirements of current Federal and State laws, regulations and land use plans to be deleted. This provision has not been changed. It authorizes the updating of a right-of-way grant to include provisions that the holder may have to meet even if they are not in the grant and other necessary requirements so that the grant will be in compliance with existing authorities.

Several comments raised questions with regard to the denial of the right to appeal by paragraph (d) as it applies to renewals under paragraphs (b) and (c). In those instances where a grant issued under this rulemaking does not carry a right of renewal, the question of renewal was decided at the time the grant was issued, with the right to appeal the issue of non-renewability. This provision allows the authorized officer to look at any new circumstances that may have arisen since making the decision not to allow a renewal and to consider them. This is an extraordinary opportunity, one that would not ordinarily be available to the grant holder and should not be reviewable, as was the question of renewability at the time the grant was issued. Some of the comments raised questions about grants that were issued under authority repealed by the Federal Land Policy and Management Act. The grants issued under authority that has been repealed cannot be renewed under that repealed authority. If an additional time is needed by a grant holder, an application for a grant under the provisions of title V of the Federal Land Policy and Management Act must now be filed. When the request for a new grant is considered, the question of renewability will be considered and handled in accordance with the provisions of this rulemaking. The authorized officer does not have any authority to grant a renewal of an existing right-of-way grant under statutory authority that has been repealed.

Finally, permits do not contain a provision for renewal as a term and condition under the provisions of this rulemaking. This section, as in the case of grants, allows the authorized officer to examine a temporary use permit to see if circumstances make it appropriate to renew it. If a renewal is denied, the holder can apply for a new permit under the rulemaking and exercise the appeal rights.

Appeals

The comments on this section were directed at paragraph (b) which keeps all decisions of the authorized officer in effect pending appeal unless the Secretary of the Interior determines otherwise. This procedure allows a holder to request the Secretary to make a ruling that a decision should not be effective during the appeal process, but will keep the decision in effect if no such ruling is granted. This authority is needed so that the authorized officer's management decisions can be effective. No change has been made in the section.

Applications for Electric Power Transmission Lines of 66 kV or Above

The comments on this section objected to the wheeling provisions contained in the subpart. The wheeling provisions are a continuation of provisions in the current right-of-way regulations, except that the Department of Energy has the responsibility for carrying out those provisions. Title V of the Federal Land Policy and Management Act requires that all right-

of-way grants comply with the provisions of the Federal Power Act of 1935, including the wheeling provisions. After consultation with the Department of Energy, the wheeling provisions were continued in this rulemaking and only slight changes have been made from the previous regulations. Questions of cost sharing, etc., will have to be worked out with the Department of Energy by an applicant whose application falls under the provisions of this subpart. No substantive changes have been made in this subpart.

Designation of Right-of-Way Corridors

While most of the comments on this subpart seemed to support the concept, one comment did object to its use for railroads. The main concern expressed in the comments was that there be adequate consideration of the question of the engineering and technical compatability of the various uses made of a corridor, with special emphasis on the reliability of service from or through facilities sited within a corridor. The rulemaking covers these situations.

Other comments focused on the need for public input into the designation process, as well as input from State and local governments that are concerned with the designation process. One comment wanted to be sure the existing holder of an area designated as a corridor would have a chance to express its concern. The section on public participation has been revised to give greater emphasis to broad public input into the designation process. All users will have ample opportunity to participate in this designation process.

Another change to the subpart on corridors was the addition of language that makes it clear that the designation of an area as a corridor does not mean that an application for a right-of-way grant in that corridor will be approved, but makes it clear that such applications are subject to the same approval process as all other applications for right-of-way grants.

Reservation to Federal Agencies

A couple of comments pointed out the numbering error in this subpart which has been corrected. One comment noted that there was no mention of a term of a reservation made to Federal agencies. The term of a reservation shall be what the authorized officer determines to be an appropriate term for the purpose of the reservation. This term will be arrived at by discussion between the parties to the reservation.

Editorial changes and corrections have been made as necessary.

The principal author of this final rulemaking is Robert E. Mollohan, Division of Rights-of-Way and Project Review, assisted by the Office of Legislation and Regulatory Management, Bureau of Land Management, and the Office of the Solicitor, Department of the Interior.

It is hereby determined that the publication of this final rulemaking is not a major Federal action significantly affecting the quality of the human environment and that no detailed statement is required pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

The Department of the Interior has determined that this document is not a significant regulatory action requiring the preparation of a regulatory analysis under Executive Order 12044 or 43 CFR Part 14.

Under the authority of title V of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1761–1771), Group 2800, Subchapter B, Chapter II, Title 43 of the Code of Federal Regulations is revised as follows.

Cecil D. Andrus,

Secretary of the Interior.

June 26, 1980.

1. Part 2800 is revised to read as follows:

Group 2800—Use; Rights-of-Way

PART 2800—RIGHTS-OF-WAY, PRINCIPLES AND PROCEDURES

Subpart 2800—Rights-of-Way; General

Subpart 2801—Terms and Conditions of Rights-of-Way Grants and Temporary Use Permits

Subpart 2802—Applications

Subpart 2803—Administration of Rights Granted

Subpart 2804—Appeals

Subpart 2805—Applications for Electric Power Transmission Line of 66 kV or Above

Subpart 2806—Right-of-Way Corridor Designation

Subpart 2807—Reservations to Federal Agencies

Authority: 43 U.S.C. 1761–1771.

Subpart 2800—Rights-of-Way; General

§ 2800.0–1 Purpose.

The purpose of the regulations in this part is to establish procedures for the orderly and timely processing of applications, grants, permits, amendments, assignments and terminations for rights-of-way and permits over, upon, under or through public lands pursuant to title V, Federal Land Policy and Management Act of 1976 (43 U.S.C. 1761–1771).

§ 2800.0–2 Objectives

It is the objective of the Secretary of the Interior to grant rights-of-way and temporary use permits, covered by the regulations in this part, to any qualified individual, business entity, or governmental entity and to regulate, control and direct the use of said rights-of-way on public land so as to:

(a) Protect the natural resources associated with the public lands and adjacent private or other lands administered by a government agency.

(b) Prevent unnecessary or undue environmental damage to the lands and resources.

(c) Promote the utilization of rights-of-way in common with respect to engineering and technological compatibility, national security and land use plans.

(d) Coordinate, to the fullest extent possible, all actions taken pursuant to this part with State and local governments, interested individuals and appropriate quasi-public entities.

§ 2800.0-3 Authority.

The regulations for this subpart are issued under title V of the Federal Land Policy and Management Act of 1976.

§ 2800.0-5 Definitions.

As used in this part, the term:

(a) "Act" means the Federal Land Policy and Management Act of October 21, 1976 (43 U.S.C. 1701 et seq.).

(b) "Secretary" means the Secretary of the Interior.

(c) "Authorized officer" means any employee of the Bureau of Land Management to whom has been delegated the authority to perform the duties described in this part.

(d) "Public lands" means any lands or interest in land owned by the United States and administered by the Secretary through the Bureau of Land Management, without regard to how the United States acquired ownership, except: (1) lands located on the Outer Continental Shelf; and (2) lands held for the benefit of Indians, Aleuts and Eskimos.

(e) "Applicant" means any qualified individual, partnership, corporation, association or other business entity, and any Federal, State or local governmental entity including municipal corporations which applies for a right-of-way grant or a temporary use permit.

(f) "Holder" means any applicant who has received a right-of-way grant or temporary use permit.

(g) "Right-of-way" means the public lands authorized to be used or occupied pursuant to a right-of-way grant.

(h) "Right-of-way grant" means an instrument issued pursuant to title V of the act authorizing the use of a right-of-way over, upon, under or through public lands for construction, operation, maintenance and termination of a project.

(i) "Temporary use permit" means a revocable non-possessory, non-exclusive privilege, authorizing temporary use of public lands in connection with construction, operation, maintenance, or termination of a project.

(j) "Facilities" means improvements constructed or to be constructed or used within a right-of-way pursuant to a right-of-way grant.

(k) "Project" means the transportation or other system for which the right-of-way is authorized.

(l) "Right-of-way corridor" means a parcel of land either linear or areal in character that has been identified, by law, Secretarial Order, through the land use planning process or other management decision process as being suitable to accommodate more than one type of right-of-way or one or more rights-of-way which are similar, identical, or compatible.

(m) "Casual use" means activities that involve practices which do not ordinarily cause any appreciable disturbance or damage to the public lands, resources or improvements and, therefore, do not require a right-of-way grant or temporary use permit under this title.

§ 2800.0-7 Scope.

This part sets forth regulations governing:

(a) Issuing, amending or renewing right-of-way grants for necessary transportation or other systems or facilities which are in the public interest and which require rights-of-way over, upon, under or through public lands, including but not limited to:

(1) Reservoirs, canals, ditches, flumes, laterals, pipes, pipelines, tunnels and other facilities and systems for the impoundment, storage, transportation or distribution of water;

(2) Pipelines and other systems for the transportation or distribution of liquids and gases, other than water and other than oil, natural gas, synthetic liquid or gaseous fuels, or any refined product produced therefrom, and for storage and terminal facilities in connection therewith;

(3) Pipelines, slurry and emulsion systems, and conveyor belts for transportation and distribution of solid materials, and facilities for the storage of such materials in connection therewith;

(4) Systems for generation, transmission and distribution of electric energy, except that the applicant shall also comply with all applicable requirements of the Federal Energy Regulatory Commission under the Federal Power Act of 1935 (16 U.S.C. 791);

(5) Systems for transmission or reception of radio, television, telephone, telegraph and other electronic signals, and other means of communication;

(6) Roads, trails, highways, railroads, canals, tunnels, tramways, airways, livestock driveways or other means of transportation except where such facilities are constructed and maintained in connection with commercial recreation facilities on lands in the National Forest System;

(7) Such other necessary transportation or other systems or facilities which are in the public interest and which require rights-of-way over, upon, under or through such lands; or

(8) Rights-of-way to any Federal department or agency for pipeline purposes for the transportation of oil, natural gas, synthetic liquid or gaseous fuels, or any product produced therefrom.

(b) Temporary use of additional public lands for such purposes as the Secretary determines to be reasonably necessary for construction, operation, maintenance or termination of rights-of-way, or for access to the project or a portion of the project.

(c) However, the regulations contained in this part do not cover right-of-way grants for: Federal Aid Highways, roads constructed or used pursuant to cost share or reciprocal road use agreements, wilderness areas, and oil, gas and petroleum products pipelines except as provided for in § 2800.0-7(a)(8) of this title.

Subpart 2801—Terms and Conditions of Rights-of-Way Grants and Temporary Use Permits

§ 2801.1 Nature of interest.

§ 2801.1-1 Nature of right-of-way interest.

(a) All rights in public lands subject to a right-of-way grant or temporary use permit not expressly granted are retained and may be exercised by the United States. These rights include, but are not limited to:

(1) A continuing right of access onto the public lands covered by the right-of-way grant or temporary use permit, and upon reasonable notice to the holder, access and entry to any facility constructed on the right-of-way or permit area;

(2) The right to require common use of the right-of-way, and the right to authorize use of the right-of-way for compatible uses (including the subsurface and air space).

(b) A right-of-way grant or temporary use permit may be used only for the purposes specified in the authorization. The holder may allow others to use the land as his/her agent in exercising the rights granted.

(c) All right-of-way grants and temporary use permits shall be issued subject to valid existing rights.

(d) A right-of-way grant or temporary use permit shall not give or authorize the holder to take from the public lands any

mineral or vegetative material, including timber, without securing authorization under the Materials Act (30 U.S.C. 601 et seq.), and paying in advance the fair market value of the material cut, removed, used, or destroyed. However, common varieties of stone and soil necessarily removed in the construction of a project may be used elsewhere along the same right-of-way or permit area in the construction of the project without additional authorization and payment. The holder shall be allowed in the performance of normal maintenance to do minor trimming, pruning and clearing of vegetative material within the right-of-way or permit area and around facilities constructed thereon without additional authorization and payments. At his discretion and when it is in the public interest, the authorized officer may in lieu of requiring an advance payment for any mineral or vegetative materials, including timber, cut or excavated, require the holder to stockpile or stack the material as designated locations for later disposal by the United States.

(e) A holder of a right-of-way grant or temporary use permit may assign a grant or permit to another, provided the holder obtains the written approval of the authorized officer.

(f) The holder of a right-of-way grant may authorize other parties to use a facility constructed, except for roads, on the right-of-way with the prior written consent of the authorized officer and charge for such use. In any such arrangement, the holder shall continue to be responsible for compliance with all conditions of the grant. This paragraph does not limit in any way the authority of the authorized officer to issue additional right-of-way grants or temporary use permits for compatible uses on or adjacent to the right-of-way, nor does it authorize the holder to impose charges for the use of lands made subject to such additional right-of-way grants or temporary use permits.

(g) Each right-of-way grant or temporary use permit shall describe the public lands to be used or occupied and the grant or permit shall be limited to those lands which the authorized officer determines:

(1) Will be occupied by the facilities authorized;

(2) To be necessary for the construction, operation, maintenance, and termination of the authorized facilities;

(3) To be necessary to protect the public health and safety; and

(4) Will do no unnecessary damage to the environment.

(h) Each grant or permit shall specify its term. The term of the grant shall be limited to a reasonable period. A reasonable period for a right-of-way grant may range from a month to a year or a term of years to perpetuity. The term for a temporary use shall not exceed 3 years. In determining the period for any specific grant or permit, the authorized officer shall provide for a term no longer than is necessary to accomplish the purpose of the authorization. Factors to be considered by the authorized officer for the purpose of establishing an equitable term pertaining to the use include, but are not limited to:

(1) Land use plans and other management decisions;

(2) Public benefits provided;

(3) Cost and useful life of the facility;

(4) Project financing; and

(5) Time limitations imposed by required licenses or permits that the holder is required to secure from other Federal or State agencies; and

(6) Any other limitations imposed by Federal or State law on the holder which would indicate that the right-of-way grant not be limited to a term of years.

(i) Each grant issued for a term of 20 years or more shall contain a provision requiring periodic review of the grant at the end of the twentieth year and at regular intervals thereafter not to exceed 10 years.

(j) Each grant shall have a provision stating whether it is renewable or not and if renewable, the terms and conditions applicable to the renewal.

(k) Each grant shall not only comply with the regulations of this part, but also, comply with the provisions of any other applicable law and implementing regulations as appropriate.

§ 2801.1-2 Reciprocal grants.

When the authorized officer determines from an analysis of land use plans or other management decisions that a right-of-way for an access road is or shall be needed by the United States across lands directly or indirectly owned or controlled by an applicant for a right-of-way grant, he or she shall, if it is determined to be in the public interest, require the applicant, as a condition to receiving a right-of-way grant, to grant the United States an equivalent right-of-way that is adequate in duration and rights.

§ 2801.2 Terms and conditions of interest granted.

(a) An applicant by accepting a right-of-way grant, temporary use permit, assignment, amendment or renewal agrees and consents to comply with and be bound by the following terms and conditions, excepting those which the Secretary may waive in a particular case:

(1) To the extent practicable, all State and Federal laws applicable to the authorized use and such additional State and Federal laws, along with the implementing regulations, that may be enacted and issued during the term of the grant or permit.

(2) That in the construction, operation, maintenance and termination of the authorized use, there shall be no discrimination against any employee or applicant for employment because of race, creed, color, sex or national origin and all subcontracts shall include an identical provision.

(3) To rebuild and repair roads, fences, and established trails that may be destroyed or damaged by construction, operation or maintenance of the project and to build and maintain suitable crossings for existing roads and significant trails that intersect the project.

(4) To do everything reasonably within his or her power, both independently and upon request of the authorized officer, to prevent and suppress fires on or in the immediate vicinity of the right-of-way or permit area. This includes making available such construction and maintenance forces as may be reasonably obtained for the suppression of fires.

(b) All right-of-way grants and temporary use permits issued, renewed, amended or assigned under these regulations shall contain such terms, conditions, and stipulations as may be required by the authorized officer regarding extent, duration, survey, location, construction, operation, maintenance, use and termination. The authorized officer shall impose stipulations which shall include, but shall not be limited to:

(1) Requirements for restoration, revegetation and curtailment of erosion of the surface of the land, or any other rehabilitation measure determined necessary;

(2) Requirements to ensure that activities in connection with the grant or permit shall not violate applicable air and water quality standards or related facility siting standards established by or pursuant to applicable Federal or State law;

(3) Requirements designed to control or prevent damage to scenic, esthetic, cultural and environmental values (including damage to fish and wildlife habitat), damage to Federal property and hazards to public health and safety;

(4) Requirements to protect the interests of individuals living in the general area who rely on the fish,

wildlife and biotic resources of the area for subsistence purposes;

(5) Requirements to ensure that the facilities to be constructed, used and operated on the prescribed location are maintained and operated in a manner consistent with the grant or permit; and

(6) Requirements for compliance with State standards for public health and safety, environmental protection and siting, construction, operation and maintenance when those standards are more stringent than Federal standards.

§ 2801.3 Unauthorized occupancy.

Any occupancy or use of the public lands, other than casual use as set forth in §§ 2800.0–5(m) and 2802.1(d) of this title, without authorization shall be considered a trespass and shall subject the trespasser to prosecution and liability for the trespass. Issuance of a right-of-way grant or temporary use permit to a trespasser shall be made in accordance with § 9239.0–9 of this title, except for those unauthorized uses under § 2802.5 of this title. This provision applies to all unauthorized use of the public lands and precludes the issuance of a right-of-way grant or temporary use permit until the trespass case has been settled. Once the trespass case has been settled, a new grant or permit may be made by the authorized officer in accordance with the procedures set forth in this part.

Subpart 2802—Applications

§ 2802.1 Preapplication activity.

(a) Anyone interested in obtaining a right-of-way grant or temporary use permit involving use of public lands is encouraged to establish early contact with the Bureau of Land Management office responsible for management of the affected public lands so that potential constraints may be identified, the proposal may be considered in land use plans, and processing of an application may be tentatively scheduled. The appropriate officer shall furnish the proponent with guidance and information about:

(1) Possible land use conflicts as identified by review of land use plans, land ownership records and other available information sources;

(2) Application procedures and probable time requirements;

(3) Applicant qualifications;

(4) Cost reimbursement requirements;

(5) Associated clearances, permits and licenses which may be required in addition to, but not in place of the grants or permits required under these regulations;

(6) Environmental and management considerations;

(7) Any other special conditions that can be identified;

(8) Identification of on-the-ground investigations which may be required in order to complete the application; and

(9) Coordination with Federal, State and local government agencies.

(b) Any information furnished by the proponent in connection with a preapplication activity or use which he/she requests not be disclosed, shall be protected to the extent consistent with the Freedom of Information Act (5 U.S.C. 552).

(c) No right-of-way applications processing work, other than that incurred in the processing of applications for permits for temporary use of public lands in furtherance of the filing of an application and pre-application guidance under paragraph (a) of this section, shall be undertaken by the authorized officer prior to the filing of an application together with advance payment as required by § 2803.1–1 of this title. Such processing work includes, but is not limited to, special studies such as environmental analyses, environmental statements, engineering surveys, resource inventories and detailed land use or record analyses.

(d) The prospective applicant is authorized to go upon the public lands to perform casual acts related to data collection necessary for the filing of an acceptable application. These casual acts or activities include, but are not limited to: (1) vehicle use on existing roads; (2) sampling; (3) marking of routes or sites, including surveying; or (4) other activities that do not unduly disturb the surface or require the removal of vegetation.

If, however, the authorized officer determines that appreciable surface or vegetative disturbance will occur or is a real possibility he shall issue a temporary use permit with appropriate terms, conditions, and special stipulations pursuant to § 2801.2 of this title.

(e) When, during pre-application discussions with the prospective applicant, the authorized officer supplies the prospective applicant with information set out in paragraph (a) of this section, the authorized officer shall also inform appropriate Federal, State and local government agencies that preapplication discussions have begun in order to assure that effective coordination between the prospective applicant and all responsible government agencies is initiated as soon as possible.

§ 2802.2 Application filing activity.

§ 2802.2–1 Application filing.

Applications for a right-of-way grant or temporary use permit shall be filed with either the Area Manager, the District Manager or the State Director having jurisdiction over the affected public lands except:

(a) Applications for Federal Aid Highways shall be filed pursuant to 23 U.S.C. 107, 317, as set out in 43 CFR 2821;

(b) Applications for cost-share roads shall be filed pursuant to 43 CFR 2812;

(c) Applications for oil and gas pipelines shall be filed pursuant to 43 CFR 2880; and

(d) Applications for projects on lands under the jurisdiction of 2 or more administrative units of the Bureau of Land Management may be filed at any of the Bureau of Land Management offices having jurisdiction over part of the project, and the applicant shall be notified where subsequent communications shall be directed.

§ 2802.2–2 Coordination of applications.

Applicants filing with any other Federal department or agency for a license, certificate of public convenience and necessity or any other authorization for a project involving a right-of-way on public lands, shall simultaneously file an application under this part with the Bureau of Land Management for a right-of-way grant. To minimize duplication, pertinent information from the application to such department or agency may be appended or referenced in the application for the right-of-way grant.

§ 2802.3 Application content.

§ 2802.3–1 Applicant qualifications and disclosure.

(a) An applicant for a right-of-way grant or temporary use permit shall be a citizen of the United States, an association of such citizens, organized under the laws of the United States or of any State thereof, a corporation or other business entity organized or licensed under the laws of the United States or of any State thereof, a Federal agency, or a State or local government. Aliens may not acquire or hold any direct or indirect interest in right-of-way grants or temporary use permits except that they may own or control stock in corporations holding right-of-way grants or temporary use permits, if the laws of their country do not deny similar or like privileges to citizens of the United States. If 3 percent or more of any class of the stock of a corporation is held or controlled by aliens who are citizens of a country denying similar or like

privileges to United States citizens, its application shall be denied. A right-of-way or temporary use permit shall not be granted to a minor, but either may be granted to legal guardians or trustees of minors in their behalf.

(b) An application by a private corporation shall be accompanied by a copy of its charter or articles of incorporation, duly certified by the proper State official where the corporation was organized, and a copy of its bylaws, duly certified by the secretary of the corporation.

(c) A corporation, other than a private corporation, shall file a copy of the law under which it was formed and provide proof of organization under the same, and a copy of its bylaws, duly certified by the secretary of the corporation.

(d) When a corporation is doing business in a State other than that in which it is incorporated, it shall submit a certificate from the Secretary of State or other proper official of that State indicating that it has complied with the laws of the State governing foreign corporations to the extent required to entitle the company to operate in such State, and that the corporation is in good standing under the laws of that State.

(e) A copy of the resolution by the board of directors of the corporation or other documents authorizing the filing of the application shall also be filed.

(f) If the corporation has previously filed with the Department the papers required by this subpart, and there have not been any amendments or revisions of the corporation's charter, articles of incorporation or bylaws, the requirements of this subpart may be met in subsequent applications, by specific reference to the previous filing by date, place and case number.

(g) If the applicant is a partnership, association or other unincorporated entity, the application shall be accompanied by a certified copy of the articles of association, partnership agreement, or other similar document creating the entity, if any. The application shall be signed by each partner or member of the entity, unless the entity shows evidence in the form of a resolution or similar document that one member has been authorized to sign in behalf of the others. In the absence of such resolution each partner shall furnish the evidence of qualification which would be required if the partner or member were applying separately.

(h) If the applicant is a State or local government, or agency or instrumentality thereof, the application shall be accompanied by a statement to that effect and a copy of the law, resolution, order, or other authorization under which the application is made.

(i) Each application by a partnership, corporation, association or other business entity shall, upon the request of the authorized officer, disclose the identity of the participants in the entity and shall include where applicable:

(1) The name, address and citizenship of each participant (partner, associate or other);

(2) Where the applicant is a corporation: the name, address, and citizenship of each shareholder owning 3 percent or more of each class of shares, together with the number and percentage of any class of voting shares of the entity which each shareholder is authorized to vote; and

(3) The name, address, and citizenship of each affiliate of the entity. Where an affiliate is controlled by the entity, the application shall disclose the number of shares and the percentage of each class of voting stock of that affiliate owned, directly or indirectly, by the entity. If an affiliate controls the entity, the number of shares and the percentage of each class of voting stock of the entity owned, directly or indirectly, by the affiliate shall be included.

§ 2802.3-2 Technical and financial capability.

The applicant shall furnish evidence satisfactory to the authorized officer that the applicant has, or prior to commencement of construction shall have, the technical and financial capability to construct, operate, maintain and terminate the project for which authorization is requested.

§ 2802.3-3 Project description.

(a) The applicant shall furnish an explanation of how the project will interrelate with existing and future projects and other developments on the public lands.

(b) The project description shall be in sufficient detail to enable the authorized officer to determine:

(1) Its impact on the environment;

(2) Any benefits provided to the public;

(3) The safety of the proposal; and

(4) The specific public lands proposed to be occupied or used.

(c) When required by the authorized officer, the applicant shall also submit the following:

(1) A description of the proposed facility;

(2) An estimated schedule for construction of all facilities together with anticipated manpower requirements for each stage of construction;

(3) A description of the construction techniques to be used; and

(4) A description of the applicant's alternative route considerations.

§ 2802.3-4 Environmental protection plan.

If the authorized officer determines that the issuance of the right-of-way authorization requires the preparation of an environmental statement, the applicant shall submit a plan for the protection and rehabilitation of the environment during construction, operation, maintenance and termination of the project.

§ 2802.3-5 Additional information.

The applicant shall furnish any other information and data required by the authorized officer to enable him/her to make a decision on the application.

§ 2802.3-6 Maps.

(a) The authorized officer may at his/her discretion require the applicant to file a map with the application. When the authorized officer determines not to require a detailed map prepared in accordance with paragraph (b) of this section, the applicant shall attach to the application a map such as a United States Geological Survey Quadrangle map or aerial photograph showing the approximate location of the facility and processing may proceed. Where the application is accepted without a detailed survey map, the applicant shall be notified that a map pursuant to paragraph (b) of this section shall be required prior to the issuance of the grant or permit, or within 60 days of completion of construction, as determined by the authorized officer, except that the authorized officer may waive all or part of the requirements of paragraph (b) of this section for maps for temporary use permits. When the authorization is for use of an existing road controlled by the United States, any map showing said road shall suffice and the requirements of paragraph (b) of this section shall not apply in this situation.

(b) Maps or aerial photographs portraying linear rights-of-way, as a minimum, shall show the following data:

(1) The bearing and distance of the traverse line or the true centerline of the facility as constructed;

(2) At least one tie to a public land survey monument to either the beginning or ending point of the right-of-way. If a public land survey monument is not within a reasonable distance as determined by the authorized officer, the survey shall be tied to either a relatively permanent man-made structure or monument or some prominent natural feature. However, when the right-of-way crosses both public lands and lands other than public lands, each parcel of

public land crossed by said right-of-way must be tied to a public land survey monument, or if the map shows a continuous survey from the beginning point to the ending point of the project regardless of land ownership, then only one corner tie at either the initial or terminal point is required;

(3) The exterior limits of the right-of-way and the width thereof;

(4) A north arrow;

(5) All subdivisions of each section or portion thereof crossed by the right-of-way, with the subdivisions, sections, townships, and ranges clearly and properly noted; and

(6) Scale of the map. The map scale shall be such that all of the required information shown thereon is legible.

(c) Maps portraying non-linear or site-type rights-of-way shall include the requirements of paragraphs (b)(4), (5), and (6) of this section. In addition, the map shall show, as a minimum, the following data:

(1) The bearing and distance of each exterior sideline of the site; and

(2) At least one angle point of the survey shall be tied to a public land survey monument, as provided for in paragraph (b)(2) of this section.

(d) In order to facilitate proper management of the public lands and to assist the authorized officer in developing a sound transportation plan, any person or State or local government which has constructed public highways under the authority of R.S. 2477 (43 U.S.C. 932, repealed October 21, 1976), is provided the opportunity to file within 3 years of the effective date of these regulations a map showing the location of all such public highways constructed under R.S. 2477. Maps filed pursuant to this paragraph should, as a minimum, be a county highway map showing all county roads located on the public lands, a State highway map showing State highways located on public land, and in the case of a municipality, a street or road map showing the location of city streets or roads. An individual who has constructed a public road pursuant to R.S. 2477 should, as a minimum, submit a United States Geological Survey Quadrangle showing the location of said road on public land. The submission of such maps depiciting the location of alleged R.S. 2477 highways shall not be conclusive evidence of their existence. Similarly, failure to depict such roads shall not preclude a later finding as to their existence.

§ 2802.4 Application processing.

(a) The authorized officer shall acknowledge, in writing, receipt of the application and initial cost reimbursement payment required by § 2803.1–1 of this title. An application may be denied if the authorized officer determines that:

(1) The proposed right-of-way or permit would be inconsistent with the purpose for which the public lands are managed;

(2) That the proposed right-of-way or permit would not be in the public interest;

(3) The applicant is not qualified;

(4) The right-of-way or permit would otherwise be inconsistent with the act or other applicable laws; or

(5) The applicant does not or cannot demonstrate that he/she has the technical or financial capacity.

(b) Upon receipt of the acknowledgement, the applicant may continue his or her occupancy of the public land pursuant to § 2802.1(d) of this title to continue to gather data necessary to perfect the application. However, if the applicant finds or the authorized officer determines that surface disturbing activities will occur in gathering the necessary data to perfect the application, the applicant shall file an application for a temporary use permit prior to entering into such activities on the public land.

(c) The authorized officer may require the applicant for a right-of-way grant to submit such additional information as he deems necessary for review of the application. All requests for additional information shall be in writing. Where the authorized officer determines that the information supplied by the applicant is incomplete or does not conform to the act or these regulations, the authorized officer shall notify the applicant of these deficiencies and afford the applicant an opportunity to file a correction. Where a deficiency notice has not been adequately complied with, the authorized officer may reject the application or notify the applicant of the continuing deficiency and afford the applicant an opportunity to file a correction.

(d) Prior to issuing a right-of-way grant or temporary use permit, the authorized officer shall:

(1) Complete an environmental analysis in accordance with the National Environmental Policy Act of 1969;

(2) Determine compliance of the applicant's proposed plans with applicable Federal and State laws;

(3) Consult with all other Federal, State, and local agencies having an interest, as appropriate; and

(4) Take any other action necessary to fully evaluate and make a decision to approve or deny the application and prescribe suitable terms and conditions for the grant or permit.

(e) The authorized officer may hold public meetings on an application for a right-of-way grant or temporary use permit if he determines that such meetings are appropriate and that sufficient public interest exists to warrant the time and expense of such meetings. Notice of public meetings shall be published in the **Federal Register** or in local newspapers or in both.

(f) A right-of-way grant or temporary use permit need not conform to the applicant's proposal, but may contain such modifications, terms, stipulations or conditions, including changes in route or site location on public lands, as the authorized officer determines to be appropriate.

(g) No right-of-way grant or temporary use permit shall be in effect until the applicant has accepted, in writing, the terms and conditions of the grant or permit. Written acceptance shall constitute an agreement between the applicant and the United States that, in consideration of the right to use public lands, the applicant shall comply with all terms and conditions contained in the authorization and the provisions of applicable laws and regulations.

(h) The authorized officer may place a provision in a right-of-way grant requiring that no construction on or use of the right-of-way shall occur until detailed construction or use plans have been submitted to the authorized officer for approval and one or more notices to proceed with that construction or use have been issued by the authorized officer. This requirement may be imposed for all or any part of the right-of-way.

§ 2802.5 Special application procedures.

An applicant filing for a right-of-way within 4 years from the effective date of this subpart for an unauthorized right-of-way that existed on public land prior to October 21, 1976, is not:

(a) Required to reimburse the United States for costs incurred for processing an application and for the preparation of reports and statements pursuant to the National Environmental Policy Act of 1969 (see § 2803.1–1(a)(1)) which are above the schedule shown in § 2803.1–1(a)(3)(i) of this title.

(b) Required to reimburse the United States for costs incurred incident to a right-of-way for monitoring (the construction, operation, maintenance and termination) of authorized facilities as required in § 2803.1–1(b) of this title.

(c) Required to pay rental fees for the period of unauthorized land use.

Subpart 2803—Administration of Rights Granted

§ 2803.1 General requirements.

§ 2803.1–1 Reimbursement of costs.

(a)(1) An applicant for a right-of-way grant or a temporary use permit shall reimburse the United States for administrative and other costs incurred by the United States in processing the application, including the preparation of reports and statements pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4347), before the right-of-way grant or temporary use permit shall be issued under the regulations of this title.

(2) The regulations contained in this subpart do not apply to:

(i) State or local governments or agencies or instrumentalities thereof where the public lands shall be used for governmental purposes and such lands and resources shall continue to serve the general public, except (A) as to right-of-way grants or temporary use permits issued to State or local governments or agencies or instrumentalities thereof or a municipal utility or cooperative whose principal source of revenue is derived from charges levied on customers for services rendered that are similar to services rendered by a profit making corporation or business enterprise, or (B) as to right-of-way grants or temporary use permits issued under section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 180);

(ii) Road use agreements or reciprocal road agreements; or

(iii) Federal agencies.

(3) An applicant shall submit with each application a nonreturnable payment in accordance with the following schedule:

(i) Each right-of-way grant or temporary use permit for crossing public lands (e.g., for powerlines, pipelines, roads and other linear uses).

Length	Payments
Less than 5 miles	$50 per mile or fraction thereof.
5 to 20 miles	$500.
20 miles and over	$500 for each 20 miles or fraction thereof.

(ii) Each right-of-way grant or temporary use permit for non-linear uses (e.g. for communication sites, reservoir sites, plant sites, and camp sites)—$250 for each 40 acres or fraction thereof.

(4) When an application is received, the authorized officer shall estimate the costs expected to be incurred by the United States in processing the application. If, in the judgment of the authorized officer, such costs will exceed the payment required by paragraph (a)(3) of this section by an amount which is greater than the cost of maintaining actual cost records for the application review process, the authorized officer shall require the applicant to make periodic payments of the estimated reimbursable costs prior to the incurrence of such costs by the United States. Such payments may be refunded or adjusted as provided by paragraph (a)(8) of this section.

(5) Prior to the issuance of a right-of-way grant or temporary use permit, the applicant shall be required to pay additional amounts to the extent the costs of the United States have exceeded the payments required by paragraphs (a)(3) and (4) of this section.

(6) An applicant whose application is denied shall be responsible for administrative and other costs incurred by the United States in processing its application, and such amounts as have not been paid in accordance with paragraphs (a)(3) and (4) of this section shall be due within 30 days of receipt of notice from the authorized officer of the amount due.

(7) An applicant which withdraws its application before a decision is reached on said application is responsible for costs incurred by the United States in processing such application up to the date upon which the authorized officer receives written notice of the withdrawal, and for costs subsequently incurred by the United States in terminating the application review process. Reimbursement of such costs shall be due within 30 days of receipt of notice from the authorized officer of the amount due.

(8) If payment, as required by paragraphs (a)(4) and (b)(3) of this section, exceeds actual costs to the United States, refund may be made by the authorized officer from applicable funds under authority of 43 U.S.C. 1734, or the authorized officer may adjust the next billing to reflect the overpayment previously received. Neither an applicant nor a holder shall set off or otherwise deduct any debt due to or any sum claimed to be owed them by the United States without the prior written approval of the authorized officer.

(9) The authorized officer shall, on request, give an applicant or a prospective applicant an estimate, based on the best available cost information, of the costs which would be incurred by the United States in processing an application. However, reimbursement shall not be limited to the estimate of the authorized officer if actual costs exceed the projected estimate.

(10) When 2 or more applications for right-of-way grants are filed which the authorized officer determines to be in competition with each other, each applicant shall reimburse the United States according to subparagraphs (3) through (7) of this section, except that those costs which are not readily identifiable with one of the applications, such as costs for portions of an environmental statement that relate to all of the proposals generally, shall be paid by each of the applicants in equal shares.

(11) When through partnership, joint venture or other business arrangement, more than one person, partnership, corporation, association or other entity apply together for a right-of-way grant or temporary use permit, each such applicant shall be jointly and severally liable for costs under § 2803.1–1 of this title.

(12) When 2 or more noncompeting applications for right-of-way grants are received for what, in the judgment of the authorized officer, is one right-of-way system, all the applicants shall be jointly and severally liable for costs under § 2803.1–1 of this title for the entire system; subject, however, to the provisions of subparagraph (11) of this paragraph.

(13) The regulations contained in § 2803.1–1 of this title are applicable to all applications for right-of-way grants or temporary use permits incident to rights-of-way over the public lands pending on June 1, 1975.

(b)(1) After issuance of a right-of-way grant or temporary use permit for which fees were assessed under paragraph (a) of this section, the holder thereof shall reimburse the United States for costs incurred by the United States in monitoring the construction, operation, maintenance and termination of authorized facilities on the right-of-way or permit area, and for protection and rehabilitation of the lands involved.

(2) Each holder of a right-of-way grant or temporary use permit shall submit within 60 days of the issuance thereof a nonreturnable payment in accordance with the following schedule:

(i) Each right-of-way grant or temporary use permit for crossing public lands (e.g., for powerlines, pipelines, roads, and other linear uses).

Length	Payment
Less than 5 miles	$20 per mile or fraction thereof.
5 to 20 miles	$200.
20 miles and over	$200 for each 20 miles or fraction thereof.

(ii) Each right-of-way grant or temporary use permit (e.g., for communication sites, reservoir sites,

plant sites, and camp sites)—$100 for each 40 acres or fraction thereof.

(iii) If a project has the feature of subdivisions (i) and (ii) of this subparagraph in combination, the payment shall be the total of the amounts required by subdivisions (i) and (ii) of this subparagraph.

(3) When a right-of-way grant or temporary use permit is issued, the authorized officer shall estimate the costs, based on the best available cost information, expected to be incurred by the United States in monitoring holder activity. If such costs exceed the payment required by paragraph (b)(2) of this section by an amount which is greater than the costs of maintaining actual costs records for the monitoring process, the authorized officer shall require the holder to make periodic payments of the estimated reimbursable costs prior to the incurrence of such costs by the United States. Such payments may be refunded or adjusted as provided by paragraph (a)(8) of this section.

(4) Following termination of a right-of-way grant or temporary use permit, the former holder shall be required to pay additional amounts to the extent the actual costs incurred by the United States have exceeded the payments required by paragraphs (b) (2) and (3) of this section.

§ 2803.1-2 Rental fees.

(a) The holder of a right-of-way grant or temporary use permit, except as provided in paragraphs (b) and (c) of this section, or when waived by the Secretary, shall pay annually, in advance, the fair market rental value as determined by the authorized officer. Said fee shall be based upon the fair market value of the rights authorized in the right-of-way grant or temporary use permit, as determined by appraisal by the authorized officer, provided however, that where the annual fee is $100 or less, an advanced lump-sum payment for 5 years for right-of-way grants and 3 years for temporary use permits may be required. The lump-sum for use and occupancy of lands under these regulations shall not be less than $25.00.

(b) To expedite the processing of any grant or permit pursuant to this part, the authorized officer may establish an estimated rental fee and collect this fee in advance with the provision that upon receipt of an approved fair market value appraisal the advance rental fee shall be adjusted accordingly.

(c) No fee, or a fee less than fair market rental, may be authorized under the following circumstances:

(1) When the holder is a Federal, State or local government or any agency or instrumentality thereof, excluding municipal utilities and cooperatives whose principal source of revenue is customer charges.

(2) When the holder is a nonprofit corporation or association which is not controlled by or is not a subsidiary of a profit making corporation or business enterprise.

(3) When a holder provides without charge, or at reduced rates, a valuable benefit to the public or to the programs of the Secretary.

(4) Rental fees may be waived for rights-of-way involving cost share roads and reciprocal right-of-way agreements.

(5) In instances where the applicant holds an outstanding permit, lease, license or contract for which the United States is already receiving compensation, except under an oil and gas lease where the lessee is required to secure a right-of-way grant or temporary use permit under § 2880 of this title, no rental fee shall be charged for the following:

(i) Where the applicant needs a right-of-way grant or temporary use permit within the exterior boundaries of the permit, lease, license or contract area; and

(ii) Where the applicant needs a right-of-way across public lands outside the permit, lease, license or contract area in order to reach said area.

(d) Rental fees may be initiated or adjusted whenever necessary to reflect current fair market value: (1) As a result of reappraisal of fair market values which shall occur at least once every 5 years, or (2) as a result of a change in the holder's qualifications under paragraph (c) of this section. Reasonable notice shall be given prior to imposing or adjusting rental fees pursuant to this paragraph. Decisions on fees are subject to appeal pursuant to § 2804 of this title.

(e) If a charge required by this section is not paid when due, and such default shall continue for 30 days after notice, action may be taken to terminate the right-of-way grant. After default has occurred, no structures, buildings or other equipment may be removed from the servient lands except upon written permission from the authorized officer.

§ 2803.1-3 Bonding.

The authorized officer may require the holder of a right-of-way grant or temporary use permit to furnish a bond or other security satisfactory to him, to secure the obligations imposed by the grant or permit and applicable laws and regulations.

§ 2803.1-4 Liability.

(a) Except as provided in paragraph (f) of this section, each holder shall be fully liable to the United States for any damage or injury incurred by the United States in connection with the use and occupancy of the right-of-way or permit area by the holder.

(b) Except as provided in paragraph (f) of this section, holders shall be held to a standard of strict liability for any activity or facility within a right-of-way or permit area which the authorized officer determines, in his discretion, presents a foreseeable hazard or risk of damage or injury to the United States. The activities and facilities to which such standards shall apply shall be specified in the right-of-way grant or temporary use permit. Strict liability shall not be imposed for damage or injury resulting primarily from an act of war, an Act of God or the negligence of the United States. To the extent consistent with other laws, strict liability shall extend to costs incurred by the United States for control and abatement of conditions, such as fire or oil spills, which threaten lives, property or the environment, regardless of whether the threat occurs on areas that are under Federal jurisdiction. Stipulations in right-of-way grants and temporary use permits imposing strict liability shall specify a maximum limitation on damages which, in the judgment of the authorized officer, is commensurate with the foreseeable risks or hazards presented. The maximum limitation shall not exceed $1,000,000 for any one event, and any liability in excess of such amount shall be determined by the ordinary rules of negligence of the jurisdiction in which the damage or injury occurred.

(c) In any case where strict liability is imposed and the damage or injury was caused by a third party, the rules of subrogation shall apply in accordance with the law of the jurisdiction in which the damage or injury occurred.

(d) Except as provided in paragraph (f) of this section, holders shall be fully liable for injuries or damages to third parties resulting from activities or facilities on lands under Federal jurisdiction in which the damage or injury occurred.

(e) Except as provided in paragraph (f) of this section, holders shall fully indemnify or hold harmless the United States for liability, damage or claims arising in connection with the holder's use and occupancy of rights-of-way or permit areas.

(f) If a holder is a State or local government, or agency or instrumentality thereof, it shall be liable

to the fullest extent its laws allow at the time it is granted a right-of-way grant or temporary use permit. To the extent such a holder does not have the power to assume liability, it shall be required to repair damages or make restitution to the fullest extent of its powers at the time of any damage or injury.

(g) All owners of any interest in, and all affiliates or subsidiaries of any holder of a right-of-way grant or temporary use permit, except for corporate stockholders, shall be jointly and severally liable to the United States in the event that a claim cannot be satisfied by the holder.

(h) Except as otherwise expressly provided in this section, the provision in this section for a remedy is not intended to limit or exclude any other remedy.

(i) If the right-of-way grant or temporary use permit is issued to more than one holder, each shall be jointly and severally liable under this section.

§ 2803.2 Holder activity.

(a) If a notice to proceed requirement has been included in the grant or permit, the holder shall not initiate construction, occupancy or use until the authorized officer issues a notice to proceed.

(b) Any substantial deviation in location or authorized use by the holder during construction, operation or maintenance shall be made only with prior approval of the authorized officer under § 2803.6–1 of this title for the purposes of this paragraph, substantial deviation means:

(1) With respect to location, the holder has constructed the authorized facility outside the prescribed boundaries of the right-of-way authorized by the instant grant or permit.

(2) With respect to use, the holder has changed or modified the authorized use by adding equipment, overhead or underground lines, pipelines, structures or other facilities not authorized in the instant grant or permit.

(c) The holder shall notify the authorized officer of any change in status subsequent to the application or issuance of the right-of-way grant or temporary use permit. Such changes include, but are not limited to, legal mailing address, financial condition, business or corporate status. When requested by the authorized officer, the holder shall update and/or attest to the accuracy of any information previously submitted.

(d) If required by the terms of the right-of-way grant or temporary use permit, the holder shall, subsequent to construction and prior to commencing operations, submit to the authorized officer a certification of construction, verifying that the facility has been constructed and tested in accordance with terms of the right-of-way grant or temporary use permit, and in compliance with any required plans and specifications, and applicable Federal and State laws and regulations.

§ 2803.3 Immediate temporary suspension of activities.

(a) If the authorized officer determines that an immediate temporary suspension of activities within a right-of-way or permit area for violation of the terms and conditions of the right-of-way authorization is necessary to protect public health or safety or the environment, he/she may promptly abate such activities prior to an administrative proceeding.

(b) The authorized officer may give an immediate temporary suspension order orally or in writing at the site of the activity to the holder or a contractor or subcontractor of the holder, or to any representative, agent, employee or contractor of the holder, and the suspended activity shall cease at that time. As soon as practicable, the authorized officer shall confirm an oral order by a written notice to the holder addressed to the holder or the holder's designated agent.

(c) An order of immediate temporary suspension of activities shall remain effective until the authorized officer issues an order permitting resumption of activities.

(d) Any time after an order of immediate temporary suspension has been issued, the holder may file with the authorized officer a request for permission to resume. The request shall be in writing and shall contain a statement of the facts supporting the request.

(e) The authorized officer may render an order to either grant or deny the request to resume within 5 working days of the date the request is filed. If the authorized officer does not render an order on the request within 5 working days, the request shall be considered denied, and the holder shall have the same right to appeal the denial as if a final order denying the request had been issued by the authorized officer.

§ 2803.4 Suspension and termination of right-of-way authorizations.

(a) If the right-of-way grant or temporary use permit provides by its terms that it shall terminate on the occurrence of a fixed or agreed-upon condition, event, or time, the right-of-way authorization shall thereupon automatically terminate by operation of law, unless some other procedure is specified in the right-of-way grant or temporary use permit. The authorized officer may terminate a right-of-way grant or temporary use permit when the holder requests or consents to its termination in writing.

(b) The authorized officer may suspend or terminate a right-of-way grant or temporary use permit if he determines that the holder is unwilling, unable or has failed to comply with applicable laws or regulations, or any terms, conditions or stipulations of the right-of-way grant or temporary use permit or has abandoned the right-of-way.

(c) Failure of the holder of a right-of-way grant to use the right-of-way for the purpose for which the authorization was issued for any continuous five-year period shall constitute a presumption of abandonment. The holder may rebut the presumption by proving that his failure to use the right-of-way was due to circumstances not within the holder's control.

(d) Before suspending or terminating a right-of-way grant pursuant to paragraph (b) of this section, the authorized officer shall give the holder written notice that such action is contemplated and the grounds therefor and shall allow the holder a reasonable opportunity to cure such noncompliance.

(e) In the case of a right-of-way grant that is under its terms an easement, the authorized officer shall give written notice to the holder of the suspension or termination and shall refer the matter to the Office of Hearings and Appeals for a hearing before an Administrative Law Judge pursuant to 43 CFR Part 4. If the Administrative Law Judge determines that grounds for suspension or termination exist and such action is justified, the authorized officer shall suspend or terminate the right-of-way grant.

§ 2803.4–1 Disposition of improvements upon terminations.

Within a reasonable time after termination, revocation or cancellation of a right-of-way grant, the holder shall, unless directed otherwise in writing by the authorized officer, remove such structures and improvements and shall restore the site to a condition satisfactory to the authorized officer. If the holder fails to remove all such structures or improvements within a reasonable period, as determined by the authorized officer, they shall become the property of the United States, but the holder shall remain liable for the cost of removal of the structures and improvements and for restoration of the site.

§ 2803.5 Change in Federal jurisdiction or disposal of lands.

(a) Where a right-of-way grant or temporary use permit administered under these regulations traverses public lands that are transferred to another Federal agency, administration of the right-of-way shall, at the discretion of the authorized officer, be assigned to the acquiring agency unless such assignment would diminish the rights of the holder.

(b) Where a right-of-way grant or temporary use permit traverses public lands that are transferred out of Federal ownership, the transfer of the land shall, at the discretion of the authorized officer, include an assignment of the right-of-way, be made subject to the right-of-way, or the United States may reserve unto itself the land encumbered by the right-of-way.

§ 2803.6 Amendments, assignments and renewals.

§ 2803.6-1 Amendments.

(a) Any substantial deviation in location or use as set forth in § 2803.2(b) of this title shall require the holder of a grant or permit to file an amended application. The requirements for the amended application and the filing are the same and shall be accomplished in the manner as set forth in subpart 2802 of this title.

(b) Holders of right-of-way grants issued before October 21, 1976, who find it necessary or are directed by the authorized officer to amend their grants shall comply with paragraph (a) of this section in filing their applications. Upon acceptance of the amended application by the authorized officer an amended right-of-way grant shall be issued. To the fullest extent possible, and when in the public interest as determined from current land use plans and other management decisions, the amended grant shall contain the same terms and conditions set forth in the original grant with respect to annual rent, duration and nature of interest.

§ 2803.6-2 Amendments to existing railroad grants.

(a) An amended application required under § 2803.6-1(a) or (b), as appropriate, shall be filed with the authorized officer for any realignment of a railroad and appurtenant communication facilities which are required to be relocated due to the realignment. Upon acceptance of the amended application by the authorized officer, an amended right-of-way grant shall be issued within 6 months of date of acceptance of the application. The date of acceptance of the application for the purpose of this paragraph shall be determined in accordance with § 2802.4(a) of this title.

(b) Notwithstanding the regulations of this part, the authorized officer may include in the amended grant the same terms and conditions of the original grant with respect to the payment of annual rental, duration, and nature of interest if he/she finds them to be in the public interest and the lands involved are not within an incorporated community and are of approximately equal value.

§ 2803.6-3 Assignments.

Any proposed assignment in whole or in part of any right or interest in a right-of-way grant or temporary use permit acquired pursuant to the regulations of this part shall be filed in accordance with §§ 2802.1-1 and 2802.3 of this title. The application for assignment shall be accompanied by the same showing of qualifications of the assignee as if the assignee were filing an application for a right-of-way grant or temporary use permit under the regulations of this part. In addition, the assignment shall be supported by a stipulation that the assignee agrees to comply with and to be bound by the terms and conditions of the grant to be assigned plus any additional terms and conditions and any special stipulations that the authorized officer may impose. No assignment shall be recognized unless and until it is approved in writing by the authorized officer.

§ 2803.6-4 Reimbursement of cost for assignments.

All filings for assignments made pursuant to this section shall be accompanied by a nonrefundable payment of $50.00 from the assignor. Exceptions for a nonrefundable payment for an assignment are same as in § 2802.1 of this title.

§ 2803.6-5 Renewals of right-of-way grants and temporary use permits.

(a) When a grant provides that it may be renewed, the authorized officer shall renew the grant so long as the project or facility is still being used for purposes authorized in the original grant and is being operated and maintained in accordance with all the provisions of the grant and pursuant to the regulations of this title. Prior to renewing the grant, the authorized officer may modify the grant's terms, conditions, and special stipulations to reflect any new requirements imposed by current Federal and State land use plans, laws, regulations or other management decisions.

(b) When a grant does not contain a provision for renewal, the authorized officer, upon request from the holder and prior to the expiration of the grant, may renew the grant at his discretion. A renewal pursuant to this section shall comply with the same provisions contained in paragraph (a) of this section.

(c) Temporary use permits issued pursuant to the regulations of this part may be renewed at the discretion of the authorized officer. The holder of a permit desiring a renewal shall notify the authorized officer in writing of the need for renewal prior to its expiration date. Upon receipt of the notice, the authorized officer shall either renew the permit or reject the request.

(d) Renewals of grants and permits pursuant to paragraphs (a), (b) and (c) of this section are not subject to § 2803.1-1 of this title.

(e) Denial of any request for renewal by the authorized officer under paragraphs (b) and (c) of this section shall be final with no right of review or appeal.

Subpart 2804—Appeals.

§ 2804.1 Appeals procedure.

(a) All appeals under this part shall be taken under 43 CFR Part 4 from any final decision of the authorized officer to the Office of the Secretary, Board of Land Appeals.

(b) All decisions of the authorized officer under this part shall remain effective pending appeal unless the Secretary rules otherwise, and the provisions of 43 CFR 4.21(a) shall not apply to such decisions.

Subpart 2805—Applications for Electric Power Transmission Lines of 66 KV or Above

§ 2805.1 Application requirements.

(a) Each application for authority to construct, work and maintain a facility for the generation of electric power and energy or for the transmission or distribution of electric power and energy of 66 kilovolts or higher under this subpart shall be referred to the Secretary of the Department of Energy to determine the relationship of the proposed facility to the power-marketing program of the United States. Where the proposed facility does not conflict with the program of the United States, the authorized officer, upon notification to that effect, shall proceed to act upon the application. In the case of necessary changes respecting the proposed location, construction or utilization of the facility in order to eliminate conflicts with the power-marketing program of the United States, the authorized officer shall obtain from the applicant written

consent to or compliance with such requirements before taking further action on the application: *Provided, however,* That if increased costs to the applicant result from changes to eliminate conflicts with the power-marketing program of the United States, and it is determined that a right-of-way should be granted, such changes will be required upon equitable contract arrangements with the Secretary of the Department of Energy covering costs and other appropriate factors.

(b) The applicant shall make provision, or bear the reasonable cost, as may be determined by the Secretary of the Department of Energy, of making provision for avoiding inductive or conductive interference between any transmission facility or other works constructed, operated or maintained by it on the right-of-way authorized under the grant and any radio installation, telephone line or other communication facilities existing when the right-of-way is authorized or any such installation, line or facility thereafter constructed or operated by the United States or any agency thereof. This provision shall not relieve the applicant from any responsibility or requirement which may be imposed by other lawful authority for avoiding or eliminating conductive interference.

(c) An applicant for a right-of-way for a transmission facility having a voltage of 66 kilovolts or more shall execute and file with its application a stipulation agreeing to accept the right-of-way grant subject to the following conditions:

(1) In the event the United States, pursuant to law, acquires the applicant's transmission or other facilities constructed on or across such right-of-way, the price to be paid by the United States shall not include or be affected by any value of the right-of-way granted to the applicant under authority of the regulations of this part.

(2) The Department of Energy shall be allowed to utilize for the transmission of electric power and energy any surplus capacity of the transmission facility in excess of the capacity needed by the holder in connection with the holder's operations, or to increase the capacity of the transmission facility at the Department's expense and utilize such increased capacity for the transmission of electric power and energy. The utilization of surplus or increased capacity shall be subject to the following terms and conditions:

(i) When the Department of Energy desires to utilize surplus capacity thought to exist in the transmission facility, notification shall be given to the holder, and the holder shall furnish to the Department of Energy within 30 days a certificate stating whether the transmission facility has any surplus capacity not needed by the holder for the transmission of electric power and energy in connection with the holder's operations and, if so, the amount of such surplus capacity.

(ii) Where the certificate indicates that there is no surplus capacity or that the surplus capacity is less than that required by the Department of Energy, the authorized officer may call upon the holder to furnish additional information upon which its certification is based. Upon receipt of such additional information, the authorized officer shall determine whether surplus capacity is available, and if so, the amount of such surplus capacity.

(iii) In order to utilize any surplus capacity determined to be available, or any increased capacity provided by the Department of Energy at its own expense, the Department of Energy may interconnect its transmission facilities with the holder's transmission facility in a manner conforming to approved standards of practice for the interconnection of transmission circuits.

(iv) The expense of interconnection will be borne by the Department of Energy which shall at all times provide and maintain adequate protective equipment to insure the normal and efficient operation of the holder's transmission facilities.

(v) After any interconnection is completed, the holder shall operate and maintain its transmission facilities in good condition, and except in emergencies, shall maintain in a closed position all connections under the holder's control necessary for the transmission of the Department of Energy's power and energy over the holder's transmission facilities. The parties may, by mutual consent, open any switch where necessary or desirable for maintenance, repair or construction.

(vi) The transmission of electric power and energy by the Department of Energy over the holder's transmission facilities shall be effected in such manner as shall not interfere unreasonably with the holder's use of the transmission facilities in accordance with the holder's normal operating standards, except that the Department of Energy shall have the exclusive right to utilize any increased capacity of the transmission facility which has has been provided at the Department of Energy's expense.

(vii) The holder shall not be obligated to allow the transmission of electric power and energy by the Department of Energy to any person receiving service from the holder on the date of the filing of the application for grant, other than statutory preference customers including agencies of the Federal Government.

(viii) The Department of Energy shall pay to the holder an equitable share of the total monthly cost of that part of the holder's transmission facilities utilized by the Department for the transmission of electric power and energy. The payment shall be based on an amount in dollars representing the same proportion of the total monthly cost of such part of the transmission facilities as the maximum amount in kilowatts of the power transmitted on a scheduled basis by the Department over the holder's transmission facilities bears to the total capacity in kilowatts of that portion of the transmission facilities. The total monthly cost shall be determined in accordance with the system of accounts prescribed by the Federal Energy Regulatory Commission, exclusive of any investment by the Department of Energy in the part of the transmission facilities utilized by the Department.

(ix) If, at any time subsequent to a certification by the holder or determination by the authorized officer that surplus capacity is available for utilization by the Department of Energy, the holder needs the whole or any part of this capacity theretofore certified or determined as being surplus to the needs of the holder, the holder may request the authorized officer to modify or revoke the previous certification or determination by making application to the authorized officer not later than 36 months in advance of the holder's needs. Any modification or revocation of the certification of determination shall not affect the right of the Department of Energy to utilize facilities provided at its expense or available under a contract entered into by reason of the equitable contract arrangements provided for in this paragraph.

(x) If the Department of Energy and the holder disagree as to the existence or amount of surplus capacity in carrying out the terms and conditions of this paragraph, the disagreement shall be decided by a board of three persons composed as follows: The holder and the Department of Energy shall each appoint a member of the board and the two members shall appoint a third member. If the members appointed by the holder and the Department of Energy are unable to agree on the designation of the third member, he shall be designated by the Chief Judge of the United States Court of Appeals of the circuit in which the major share of the facilities involved is located. The board shall determine the issue and its determination, by majority vote, shall be binding on the Department of Energy and the holder.

(xi) As used in this section, the term "transmission facility" includes (a) all types of facilities for the transmission of electric power and energy and facilities for the interconnection of such facilities, and (b) the entire transmission line and associated facilities from substation or interconnection point to substation or interconnection point, of which the segment crossing the lands of the United States forms a part.

(xii) The terms and conditions prescribed in this paragraph may be modified at any time by means of a supplemental agreement negotiated between the holder and the Department of Energy which agreement shall be concurred in by the Secretary of the Interior.

Subpart 2806—Designation of Right-of-Way Corridors

§ 2806.1 Corridor designation.

(a) The authorized officer may, based upon his/her motion or receipt of an application, designate right-of-way corridors across any public lands in order to minimize adverse environmental impacts and the proliferation of separate rights-of-way. The designation of corridors shall not preclude the granting of separate rights-of-way over, upon, under or through the public lands where the authorized officer determines that confinement to a corridor is not appropriate.

(b) Any existing transportation or utility right-of-way that is capable of accommodating an additional compatible right-of-way may be designated as a right-of-way corridor by the authorized officer without further review. Subsequent right-of-way grants shall, to the extent practical and as determined by the authorized officer, be confined to designated corridors, however, the designation of a right-of-way corridor is not a commitment by the authorized officer to issue right-of-way grants within the corridor. All applications for right-of-way grants, including those within designated corridors, are subject to the procedure for approval set forth in § 2802 of this title.

(c) Upon a determination by the authorized officer and based upon the criteria of § 2806.2 of this title, a right-of-way corridor shall be designated by publication of a notice in the **Federal Register**.

§ 2806.2 Designation criteria.

The locations and boundary designations of right-of-way corridors shall be determined by the authorized officer after a thorough review of:

(a) Federal, State and local land-use plans and applicable Federal and State laws.

(b) Environmental impacts on natural resources including soil, air, water, fish, wildlife, vegetation and on cultural resources.

(c) Physical effects and constraints on corridor placement or rights-of-way placed therein due to geology, hydrology, meteorology, soil or land forms.

(d) Economic efficiency of placing a right-of-way within a corridor, taking into consideration costs of construction, operation and maintenance, and costs of modifying or relocating existing facilities in a proposed corridor.

(e) National security risks.

(f) Potential health and safety hazards to the public lands users and the general public due to materials or activities within the right-of-way corridor.

(g) Engineering and technological compatibility of proposed and existing facilities.

(h) Social and economic impacts of the facilities on public lands users, adjacent landowners and other groups or individuals.

§ 2806.2-1 Procedures for designation.

(a) The authorized officer shall, to the extent practical, designate right-of-way corridors that are consistent with the Bureau of Land Management's land use plans. In making designations, the authorized officer shall consult with Federal, State, and local agencies, local landowners, and other interested user groups in a manner that provides an opportunity for interested parties to express their views and have those views considered prior to corridor designation.

(b) The authorized officer shall take appropriate measures to inform the public of designated utility transportation corridors, so that existing and potential right-of-way applicants, governmental agencies and the general public will be aware of such corridor locations and any restrictions applicable thereto. Public notice of such designations may be given through publication in local newspapers or through distribution of planning documents, environmental impact statements or other appropriate documents.

Subpart 2807—Reservation to Federal Agencies

§ 2807.1 Application filing.

A Federal agency desiring a right-of-way or temporary use permit over, upon, under or through the public lands pursuant to this part, shall apply to the authorized officer and comply with the provisions of subpart 2802 of this title to the extent that the requirements of subpart 2802 of this title are appropriate for Federal agencies.

§ 2807.1-1 Document preparation.

(a) The right-of-way reservation need not conform to the agency's proposal, but may contain such modifications, terms, conditions or stipulations, including changes in route or site location, as the authorized officer determines appropriate.

(b) All provisions of the regulations contained in this part shall, to the extent possible, apply and be incorporated into the reservation to the Federal agency.

§ 2807.1-2 Reservation termination and suspension.

The authorized officer may suspend or terminate the reservation only in accordance with the terms and conditions of the reservation, or with the consent of the head of the department or agency holding the reservation.

2. The following are deleted: (a) Subpart 2811 of part 2810; (b) Subpart 2822 or part 2820; (c) Part 2840; (d) Part 2850; (e) Part 2860; (f) Part 2870; (g) Part 2890; (h) All appendices to group 2800.

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Part V

Department of the Interior

Fish and Wildlife Service

Proposed Framework for Early Season Migratory Bird Hunting Regulations and Supplemental Proposals for Late Season Frameworks

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

Proposed Frameworks for Early Season Migratory Bird Hunting Regulations and Supplemental Proposals for Late Season Frameworks.

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Supplemental proposed rule.

SUMMARY: This document supplements **Federal Register** Document 80–6307, published on February 29, 1980, which notified the public that the U.S. Fish and Wildlife Service proposes to establish hunting season regulations for certain migratory game birds during 1980–81, and provided information on certain proposed regulations.

This proposed rulemaking provides outer limits for dates and times when shooting may begin and end, and the number of birds that may be taken and possessed in so-called early seasons for migratory bird hunting. These are hunting seasons that open prior to October 1 and include mourning doves, white-winged doves, band-tailed pigeons, woodcock, common snipe, rails, gallinules, September teal, sea ducks, and early duck season in Iowa, sandhill crane seasons and extended faconry seasons. The Service annually prescribes hunting regulations frameworks to the States for season selection purposes. The effect of this proposed rule is to facilitate establishment of early migratory bird hunting regulations for the 1980–81 season.

The Service also proposes supplemental rulemakings for some late hunting seasons, defined as those seasons opening on or after October 1. These generally relate to the times and places where certain waterfowl may be hunted.

DATES: The comment period for proposed early season regulations will end on July 12, 1980, and that for late season proposals on August 23, 1980. A Public Hearing on Late Season Regulations will be held August 5, 1980, starting at 9 a.m.

ADDRESS: Comments to: Director (FWS/MBMO), U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240. The Public Hearing will be held in the Auditorium of the Department of the Interior Building on C Street, between 18th and 19th Streets, NW., Washington, D.C. Notice of intention to participate in this hearing should be sent in writing to the Director (FWS/MBMO), U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240.

Comments received on the supplemental proposed rulemaking will be available for public inspection during normal business hours in Room 525–B, Matomic Building, 1717 H Street, NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: John P. Rogers, Chief, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240 (202–254–3207).

SUPPLEMENTARY INFORMATION: The annual process for developing migratory game bird hunting regulations is divided into those for "early" seasons and those for "late" seasons. Early seasons include those which may open before October 1, while late seasons may open no earlier than October 1. Regulations are developed independently for early and late seasons. The early season regulations cover mourning doves; white-winged doves; band-tailed pigeons; rails; gallinules; woodcock; common snipe; sea ducks in the Atlantic Flyway; teal in September in the Central and Mississippi Flyways; an early duck season in Iowa; sandhill cranes in North Dakota and South Dakota; doves in Hawaii; migratory game birds in Alaska, Puerto Rico, and the Virgin Islands; and some special faconry seasons. Late seasons include the general waterfowl seasons; special seasons for scaup and goldeneyes; extra scaup and blue-winged teal in regular seasons; most sandhill crane seasons in the Central Flyway; coots, gallinules, and snipe in the Pacific Flyway; and other special falconry seasons.

Certain general procedures are followed in developing regulations for both the early and the late seasons. Initial regulatory proposals are announced in a **Federal Register** document published in late February and opened to public comment. Following termination of the comment period and a public hearing, the Service develops and publishes the proposed frameworks for times of seasons, season lengths, shooting hours, daily bag and possession limits, and other regulatory restraints or options. Following another public comment period, and after consideration of additional comments, the Service publishes the final frameworks in the **Federal Register**. Using these frameworks, State conservation agencies then select hunting season dates and options. States may select more restrictive seasons and options than those offered in the Service's frameworks. The final regulations, reflected in amendments to Subpart K of 50 CFR Part 20, then appear in the **Federal Register**, becoming effective upon publication.

The regulations schedule for this year is as follows. On February 29, 1980, the Service published for public comment in the **Federal Register** (45 FR 13630) proposals to amend 50 CFR Part 20, with a comment period ending May 16, 1980. All comments received to date were considered. The proposal dealt with establishment of seasons, limits and shooting hours for migratory birds under §§ 20.101 through 20.107 of Subpart K. This document is the second in a series of proposed, supplemental, and final rulemaking documents for migratory game bird hunting regulations and deals specifically with proposed frameworks for early season migratory bird hunting regulations from which, when finalized, States may select season dates, shooting hours, and daily bag and possession limits for the 1980–81 season. In addition, new proposals for certain late season regulations are provided for public comment. Comment periods on this second document end July 12, 1980, for proposed early season regulations and August 23, 1980, for late season proposals. With regard to early seasons, final regulatory frameworks for migratory game bird hunting seasons for Alaska, Puerto Rico, and the Virgin Islands are scheduled for **Federal Register** publication on or about June 27, 1980, and for other areas of the United States on July 22, 1980.

On June 20, 1980, a public hearing was held in Washington, D.C., as announced in the **Federal Register** of February 29, 1980 (45 FR 13630) to review the status of mourning doves, woodcock, band-tailed pigeons, white-winged doves, and sandhill cranes. Proposed hunting regulations for these species were discussed plus those for common snipe; rails; gallinules; migratory game birds in Alaska, Puerto Rico, and the Virgin Islands; mourning doves in Hawaii; September teal seasons in the Mississippi and Central Flyways; a September duck season in Iowa; special sea duck seasons in the Atlantic Flyway; and falconry seasons. Statements or comments were invited.

This supplemental proposed rulemaking document consolidates a number of changes to the original framework proposals published on February 29, 1980, in the **Federal Register**.

Review of Public Comments and the Service's Response

Comments Received at Public Hearing

Nine individuals presented statements at the Public Hearing on the proposed early season regulations. These comments are summarized below, and where appropriate, responded to by the Service.

Mr. I. B. Sinclair spoke on behalf of the Committee for Dove Protection (Committee), and conveyed information provided by Dr. H. Elliott McClure of the same organization. The general thrust of the statement was that hunting doves while the species is still nesting is unethical and amoral; that there are certain deficiencies in design and procedures in the current September dove nesting study, particularly in that they do not measure the effects of hunting on certain segments of the population nesting after September 1, and because levels of hunting on certain of the study areas are not determined; and that there is no detailed evidence to show that dove management would be adversely affected by delaying hunting to October 1. Mr. Sinclair expressed belief that the cooperative nesting study was ending prematurely, that it should be continued, and that consideration should be given to establishing hunting seasons by north and south zones rather than east to west zones.

Response. The Service believes that the design and statistical procedures followed in the nesting study are adequate and appropriate to the objectives of the study and objectively deal with the matter of hunting pressure on the study areas. Preliminary results of the year-round nesting study indicate that 4.1 percent of the 1979 nesting effort occurred in September and October. Migration studies of mourning doves indicate that early-produced immatures depart from northern areas early and that this important population segment would be unavailable for harvest there if hunting seasons were delayed until October 1. The present mourning dove management units were established in 1960 after exhaustive studies of banding, migration, and other data relating to mourning dove population characteristics. Finally, the Service notes that it issued an environmental assessment on September dove hunting in 1977.

Ms. Sandy Rowland, representing the Humane Society of the United States, expressed opposition to the shooting of mourning doves as a matter of principle, and reported that hunting solely for sport or recreation is opposed by 60 percent of Americans according to a recent survey.

Response. The Service respects the viewpoint expressed by Ms. Rowland but notes that the Migratory Bird Treaty Act clearly recognizes hunting as a legitimate use of the migratory bird resource. The views expressed are not germane to the purpose of the public hearing.

Mr. James H. Dunks, Texas Parks and Wildlife Department, provided information on the status of white-winged doves in Texas and northeastern Mexico. He reported that the 1980 spring breeding survey indicated that 508,000 white-winged doves were present in 4 south Texas counties and that although this represents a 13 percent decrease from 1979, the number is within 4 percent of the 10-year mean of 526,000 birds. Mr. Dunks reported that whitewings are continuing to increase in south Texas. Preliminary information suggests that more whitewings are present in northeastern Mexico than a year ago. Mr. Dunks commented on regulatory changes his Department had submitted to the Service earlier. Later, on behalf of the Central Migratory Shore and Upland Game Bird Technical Committee, he stated that the committee supported the frameworks being proposed by the Service for mourning doves.

Col. Robert M. Brantley, representing the Southeastern Association of Fish and Wildlife Agencies, expressed agreement with the Service's proposal to establish a full day option for mourning dove hunting in southeaster States.

Mr. Ron Fox, Tennessee Wildlife Resources Agency, urged consideration of a proposal by his agency, supported by the Lower Region, Mississippi Flyway Council, which would allow the harvesting of two wood ducks in addition to 4 teal during the 9 day special September teal season. The intent is to provide additional opportunity to harvest southern produced wood ducks, which appear to be more lightly harvested than northern wood ducks. Hunting in September would allow the harvest to occur before the arrival of significant numbers of northern wood ducks.

Response. The Service does not favor expanding the teal season by adding other species, such as the wood duck, as legal game. The sole purpose of the September teal season is to provide an opportunity to harvest blue-winged teal, many of which migrate out of the United States before regular duck seasons open. A provision for additional opportunity to harvest southern-bred wood ducks during a portion of the regular duck season taken between October 1 and 15 is already available but appears to be unsatisfactory to Tennessee. The Service is willing to consider other approaches on an experimental basis with appropriate evaluation procedures, and proposes to consult further with Tennessee and other interested States in an effort to better define possibilities and limitations of various alternatives.

Mr. David Brown, Arizona Game and Fish Department, described a regulatory proposal which would shift hunting pressure from white-winged doves nesting in colonies to whitewings occupying desert habitats, and to mourning doves. The changes would be experimental for a three-year period.

Response. The Service concurs with this proposal. Details are set forth in the proposed frameworks for mourning and white-winged doves in Arizona.

Dr. Don Hayne, statistician at North Carolina State University and Technical Director of the Southeastern Cooperative Fish and Game statistics project, which advises the southeastern States on questions of statistical practice, uses and studies, discussed statistical principles involved in various wildlife surveys, particularly the nationwide cooperative study of mourning dove nesting. He noted that the non-random selection of study areas, as suggested by a previous speaker, would bias the results of the study. Dr. Hayne also noted that shooting mortality is a form of predation and that individual animals are randomly exposed to that form of mortality. In other words, there is a chance relationship between the predator and its prey, or in this case, between the hunter and the dove. For these reasons, certain objections raised about the statistical design of the September nesting study are unfounded.

Response. The Service agrees with Dr. Hayne's points regarding the statistical design of the September dove study and the need for random sampling.

Mr. Toby Cooper, representing Defenders of Wildlife (Defenders), discussed what he believed were statistical design problems in the September dove nesting study, expressed concern that the nationwide call-count survey provides the only data on the status of the mourning dove and that the results of this survey may be strongly influenced by the number of unmated calling male mourning doves, and expressed concern about the possible effects of shooting one-half hour before sunrise, as is being proposed in the Eastern Management Unit, upon endangered and protected species.

Response. The statistical design of the September dove nesting study was carefully developed and the Service believes it is appropriate for the study.

The Service is aware that unmated male mourning doves call at a different rate than mated males, and that this could affect results of the nationwide call-count survey. However, several studies have indicated that there is no important effect. The proportion of unmated doves does not appear to vary markedly from year to year. Regarding the proposed all-day shooting of mourning doves in the Eastern Management Unit, the Service advises that this proposed regulatory change is undergoing Section 7 consultation under the Endangered Species Act.

Ms. Frances Lipscomb, Society for Animal Protective Legislation, stated that her organization was not opposed to killing if death were instantaneous and did not affect the overall status of the population. However, she expressed opposition to shooting before sunrise and asked that it be rescinded.

Response. Various aspects of this matter are discussed in an environmental assessment of shooting hours prepared in 1977. No significant adverse impact on migratory bird populations due to shooting one-half hour before sunrise is evident. Written Comments Received.

Two hundred and twenty-three written communications were received by June 20, 1980, the date of the Service's Public Hearing on Early Season reglations, in response to the Service's initial proposals in the **Federal Register** dated February 29, 1980 (45 FR 13630). These include letters or cards from 144 individuals; 35 national, regional, state, or local organizations; 33 State agencies; and 11 communications from waterfowl flyway councils. These responses represent a broad spectrum of public interest. In some instances, the communications do not specifically mention to open comment period or regulatory proposals. However, because they were received or sent during the comment period and generally relate to migratory bird hunting regulations, they are treated as comments. Where the Service accepts a new recommendation, it becomes supplemental proposal subject to public comment.

Normally these supplement proposals would appear in a separate supplemental rulemaking but for efficiency and economy are incorporated here. The comment period for the supplement early season proposals ends on July 12, 1980, and that for late seasons, on August 23, 1980.

Supplemental Proposals

The following comments, proposals, modifications, and minor clarifications or corrections are numbered to correspond with the numbered items published in the **Federal Register** dated February 29, 1980. To facilitate review, early season regulations include items 1, 2, 15, 20, and 23, while late season regulations include items 1–4, 7–9, 11–15, and 28. In a number of cases, the Service responds to the public comments but proposes no changes.

1. *Shooting hours.* Defenders of Wildlife (Defenders) opposed shooting hours of one-half hour before sunrise to sunset and suggested that the hours be changed to one-half hour after sunrise to one-half hour before sunset. Reasons offered for opposing the traditional hours include hunter inability to identify waterfowl during twilight hours under various conditions, and lack of investigations on hunter ability to identify protected species.

Response. The Service has responded to these concerns in past **Federal Registers** (see 44 FR 9928, February 15, 1979), and extensively reviewed and discussed the subject during the regulatory process for the 1977–78 hunting season (at 42 FR 13313). The Service also prepared and issued an environmental assessment on shooting hours and made it available to the public in August 1977. After studying this assessment, the Director concluded that the proposed shooting hours did not constitute a major impact upon the environment. Copies of the assessment are available as noted in **Federal Register** dated February 29, 1980 (at 45 FR 13635). The Service incorporated by reference for the purpose of this year's rulemaking the rationale for the proposed shooting hours set forth in the past three year' proposed and final regulations for migratory bird hunting. The Service also reported that it has continued to gather and analyze additional data on shooting hours and that reports will be made available after analyses are completed. No changes in shooting hours are presently contemplated for the 1980–81 hunting seasons except as noted under item 22.

2. *Framework dates for ducks and geese in the continental United States.* Correction: The proposed framework dates for the Mississippi Flyway were incorrectly stated in the **Federal Register** dated February 29, 1980 (at 45 FR 13635) as October 4, 1980, to January 18, 1981. The correct dates for the Mississippi Flyway are October 4, 1980, to January 20, 1981.

Delaware requested that the regular duck season framework be advanced by 5 days into late September to permit some harvest of early migrating teal. Michigan requested that a waterfowl season opening as early as September 15 be permitted in its North Zone as a means of harvesting early migrating waterfowl.

Response. The Service is of the view that additional proposals for changes in duck season framework should be deferred pending evaluation of results of studies initiated last year.

Delaware also requested that the goose season framework be extended to permit better utilization of the 90-day season by delaying the opening until after passage of geese destined for southern wintering areas.

Response. The Service believes that the present framework closing dates are satisfactory for achieving management objectives for Canada and greater snow geese.

The Lower Region, Mississippi Flyway Council, asked that the season framework for waterfowl be extended from January 20 to January 31, and that the hunting season framework for snow geese in Arkansas be extended to February 14 to alleviate depredations.

Response. The Service wishes to evaluate results of an experimental extension of the framework to January 31 in Mississippi before considering similar extensions elsewhere. No documentation of crop depredations in Arkansas was provided to support the request for a later snow goose season framework.

Tennessee, a number of other southeastern States, and the Lower Region of the Mississippi Flyway Council recommended the taking of 2 wood ducks daily, in addition to 4 teal, during the special September teal season. The objective is to harvest lightly hunted southern wood ducks prior to the arrival of northern wood ducks. Sixty-five comments were received supporting request for an early wood duck season, including 46 from individuals, 3 from organizations, 2 from States, and 1 from the Lower Region, Mississippi Flyway Council. Three organizations opposed the recommendation made to the Service. Defenders expressed opposition to framework changes which would allow duck hunting in States which do not qualify for special teal seasons.

Response. The Service does not favor expanding the teal season by adding other species, such as the wood duck, as legal game. The sole purpose of the September teal season is to provide an opportunity to harvest blue-winged teal, many of which migrate out of the United States before regular duck seasons open. A provision for additional opportunity to harvest southern-bred woods ducks during a portion of the regular duck season taken between October 1 and 15 is already available but appears to be unsatisfactory to Tennessee. The

Service is willing to consider other approaches on an experimental basis with appropriate evalution procedures, and proposes to consult further with Tennessee and other interested States in an effort to better define possibilities and limitations of various alternatives.

3. *Black ducks.* Defenders again expressed concern about the status of the black duck.

Response. The Service, the Atlantic Flyway Council, Mississippi Flyway Council, and Canadian Wildlife Service are engaged in a cooperative study of the black duck which began in 1976, as was described in the Federal Register (42 FR 13315) and repeated earlier this year at 45 FR 13635. The status of the black duck is a matter of major interest and concern to the participating agencies which represent Federal, State, and Provincial management authorities in two countries. Earlier (at 45 FR 13635) the Service noted that the cooperative black duck banding program involving these agencies had been extended into 1980 in order to establish an improved data base for evaluating various population factors. The Service issued an environmental assessment on black ducks in August 1976, and a black duck management plan is being developed by the agencies mentioned above. Generally, hunting regulations for black ducks in the Atlantic and Mississippi Flyways are as restrictive as is practical now, barring a complete closure to hunting. The Service is of the view that the latter is unnecessary at this time. For these reasons, the Service does not propose any regulatory changes for the black duck at this time.

4. *Wood ducks.* Requests to allow the taking of wood ducks in September when teal or other species of ducks would also be allowed, were addressed under item 2.

7. *Extra blue-winged teal option.* Correction: This option as it relates to Atlantic Flyway bag and possession limits was incorrectly described in the Federal Register dated February 29, 1980 (at 45 FR 13636). It is intended that the same provisions apply in 1980 as in 1979. Thus, in States of the Atlantic Flyway not selecting the point system, additional teal limits of no more than 2 blue-winged or 2 green-winged teal or 1 or each daily, and no more than 4 of these teal singly or in the aggregate in possession would apply.

8. *Special scaup season,* and 9. *Extra scaup option.* Michigan reiterated its concern about the status of scaup previously noted in the Federal Register dated February 29, 1980 (at 45 FR 13636), citing data indicating a decline, and recommending elimination of special scaup seasons, and increasing the point allocation for scaup from 10 to 35 as means of reducing harvests.

Response. In reviewing this matter the Service finds that scaup concentrations and movements in fall and winter are known to change in response to various environmental factors. The Service believes that surveys conducted in major production areas during the spring and summer provide more reliable information on the number of scaup than do fall and winter surveys, which do not cover all areas where scaup may be present. The spring and summer surveys do not suggest that scaup are declining. Also, the nationwide harvest survey indicates that annual harvests are relatively stable, and age ratio information suggests that the species are reproducing satisfactorily. The Service sees no need at this time to restrict harvest opportunity on scaup but will continue to monitor their status.

Canvasbacks and redheads. Notice was given in 1979 and again this year (44 FR 9934, February 15, 1979, and 45 FR 13636, February 29, 1980) of a request from the Atlantic Flyway Council for consideration of an 8–15 day drake canvasback season to occur late in the regular waterfowl hunting season in designated portions of Maryland, New York, North Carolina, and Virginia that have been closed to the taking of canvasbacks in recent years. Four male canvasbacks were proposed as the daily bag limit.

The rationale for the experimental canvasback season as presented to the Service in August of 1979 by the Council was as follows:

"1. The goals set by the U.S. Fish and Wildlife Service for canvasback breeding populations provide for a harvestable surplus in most years, if carefully designed regulations are adopted and enforced.

"2. The promise for a second consecutive, above-average breeding season (in 1979) leads to expectation of a good fall flight that will approximate or exceed population goals for this species.

"3. 'Area Closure' regulations radically reverse and alter the historical harvest distribution patterns of canvasbacks and redheads, thus excluding hunters from pursuing these birds in areas where a rich tradition of hunting canvasbacks and redheads exists.

"4. The preservation of sporting traditions consistent with good management and a quality hunting experience should be strongly encouraged.

"5. The concept of a 'mistake bird' which rewards those hunters that do not attempt to identify their targets, while penalizing those that do, is inconsistent with the goals of the Atlantic Flyway Council.

"6. Involved states are willing to undertake the necessary evaluation required to properly assess the success and impact of the 'traditional' season concept."

No action was taken in 1979 pending further consideration of management strategies, and a more thorough evaluation of the details of the proposal.

The Service has subsequently met with Council technical consultants to review the information on factors relating to the proposed canvasback season, and to exchange views on guidelines and evaluation procedures necessary for the conduct of the proposed season. The result of these meetings was the development of a modified late experimental canvasback season proposal as described below:

1. Duration of the experimental season: 3 years.

2. Season length: 11 days, to be taken during the last 11 days of each participating State's regular waterfowl season, and limited to the areas described below.

3. Bag limit: conventional—4 canvasbacks, only 1 of which may be a female; point system—male, 25 points; female, 100 points. The possession limits would be twice the daily bag limits.

4. Harvest guidelines: not to exceed 10 percent of the wintering population (3-year average) in each harvest area, and the 3-year average harvest shall not exceed 10 percent of the combined wintering population (3-year average) in the 5-State area. The latter condition makes allowance for annual deviations in excess of the guideline over the study period. Emphasis will be placed on the harvest of male canvasbacks.

5. Harvest areas:

a. New York—Lake Cayuga and the Upper Niagara River between the Peace Bridge at Buffalo, New York, and the Niagara Falls.

b. New Jersey—(1) east of the Garden State Parkway from Route 440, south to Route 36 (Raritan and Sandy Hook Bays, Navesink and Shrewsbury Rivers); (2) east of the Garden State Parkway from Route 88 south to Route 72 (Barnegat, Silver and Manahawkin Bays, Metedeconk and Toms Rivers).

c. Maryland—Anne Arundel, Calvert, St. Marys, Charles and Prince Georges Counties; the Chesapeake Bay western shore and its tributaries to the first upstream bridge; and the Potomac River downstream from the Possum Point Power Plant (on Virginia side).

d. Virginia—The Special Scaup Season zone from the main channel, westward. Waters upstream from this area will be included in the area open for canvasbacks and redheads (Potomac, Rappahannock, York and James Rivers and Hampton Roads).

e. North Carolina—that portion of Pamlico Sound in Hyde County from Long Shoal River, west; Beaufort County, and Pamlico County from the

Beaufort County line east to and including Jones Bay.

In the above proposal the remaining portions of areas in each of the five participating States presently closed to the taking of canvasbacks shall remain closed.

As an option, Maryland and Virginia may select a 6 (rather than 11) day season, with all (rather than designated portions) of previously closed areas open to the taking of canvasbacks under the described conditions.

Evaluation of the experimental season would be a cooperative State-Federal effort. The Service would require, as one condition of the proposed experimental season, that an adequate sampling frame of participants be developed by each State to permit the conduct of harvest surveys (questionnaires and waterfowl parts collections). Maryland, New Jersey, New York, and North Carolina would use a mandatory permit system; Virginia would use its blind registration system, plus a follow-up mailing to blind registrants to identify all participants in the experimental season. Each State would draw a random sample of hunters who would be provided harvest questionnaires and waterfowl parts collection envelopes by the State. The sample procedure for each State would be determined later.

State and Federal officials would conduct hunter observations, hunter bag checks and ground observations of waterfowl numbers, distribution, and behavior during the experimental canvasback season. In addition, aerial surveys would be made before, during, and following the experimental canvasback season to determine waterfowl species composition, numbers, and distribution; and to measure hunting pressure in the experimental season zones before, during and following the experimental canvasback season. Aerial photographic surveys would be made on the Chesapeake Bay before and following the experimental canvasback season to measure, if possible, the effect of the harvest on the sex composition of the wintering canvasback population, and to assess changes in canvasback numbers and distribution more accurately than by visual estimates alone.

The analysis of hunter questionnaire, wing survey, and hunter observation data would be undertaken jointly by State and Federal biologists. The results of each experimental canvasback season would be provided in an annual report developed jointly by State and Federal personnel.

Defenders indicated opposition to the Atlantic Flyway proposal and to requests by various States to abolish areas previously closed to canvasback and redhead hunting. Defenders emphasized what they believe to be a decline in canvasback numbers, and the need to assess productivity before regulatory changes are made.

Response. The Service proposes to implement the experimental Atlantic Flyway canvasback season as described above, subject to the following considerations. The Service emphasizes that any regulatory changes, either more restrictive or liberal, will depend upon results of this year's population and habitat surveys, population trend information, modifications which may be made in the canvasback-redhead assessment issued in 1976 and presently being revised, and further information and comment prior to the time that the final waterfowl frameworks must be finalized.

North Carolina proposed that area closures for redhead ducks in the Atlantic Flyway be eliminated and a bag limit of 2 redheads daily be permitted. The Upper Region, Mississippi Flyway Council, expressed a desire that some canvasback/redhead area closures be eliminated but made no specific recommendations. The Lower Region, Mississippi Flyway Council, recommended that closed areas in Alabama, Louisiana, and Tennessee be abolished, as canvasbacks and redheads would be adequately protected under point system values. The Central Flyway Council recommended that closed areas for canvasbacks be abolished this year because of the improved status of the population and the protection afforded the species under the point system.

Response. The Service favors separating canvasback and redhead regulations where feasible, and, therefore, proposes to eliminate closed areas for redheads in the Atlantic, Mississippi, and Central Flyways. Under conventional limits, 1 redhead per day and 2 in possession would be allowed; under point system regulations, the point value would remain at 70. A final decision on this action is deferred pending receipt of the latest information on current populations, production, habitat conditions, and other factors noted earlier in this section which should be available in late July.

The Service does not favor changes in canvasback closed areas except that special canvasback harvest proposal for the Atlantic Flyway pending further information and evaluation of the status of canvasbacks and the effect of special hunting programs. Therefore, no changes are proposed at this time.

12. *Zoning.* New Jersey requested approval to commence a three-year zoning experiment with the 1980–81 season. The proposed New Jersey zones were described at 45 FR 13637. West Virginia also indicated that it wishes to initiate a 3-year zoning study this year. The State would be divided into two zones: (1) Allegheny Mountain Upland Zone and (2) the remainder of the State, with split seasons in both zones.

Response. The Service concurs with these requests and proposes to allow zoning providing the zoning criteria are met. Criteria for zoning experiments in the Mississippi and Atlantic Flyways were published in the **Federal Register** dated February 29, 1980 at 45 FR 13637.

Pennsylvania initiated a zoning study in 1979 by establishing a small zone adjoining Lake Erie, with the remainder of the State comprising the second zone. Pennsylvania now requests that the area outside the Lake Erie Zone be divided into North and South Zones with the separating boundary being I–80 from the New Jersey State line west to the junction of State Route 147, then north on State Route 147 to the junction of Route 220, then west and/or south on Route 220 to the junction of I–80, then west on I–80 to its junction with the Allegheny River, and then north along the Allegheny River to the New York border. The Allegheny River is included in the North Zone.

Response. The Service proposes implementing the modification according to the zoning criteria, and contingent upon a new three-year experimental period commencing with the 1980–81 season.

Several States (Illinois, Indiana, Michigan, Missouri, Ohio) in the Mississippi Flyway and two (Connecticut and Maine) in the Atlantic Flyway completed three years of zoned hunting with the 1979–80 season but data for the last hunting season are not yet available for evaluation purposes. Also, New York has completed four years of experimental zoning. These States want to continue zoning, either by old or new zones. Illinois wishes to establish three hunting zones and split waterfowl seasons in the two northern zones. Michigan wants to split the waterfowl season in its new South Zone.

Response. The Service believes that the necessary information will be available for analysis and reporting prior to the time when final decisions must be made on the 1980–81 regulations in August. Also, the Service wishes to consider the possible effects of zoned goose hunting in Illinois upon Mississippi Valley Population Canada geese and solicits the views of other States sharing in the management of these geese. The Service is of the view that continuation or modification of

zoning in States which have completed 3-year experiments should be dependent upon evaluations of final reports due this summer, prior to the development of the 1980–81 regulations. The possible effects of split seasons upon goose harvests must be carefully considered to insure that they support management plan objectives and have Mississippi Flyway Council support.

13. *Goose and brant seasons.*

a. *Atlantic Flyway.* Maine requested that the Canada goose bag and possession limits be changed from 3 and 6, respectively, to 4 and 8, as an aid to reducing Canada goose concentration problems elsewhere in the Atlantic Flyway.

Response. Decisions about Canada goose bag limits will be deferred until information is available on the current status and production of these birds; however, the Service believes that regulatory relaxations distant from problem areas would be of little practical value in alleviating the problems.

b. *Mississippi Flyway.* Mississippi requested that goose hunting again be permitted in the Sardis Reservoir area of Mississippi.

Response. Some Mississippi Valley Population (MVP) geese winter in or migrate through the Sardis Reservoir area. The cooperative MVP goose management plan, which the Service supports, calls for hunting season closures in southern areas as a means of restroing goose numbers which formerly occurred there. The Service proposes no action on this request pending further review and evaluation in light of the MVP management plan.

Michigan requested modifications in regulations applicable to the Southeastern Canada Goose Management Area, in addition to framework changes which were described and addressed under item 2. Most Canada geese in the area are resident there throughout the year, and have increased to the point that they cause significant nuisance problems. Michigan requested that the goose season be extended to the full 107 days permissible under treaty limitations, and that the daily bag limit be increased a maximum of 5 birds beginning November 15. This was endorsed by the Upper Region, Mississippi Flyway Council, provided the bag limit increase is deferred until December 1, to avoid the possibility of additional harvest of Tennessee Valley Population (TVP) Canada geese.

Response. The Service accepts this request as endorsed by the Council, and proposes it for public comment.

The Upper Region, Mississippi Flyway Council, recommends that the bag and possession limits for Canada geese and white-fronted geese be handled separately in the regulations.

Response. The Service concurs and proposes to establish separate bag and possession limits for these species as is done in other flyways.

The Upper Region, Mississippi Flyway Council, proposed that waterfowl possession limits routinely be double the permitted daily bag limit.

Response. The Service concurs with this proposal. Possession limits twice the permitted daily bag limit are already widely but not universally applied in portions of the Mississippi Flyway.

c. *Central Flyway.* The Central Flyway Council proposed that bag and possession limits for dark and light geese be established independently, and that possession limits be double the daily bag limits. Dark geese are Canada and white-fronted geese while light geese are snow geese (including blue geese) and Ross' geese. South Dakota, with Central Flyway Council concurrence, proposed a 72-day goose season (an increase of 14 days) in eight south-central counties along the Missouri River on the grounds that the populations involved exceed numerical objectives, have an increasing propensity to winter in this portion of South Dakota, and need to be dispersed from areas along the Missouri River where they are subject to substantial lead poisoning loss.

Response. The Service concurs with these proposals. The changes are in line with goose management objectives and would make the regulations more understandable in areas where they would apply.

The Central Flyway Council recommended that "terminal" dates be removed from the flyway goose frameworks. "Terminal" dates as used here relate to special closing dates in specific areas which precede the usual framework closing date.

Response. "Terminal" goose season dates were originally established in response to a Central Flyway Council request as a means of affording special protection to particular populations of Canada geese. This is no longer necessary and it is proposed that the dates be dropped from the regulations.

The Central Flyway Council recommended that the High Plains Mallard Management Unit be provided a 93-day duck season, of which at least 23 days would have to be taken on or after December 10. Limits would remain unchanged. Dependent upon the completion of data analysis for the past 5 years, the change is requested for 5 years commencing with the 1980–81 hunting season.

The following rationale was provided. Analyses of Central Flyway mallard recovery data show that survival rates have changed little from past years and multiple regression analyses indicate that the size of mallard harvest is correlated more with the supply of ducks than with season lengths and bag limits. Also, 90-day seasons were allowed in the early 1970 period without adverse effects upon survival rates.

The Council also recommended that in the Low Plains portion of the Central Flyway, except Texas, 16 additional days of hunting be permitted, provided that the added days are not to be taken prior to December 15. The relaxation is requested for 5 years, commencing with the 1980–81 hunting season.

The Central Flyway Council provided the following justifications. Analyses indicate increased hunting opportunity did not adversely affect mallard survival in the adjoining High Plains Zone; survival rates for mallards in both the High and Low Plains Zones prior to or during relaxations in the High Plains Zone were similar; harvests would be directed to wintering mallards thus impacts upon mallards destined for the Mississippi Flyway would be minimal; mallards have a strong homing tendency to specific wintering areas; and Central Flyway wintering mallard populations are strongly unbalanced to drakes.

The Central Flyway's proposal for additional days of hunting in the Low Plains portion of the flyway drew 35 comments, all supportive, from 29 individuals, 3 organizations, 2 States, and the Central Flyway Council itself.

Response. These recommendations are still under review and no action is proposed at this time. The recommendations are aimed primarily at increased harvest of mallards. The Service does not favor any change which would increase or tend to increase hunting pressure on mallards in the mid-continent area of the U.S. at this time. This is judged to be inconsistent with present mallard population and harvest goals. The Service is of the view that a balanced program of reasonable mallard hunting opportunity among the four flyways, as developed over the past few years, now exists and that further changes in hunting opportunity should be based on changes in the status of the populations involved.

14. *Whistling swans.* The Atlantic Flyway Council recommended that the Service consider allowing a limited harvest of whistling swans in the flyway, and that an environmental assessment on this subject be prepared.

Response. The Service is of the view that whistling swans in the Atlantic Flyway could sustain a limited harvest with no adverse effect on the status of their population. However, it is not a matter of high priority from a management standpoint and there appears to be considerable public opposition to it. There is evidence that swans are increasingly involved in agricultural depredations in some areas of the flyway. The Service intends to monitor this situation but does not propose any action at this time.

15. *Sandhill cranes.* North and South Dakota, with the support of the Central Flyway Council, recommended the following changes in sandhill crane hunting regulations: in North Dakota, increase the season from 5 to 9 days in McLean and Sheridan Counties, to occur during the period September 6–14, 1980; in 5 South Dakota counties where sandhill crane hunting has been allowed in recent years, an increase in season length from 5 to 9 days to be selected during September 1–28, 1980, is proposed. The modifications reportedly would help alleviate crop depredation problems and shift hunting pressure to the lesser sandhill crane subspecies.

Response. The Service accepts the recommendations and proposes them for public comment.

20. *Woodcock.* New Jersey requested that it be permitted to continue for an additional year establishing hunting seasons by North and South Zones as has been allowed the past three hunting seasons in a mutually agreed upon experiment.

Response. The Service proposes that New Jersey be allowed to continue zoning in the 1980 hunting season under experimental conditions, pending completion of the final report for the three-year study.

22. *Mourning doves.* Defenders reiterated its concern about September dove hunting, stating that a significant portion of the doves are still nesting then and recommended that the hunting be delayed until mid-October.

Response. The Service has addressed this issue in several previous **Federal Registers**, including the one published on February 29, 1980 (at 45 FR 13639). The Service advised previously that on the basis of a 1977 environmental assessment on the September hunting of mourning doves the Director concluded that such action did not constitute a major impact on the environment. A major Federal-State cooperative effort to obtain more information on the matter has been underway since September 1978. Preliminary results from the study indicate that in 1979, 4.1 percent of the year's nesting effort occurred in September and October. No significant difference in nesting success in September was found in study areas where September hunting occurred as compared to areas where it did not occur. It is anticipated that the study, which is still under way, will be completed this year. The Service proposes no change in the hunting season framework for mourning doves pending completion of the study.

The Southeastern Association of Fish and Wildlife Agencies requested that southeastern States be allowed full-day dove hunting without any loss of hunting days. Reasons offered include opportunity for better distributing hunting, more pleasant hunting conditions during the morning, and conditions more conducive to the use of retrievers. Among those commenting on this matter, 36 individuals, 2 States, and 2 organizations endorsed full-day hunting while 3 organizations registered opposition.

Response. The Service proposes to allow full-day hunting as an option this year in the Eastern Management Unit. Full-day hunting has been employed in the Central and Western Management Units for many years without apparent detriment to the mourning dove population, and to the satisfaction of the hunting public.

Two States, Texas in the Central Management Unit and Arizona in the Western Management Unit, recommended changes in both mourning dove and white-winged dove regulations. Inasmuch as both requests include aggregate bag and possession limits for the two species, both will be addressed here and not repeated under item 23.

Texas proposes to establish three hunting zones (Panhandle, Central, and Rio Grande) as an option to the two zones (North and South) previously used; to delay the opening of the mourning dove season in the Central Zone; and to permit two white-winged doves to be included in the bag during the mourning dove season in the Rio Grande Zone (2 white-winged doves in an aggregate daily bag of 10 white-winged and mourning doves). Justifications for the overall proposal include better opportunity to retain an early season in the Panhandle Zone while delaying the season in the new Central Zone until migrants have diluted local dove populations. The aggregate bag limit allowing 2 white-winged doves recognizes the increasing distribution and numbers of whitewings outside their traditional range along the Rio Grande. The Central Flyway Council endorsed the Texas dove regulations modifications.

Response. The Service concurs with the recommendation and proposes these changes for implementation during the 1980–81 hunting season.

As an alternative to a 50-day hunting season with bag limits of 10 mourning doves and 10 white-winged doves, as in previous years, Arizona proposes that they be given the option of selecting, in specifically designated white-winged dove management units, a season of 70 half days with an aggregate daily bag limit of 12 mourning and white-winged doves, in which no more than 6 could be white-winged doves. The possession limit would be double the daily bag limit and hunting would either begin or end at 12 noon daily as determined by State officials. Appropriate data would be gathered during a 3-year experiment, analyzed, and reported upon by Arizona. Although the white-winged dove is at a generally satisfactory level, Arizona wishes to better distribute hunting pressure between white-winged and mourning doves, and over broader geographical areas. The proposed changes would make white-winged dove hunting in key concentration areas less attractive, and shift hunting effort to mourning doves, which have been at high population levels in recent years. The Pacific Flyway Council endorsed the Arizona proposal.

Response. The Service concurs with the recommendation and proposes these changes for implementation during the 1980–81 hunting season.

28. *Other—Stabilized regulations.*

At the Public Hearing held on August 2, 1979, to review the proposed waterfowl and other late hunting season regulations, the Canadian Wildlife Service announced its intention to initiate a new waterfowl management program that had been developed cooperatively with the Provinces of Alberta, Manitoba, and Saskatchewan. A major element of this program is the stabilization of waterfowl hunting regulations for five years. The Service, in responding to the Canadian statement, noted that annual changes in hunting regulations constitute a source of difficulty in understanding the population dynamics of waterfowl, particularly the relationship between regulations and harvest rates. It also noted the advantages of the two nations jointly implementing a study of stabilized regulations.

Duck bag limits and season lengths have not been markedly altered among years in the United States for some time. The objectives of this approach have been to hold hunting opportunity reasonably constant, but within a range that would not result in an overharvest of any population, and to provide an

opportunity to define more precisely the relationships between regulations and harvest.

During the past few months, the Service has been discussing a cooperative study with Canadian Wildlife Service aimed at investigating more thoroughly the impact of environmental variables on waterfowl populations. To this end, the Service proposes to initiate a program in which hunting regulations during the next five years in each of the Flyways would be maintained at the same general levels as during the 1979–1980 hunting season. The focus of the program would be primarily on ducks, and on seasons and bag limits. Consideration will be given to special situations regarding particular species or other aspects of the regulations. An environmental assessment is in preparation in which the proposed program will be examined in more detail, and criteria to be used in guiding it will be defined. The assessment will be made available for public review as soon as possible. The Service proposes to conduct the program in cooperation with the State wildlife agencies and the Canadian Wildlife Service. The program will provide a unique opportunity to study the impact of hunting on North American waterfowl, and to initiate or redirect studies relating to other aspects of waterfowl population dynamics.

Public Comment Invited

Based on the results of migratory game bird studies now in progress and having due consideration for any data or views submitted by interested parties, the amendments resulting from these supplemental proposals will specify open seasons; shooting hours; and bag and possession limits for doves, pigeons, rails, gallinules, woodcock, common snipe, coots, and certain waterfowl in the contiguous United States; sea ducks in coastal waters of certain eastern States; sandhill cranes in North Dakota and South Dakota; and mourning doves in Hawaii.

The Director intends that finally adopted rules be as responsive as possible to all concerned interests. He therefore desires to obtain the comments and suggestions of the public, other concerned governmental agencies, and private interests on these proposals and will take into consideration the comments received. Such comments, and any additional information received, may lead the Director to adopt final regulations differing from these proposals.

Special circumstances are involved in the establishment of these regulations which limit the amount of time which the Service can allow for public comment. Specifically, two considerations compress the time in which the rulemaking process must operate: The need, on the one hand, to establish final rules at a point early enough in the summer to allow affected State agencies to appropriately adjust their licensing and regulatory mechanisms, and, on the other hand, the unavailability before mid-June of specific, reliable data on this year's status of some migratory shore and upland game bird populations. Therefore, the Service believes that to allow a comment period past July 12, 1980, is contrary to the public interests. However, the Service will continue to accept comments on the late seasons until August 23, 1980.

Comment Procedure

It is the policy of the Department of the Interior, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may participate in the rulemaking process by submitting written comments to the Director (FWS/MBMO), U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240. Comments received will be available for public inspection during normal business hours at the Service's office in Room 525 B, Matomic Building, 1717 H Street, NW., Washington, D.C.

All relevant comments on the early season proposals received no later than July 12, 1980, and those received on late seasons by August 23, 1980, will be considered. The Service will attempt to acknowledge received comments, but substantive response to individual comments may not be provided.

NEPA Consideration

The "Final Environmental Statement for the Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (FES 75–54)" was filed with the Council on Environmental Quality on June 6, 1975, and notice of availability was published in the **Federal Register** on June 13, 1975 (40 FR 25241). In addition, several environmental assessments have been prepared on specific matters which serve to supplement the material in the Final Environmental Statement. Copies of these documents are available from the Service.

Endangered Species Act Consideration

Section 7 of the Endangered Species Act provides that, "The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act," and "by taking such action necessary to insure that any action authorized, funded, or carried out * * * is not likely to jeopardize the continued existence of such endangered or threatened species or result in the destruction or modification of habitat of such species * * * which is determined to be critical."

Section 7 consultations are presently under way regarding the early season regulatory proposals. It is possible that the findings from the consultation, which will be included in a biological opinion, may cause modification of some of the regulatory measures proposed in this document. Any modifications that may be desirable will be reflected in the final rulemaking on regulations frameworks for "early seasons" scheduled for publication in the **Federal Register** on or about July 22, 1980.

As in the past, hunting regulations this year are designed, among other things, to remove or alleviate chances of conflict between seasons for migratory game birds and the protection and conservation of endangered and threatened species and their habitats. Examples of such consideration include areas closed to dove and pigeon hunting for protection of the Puerto Rican plain pigeon and the Puerto Rican parrot, both of which are classified as endangered. Also an area in Alaska is closed to Canada goose hunting for protection of the endangered Aleutian Canada goose.

The Service's biological opinions resulting from its consultation under Section 7 are considered public documents and are available for public inspection in or available from the Office of Endangered Species and the Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240.

Nontoxic Shot Regulations

On February 11, 1980, the Service published in the **Federal Register** (45 FR 9028) proposed rules describing nontoxic shot zones for waterfowl hunting seasons commencing in 1980. When eaten by waterfowl, spent lead pellets have a toxic effect. The nontoxic shot zones will reduce the number of deaths to waterfowl by reducing the availability of lead pellets in waterfowl feeding areas. The final regulations were published in the **Federal Register** on June 5, 1980 (45 FR 37847) under § 20.108 of 50 CFR and will also be summarized in waterfowl regulations leaflets to be published late this summer.

In designated nontoxic shot zones in 1980, shotshells loaded with toxic shot will not be permitted for waterfowl

hunting (44 FR 2597). This regulation related only to 12-gauge shotshells in previous years but applies to all guages of shotshells after August 31, 1980.

Authorship

The primary author of this proposed rulemaking is Henry M. Reeves, Office of Migratory Bird Management, working under the direction of John P. Rogers, Chief.

Exemption from Executive Order 12044 and 43 CFR Part 14

As discussed in the **Federal Register** dated February 29, 1980 (45 FR 13630) the Assistant Secretary for Fish and Wildlife and Parks has concluded that the ever decreasing time frames in the regulatory process are mandated by the statutory requirements under Section 704 of the Migratory Bird Treaty Act and the Administrative Procedure Act. The regulatory process simply has no remaining flexibility in its timetable between the accumulation of critical summer survey data and the publication of the revised sets of proposed rulemakings. Compliance with the procedures for the development of significant rules and the preparation of a regulatory analysis established under Executive Order 12044 would simply not be possible if the fall hunting season deadlines were to be achieved. Consequently, although the rules establishing the annual migratory bird hunting regulations are significant, the Assistant Secretary for Fish and Wildlife and Parks has approved the exemption of these regulations from the procedures of Executive Order 12044 and 43 CFR Part 14 which is provided for in § 14.3(f).

Proposed Regulations Frameworks for 1980–81 Early Hunting Seasons on Certain Migratory Game Birds

Pursuant to the Migratory Bird Treaty Act, the Secretary of the Interior has approved proposed frameworks which prescribe season lengths, limits, shooting hours, and outside dates within which States may select seasons for mourning doves, white-winged doves, band-tailed pigeons, rails, woodcock, snipe, and gallinules; for September teal seasons, for a duck season opening in late September, in Iowa; for sea ducks in certain defined areas of the Atlantic Flyway; sandhill cranes in designated portions of North Dakota and South Dakota; and special falconry regulations. For the guidance of State conservation agencies, these frameworks are summarized below.

Note.—Any State desiring its season on woodcock, snipe, gallinule, sandhill cranes, or extended falconry to open in September must make its selection no later than July 26, 1980. Those States which desire these seasons to open after September may make their selection at the time they select their regular waterfowl seasons.

Those Atlantic Flyway coastal States desiring their season on sea ducks in certain defined areas to open in September must make their selection no later than July 26, 1980. Those which desire this season to open after September may make their selection at the time they select their regular waterfowl seasons.

Mourning Doves

Between September 1, 1980 and January 15, 1981, except as otherwise provided, States may select hunting seasons and bag limits as follows:

Eastern Management Unit (All States east of the Mississippi River and Louisiana):

1. Shooting hours [1] between 12 o'clock noon and sunset daily, or as an option between ½ hour before sunrise to sunset daily.

2. Daily bag and possession limits not to exceed 12 and 24, respectively, in all States.

3. Hunting seasons of not more than 70 half or full days which may run consecutively or be split into not more than three periods.

4. As an option to the above, *Alabama, Georgia, Louisiana,* and *Mississippi* may elect to zone their States as follows:

A. Two zones per State having the following descriptions or division lines:

Alabama—The South Zone consists of the area south of U.S. Highway 84 running east to the Covington County line, and including Coffee, Covington, Dale, Geneva, Henry, and Houston Counties. The North Zone consists of the remainder of Alabama.

Georgia—U.S. Highway 280 east to Abbeville, thence along Ocmulgee and Altamaha Rivers to the Atlantic Ocean.

Louisiana—Interstate Highway 10 from the Texas State line to Baton Rouge, Interstate Highway 12 from Baton Rouge to Slidell, and Interstate Highway 10 from Slidell to the Mississippi State line.

Mississippi—U.S. Highway 84.

B. Within each zone, these States may select hunting seasons of not more than 70 half or full days which may run consecutively or be split into not more than three periods.

C. The hunting seasons in the South Zones of these States may commence no earlier than September 20, 1980.

Central Management Unit (Arkansas, Colorado, Iowa, Kansas, Minnesota, Missouri, Montana, Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota, Texas, and Wyoming):

1. Shooting hours between ½ hour before sunrise and sunset daily;

2. Daily bag and possession limits not to exceed 10 and 20, respectively, in all States;

3. Hunting seasons in all States of not more than 60 full days which may run consecutively or be split into not more than three periods.

4. *Texas* may select hunting seasons for each of two previously established zones subject to the following conditions:

A. The hunting season may be split into not more than two periods.

B. The North Zone may have a season of not more than 60 days between September 1, 1980, and January 22, 1981.

C. The South Zone may have a season of not more than 60 days between September 20, 1980, and January 22, 1981. In that portion of Texas where white-winged dove hunting is allowed, the mourning dove season may be held concurrently with the white-winged dove season and with shooting hours coinciding with those for white-winged doves. However, the remaining days must be within the September 20, 1980–January 22, 1981 period.

Or, *Texas* may select hunting seasons for each of three zones (to be designated), subject to the following conditions:

A. The hunting season may be split into not more than two periods except that, in that portion of Texas where white-winged dove hunting is allowed, the mourning dove season may be held concurrently with the white-winged dove season and with shooting hours coinciding with those for white-winged doves.

B. Each zone may have a season of not more than 60 days between September 1, 1980, and January 25, 1981.

5. In *New Mexico*, daily bag and possession limits of mourning and white-winged doves may not exceed 10 and 20, singly or in the aggregate of the two species.

Western Management Unit (Arizona, California, Idaho, Nevada, Oregon, Utah and Washington):

1. Shooting hours between ½ hour before sunrise and sunset daily;

2. Daily bag and possession limits not to exceed 10 and 20, respectively;

3. Hunting seasons of not more than 50 full days which may run consecutively or be split into not more than three periods.

In the *Nevada* counties of *Clark* and *Nye*, and in the *California* counties of *Imperial, Riverside,* and *San Bernardino*, daily bag and possession limits of mourning and white-winged

[1] The hours noted here and elsewhere also apply to hawking (taking by falconry).

doves may not exceed 10 and 20, respectively, singly or in the aggregate of the two species.

Arizona may for designated white-winged dove management units have the option to select seasons of 70 half days beginning or ending at noon with a daily bag limit of 12 doves in the aggregate, no more than 6 of which may be white-winged doves, and a possession limit twice the daily bag limit after the opening day.

White-Winged Doves

Arizona, California, Nevada, New Mexico, and *Texas* may select hunting seasons between September 1, 1980, and December 31, 1980, and daily bag and possession limits as stipulated below. Shooting hours between ½ hour before sunrise and sunset may be selected.

Arizona may select a hunting season of not more than 29 consecutive days, to run concurrently with first period of the split mourning dove season. The daily bag and possession limits may not exceed 10 white-winged doves, except for those areas selected under the option for mourning dove season having 70 half days, where limits on white-winged doves shall be no more than 6 a day with 12 in possession after the opening day.

California may select a hunting season for the counties of *Imperial, Riverside,* and *San Bernardino* only. The daily bag and possession limits may not exceed 10 and 20 white-winged and mourning doves, respectively, singly or in the aggregate of the two species. Dates, limits, and hours are to conform with those for mourning doves.

Nevada may select a hunting season for the counties of *Clark* and *Nye* only. The daily bag and possession limits may not exceed 10 and 20 white-winged and mourning doves, respectively, singly or in the aggregate of the two species. Dates, limits, and hours are to conform with those for mourning doves.

New Mexico may select a hunting season with daily bag and possession limits may not exceed 10 and 20 white-winged and mourning doves, respectively, singly or in the aggregate of the two species. Dates, limits, and hours are to conform with those for mourning doves.

Texas may select a hunting season of not more than 5 days for that portion of the State where the species occurs. The daily bag and possession limits may not exceed 10 and 20 white-winged and mourning doves, respectively. The season may be split within the overall framework.

And, *Texas* may also select a white-winged dove season of not more than 60 days coinciding with the mourning dove season. The daily bag limit of both species in the aggregate may not exceed 10, of which not more than 2 may be whitewings. The possession limit of both species in the aggregate may not exceed 20, of which not more than 4 may be whitewings.

Band-Tailed Pigeons

West Coast States (California, Oregon, and Washington). These States may select hunting seasons not to exceed 30 consecutive days between September 1, 1980, and January 15, 1981. Shooting hour between ½ hours before sunrise and sunset may be selected. The daily bag and possession limits may not exceed 5 band-tailed pigeons.

California may zone by selecting hunting seasons of 30 consecutive days for each of the following two zones:

1. In the counties of *Alpine, Butte, Del Norte, Glenn, Humboldt, Lassen, Mendocino, Modoc, Plumas, Shasta, Sierra, Siskiyou, Tehama,* and *Trinity;* and

2. The remainder of the State.

Four-Corners States (Arizona, Colorado, New Mexico, and Utah). These States may select hunting seasons not to exceed 30 consecutive days between September 1 and November 30, 1980. Shooting hours between ½ hour before sunrise and sunset may be selected. The daily bag and possession limits may not exceed 5 and 10, respectively. These seasons shall be open only in the areas delineated by the respective States in their hunting regulations. Each hunter must have been issued and carry on his person while hunting band-tailed pigeons a valid band-tailed pigeon hunting permit issued by the respective State conservation agency and such permit will be valid in that State only.

New Mexico may divide its State into a North and a South Zone along a line following U.S. Highway 60 from the Arizona State line east to Interstate Highway 25 at Socorro and along Interstate Highway 25 from Socorro to the Texas State line. Between September 1, 1980, and November 30, 1980, in the North Zone, and October 1, 1980, and November 30, in the South Zone, hunting seasons not to exceed 20 consecutive days in each zone may be selected.

Rails

(Clapper, King, Sora, and Virginia)

The States included herein may select seasons between September 1, 1980, and January 20, 1981, on clapper, king, sora, and Virginia rails as follows:

The season length for all species of rails may not exceed 70 days. Shooting hours between ½ hour before sunrise and sunset in all States for all species may be selected.

Clapper and King Rails.

1. In *Rhode Island, Connecticut, New Jersey, Delaware,* and *Maryland,* the daily bag and possession limits may not exceed 10 and 20 clapper and king rails, respectively, singly or in the aggregate of these two species.

2. In *Texas, Louisiana, Mississippi, Alabama, Georgia, Florida, South Carolina, North Carolina,* and *Virginia,* the daily bag and possession limits may not exceed 15 and 30 clapper and king rails, respectively, singly or in the aggregate of the two species.

3. The season will remain closed on clapper and king rails in all other States.

Sora and Virginia Rails.

In addition to the prescribed limits for clapper and king rails, daily bag and possession limits not exceeding 25, singly or in the aggregate of sora and Virginia rails, are prescribed in States in the Atlantic, Mississippi, and Central Flyways, and portions of Colorado, Montana, New Mexico, and Wyoming in the Pacific Flyway.[2, 3]

No hunting season is prescribed for rails in the remainder of the Pacific Flyway.

Woodcock

States in the Atlantic, Mississippi, and Central Flyways may select hunting seasons between September 1, 1980, and February 28, 1981, of not more than 65 days, with daily bag and possession limits of 5 and 10, respectively, except that in *Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Deleware, Maryland,* and *Virginia* the season must end by January 31. Shooting hours may be selected between ½ hour before sunrise and sunset. Any State may split its woodcock season without penalty.

New Jersey may select woodcock seasons by north and south zones divided by State Highway 70. Seasons in each zone may not exceed 55 days.

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[2] The Central Flyway is defined as follows: Colorado (east of the Continental Divide), Kansas, Montana (east of Hill, Chouteau, Cascade, Meagher, and Park Counties), Nebraska, New Mexico (east of the Continental Divide but outside the Jicarilla Apache Indian Reservation), North Dakota, Oklahoma, South Dakota, Texas, and Wyoming (east of the Continental Divide).

[3] The Pacific Flyway is defined as follows: Arizona, California, Idaho, Nevada, Oregon, Utah, and Washington; those portions of Colorado and Wyoming lying west of the continental Divide; New Mexico west of the Continental Divide plus the entire Jicarilla Apache Indian Reservation; and in Montana, the counties of Hill, Chouteau, Cascade, Meagher, and Park, and all counties west thereof.

Common Snipe

States in the Atlantic, Mississippi, and Central Flyways may select hunting seasons between September 1, 1980, and February 28, 1981, not to exceed 107 days, except that in *Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Deleware, Maryland,* and *Virginia* the season must end no later than January 31. Seasons between September 1, 1980, and February 28, 1981, and not to exceed 93 days, may be selected in the Pacific Flyway portions of *Montana, Wyoming, Colorado,* and *New Mexico.*

All States in the Pacific Flyway, except those portions of *Colorado, Montana, New Mexico,* and *Wyoming* in the Pacific Flyway, may select their snipe seasons to run concurrently with their regular duck seasons. In these Pacific Flyway States, except portions of the four States noted previously, it will be unlawful to take snipe when it is unlawful to take ducks.

Shooting hours between ½ hour before sunrise and sunset may be selected. Daily bag and possession limits may not exceed 8 and 16, respectively. Any State may split its snipe season into two segments without penalty. States or portions thereof in the three eastern Flyways may defer selections of snipe seasons at this time and make the selections in August when they select waterfowl seasons. In that event, the daily bag and possession limits will remain the same but shooting hours must conform with those waterfowls.

Gallinules

States in the Atlantic, Mississippi and Central Flyways may select hunting seasons between September 1, 1980, and January 20, 1981, of not more than 70 days. States in the Pacific Flyway must select their hunting seasons within the waterfowl seasons. States may split their seasons without penalty. Shooting hours may be selected between ½ hour before sunrise and sunset. The daily bag and possession limits may not exceed 15 and 30, respectively.

States may select their gallinule seasons at the time they select their waterfowls seasons. If the selection is deferred, daily bag and possession limits will remain the same, but shooting hours must conform with those for waterfowl, and the season length will be the same as that for waterfowl, or 70 days, whichever is the shorter period. Exception: A gallinule season selected by any State in the Pacific Flyway may not exceed its waterfowl season, and the daily bag and possession limits may not exceed 25 coots and gallinules, singly or in the aggregate of the two species.

Sandhill Cranes

North Dakota may select a sandhill crane hunting season of 5 days during September 6 through 10, 1980, in Kidder, Stutsman, Benson, Emmons, Pierce, and Burleigh Counties, and a season of 9 days during September 6 through 14, 1980, in McLean and Sheridan Counties. *South Dakota* may select a sandhill crane hunting season of 9 days during September 1, through 28, 1980, in Campbell, Walworth, Potter, Dewey, and Corson Counties. In both States, shooting hours may be selected between ½ hour before sunrise and sunset. The bag limit is 3 birds daily and the possession limit is 6 birds. Each person participating in the season must obtain and have in his possession while hunting a Federal sandhill crane hunting permit.

Scoter, Eider, and Oldsquaw Ducks (Atlantic Flyway)

A maximum season of 107 days for taking scoter, eider, and oldsquaw ducks may be selected between September 15, 1980, and January 20, 1981, in all coastal waters and all waters of rivers and streams seaward from the first upstream bridge in *Maine, New Hamphsire, Massachusetts, Rhode Island,* and *Connecticut;* in those coastal waters of the State of *New York* lying in Long Island and Block Island Sounds and associated bays eastward from a line running between Miamogue Point in the town of Riverhead to Red Cedar Point in the town of Southampton, including any ocean waters of *New York* lying south of Long Island; in any waters of the Atlantic Ocean and in any tidal waters of any bay which are separated by at least 1 mile of open water from any shore, island, and emergent vegetation in *New Jersey, South Carolina,* and *Georgia;* and in any waters of the Atlantic Ocean and in any tidal waters of any bay which are separated by at least 800 yards of open water from any shore, island, and emergent vegetation in *Delaware, Maryland, North Carolina,* and *Virginia;* and provided that any such areas have been described, delineated, and designated as special sea duck hunting areas under the hunting regulations adopted by the respective States. In all other areas of these States and in all other States in the Atlantic Flyway, sea ducks may be taken only during the regular open season for ducks.

The daily bag limit is 7 and the possession limit is 14, singly or in the aggregate of these species. During the regular duck season in the Atlantic Flyway, States may set, in addition to the regular limits, a daily bag limit of 7 and a possession limit of 14 scoter, eider, and oldsquaw ducks, singly or in the aggregate of these species.

Shooting hours between ½ hour before sunrise until sunset daily may be selected.

Any State desiring its sea duck season to open in September must make its selection no later than July 26, 1980. Those States desiring their sea duck season to open after September may make their selection at the time they select their watefowl seasons.

September Teal Season

Between September 1 and September 30, 1980, an open season on all species of teal may be selected by *Alabama, Arkansas, Colorado,* (Central Flyway portion only), *Illinois, Indiana, Kansas, Kentucky, Louisiana, Mississippi, Missouri, New Mexico* (Central Flyway portion only), *Ohio, Oklahoma, Tennessee,* and *Texas* in areas delineated by State regulations.

Shooting hours are from sunrise to sunset daily. The season may not exceed 9 consecutive days with a bag limit of 4 teal daily and 8 in possession. States must advise the Service of season dates and special provisions to protect nontarget species by July 26, 1980.

Late September Duck Season in Iowa

Iowa is offered the option of opening a portion of its duck hunting season in September, with the number of days in September to be deducted from the number of days allowed for the regular duck season. All ducks which are legal during the regular duck season may be taken during the September segment of the season. In 1980, the 5-day early season option will extend from September 20 through September 24, with daily bag and possession limits being the same as those in effect during the 1980 regular duck season. Iowa must advise the Service by July 26, 1980, if it wishes to select this option.

Special Falconry Regulations

Falconry is a permitted means of taking migratory game birds in any State meeting Federal falconry standards in 50 CFR 21.29(k). These States may select an extended season for taking migratory game birds in accordance with the following:

1. Seasons must fall within the regular season framework dates and, if offered, other special season framework dates for hunting.

2. Hunting hours shall not exceed ½ hour before sunrise to sunset.

3. Falconry daily bag and possession limits for all permitted migratory game birds shall not exceed 3 and 6 birds, respectively, singly or in the aggregate, during both regular hunting seasons and extended falconry seasons.

4. Each State selecting extended seasons shall report the results of the special falconry season to the Service by March 15, 1981.

5. Each State selecting the special season must inform the Service of the season dates and publish said regulations.

General hunting regulations, including seasons, hours, and limits apply to falconry in each State listed in 50 CFR 21.29(k) which does not select an extended falconry season.

Note.—In no instance shall the total number of days in any combination of duck seasons (regular duck season, sea duck season, September teal season, special scaup season, special scaup and goldeneye season, or falconry season) exceed 107 days in any geographical area.

Dated: June 25, 1980.

Lynn A. Greenwalt,

Director, U.S. Fish and Wildlife Service.

[FR Doc. 80-19658 Filed 6-30-80; 8:45 am]

BILLING CODE 4310-55-M

federal register

Tuesday
July 1, 1980

Part VI

Consumer Product Safety Commission

Consumer Products Containing Benzene as an Intentional Ingredient; General Order for Submission of Information

CONSUMER PRODUCT SAFETY COMMISSION

Consumer Products Containing Benzene as an Intentional Ingredient; General Order for Submission of Information

AGENCY: Consumer Product Safety Commission.

ACTION: General order for submission of information.

SUMMARY: The Commission orders firms who have manufactured, imported, or labeled any consumer products, except gasoline, containing benzene as an intentional ingredient since January 1, 1979 to provide the Commission with identifying information concerning these products, the concentration of benzene in the products, the purpose served by the benzene, and the marketing and use patterns of the products. Manufacturers (including importers) and private labelers are also required to update the information or report any new uses of benzene as an intentional ingredient in consumer products for a one year period following publication of the order. The Commission believes that information obtained as a result of this order will assist the Commission in assessing the extent of public exposure to consumer products containing benzene as an intentional ingredient.

DATES: Manufacturers (including importers) and private labelers are required to furnish the information specified in this order on or before August 15, 1980 and are required to update the information (or report new uses of benzene as an intentional ingredient in consumer products) for a one year period following publication of this order in the **Federal Register.** The order expires one year after publication in the **Federal Register,** but may be renewed.

ADDRESS: Information required by this order should be sent to the Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207.

FOR FURTHER INFORMATION CONTACT: Carole Roth, Office of the General Counsel, Consumer Product Safety Commission, Washington, D.C. 20207, 202–634–7770 (for questions concerning applicability of this order to a particular product or legal questions), or Rory Fausett, Health Sciences, Consumer Product Safety Commission, Washington, D.C. 20207, 202–492–6481 (for technical questions).

SUPPLEMENTARY INFORMATION:

A. Background

On May 19, 1978 the Commission proposed a ban under section 8 of the Consumer Product Safety Act (CPSA) of all consumer products, except gasoline and solvents or reagents for laboratory use, containing benzene (C_6H_6, CAS 71–43–2, also known as Benzol) as an intentional ingredient or as a contaminant at a level of 0.1 percent or greater by volume (see 43 FR 21838). The Commission took that action based on a preliminary finding that benzene-containing consumer products present an unreasonable risk of injury to the public because benzene inhalation can cause blood disorders, chromosomal abnormalities, and leukemia. The Commission also concluded that no feasible standard could adequately protect the public from these risks.

Because of the complexity of the issues presented by the proposed ban and in the comments on the proposal, the Commission has on two occasions (see 43 FR 47197, October 13, 1978 and 44 FR 22499, April 16, 1979) extended the time in which it must issue a final ban or withdraw the rule proposed on May 19, 1978. On April 9, 1980, the Commission voted to further extend this time until October 13, 1980.

In the process of preparing technical data for use in responding to the comments on the benzene proposal, the Commission staff received information indicating that benzene is no longer used as an intentional ingredient in consumer products. Prior to publication of the proposed ban, two classes of products were known to contain benzene as an intentional ingredient: paint strippers and rubber cements. However, at the time of the proposal, only four producers of these products were found to still be using benzene as an intentional ingredient. Subsequent contact with these firms by staff in September, 1978 revealed that all of the firms, including one other firm that repackaged pure benzene, had stopped buying benzene and would be out of benzene inventories by the end of 1978. This information is consistent with the conclusion that benzene is no longer used intentionally in consumer products in a report prepared for the Commission by Battelle, Columbus Laboratories. (See "Analysis of Technical and Economic Feasibility of a Ban on Consumer Products Containing 0.1 Percent or More Benzene," December, 1978. Copies of this report are available in the Office of the Secretary of the Commission).

The purpose of this order is to determine whether the information that the Commission has received on the use of benzene as an intentional ingredient in consumer products is current. Since the order will remain in effect for one year, it will also enable the Commission to receive information on any new uses of benzene as an intentional ingredient in consumer products. Information obtained as a result of this order will assist the Commission in assessing the extent of public exposure to consumer products containing benzene as an intentional ingredient.

B. Description of the Order

This order requires manufacturers (including importers) and private labelers of any consumer products, except, gasoline, containing benzene as an intentional ingredient to provide identification information concerning these products, the concentration of benzene in the products, the purpose served by the benzene, and the marketing and use patterns of the product. Only manfacturers (including importers) and private labelers who have manfactured or labeled products which contain benzene as an intentional ingredient since January 1, 1979 as well as current manfacturers and private labelers of consumer products which contain benzene as an intentional ingredient are required to submit the information. Firms which begin to manufacture, import, or label consumer products containing benzene as an intentional ingredient within a one year period following publication of the order are also required to report. The order is issued under the authority of sections 5 and 27(b)(1) of the Consumer Product Safety Act (CPSA), 15 U.S.C. 2054, 2067(b)(1).

Gasoline is not included within the scope of the order because a number of agencies including the Occupational Safety and Health Administration, the Environmental Protection Agency, the National Highway Traffic Safety Administration and the Energy Department, as well as the Commission, may have some jurisdiction over gasoline. Any regulatory action concerning benzene in gasoline, therefore, would probably involve several agencies. Such action would also likely have a major economic impact, necessitating thorough feasibility studies beyond the scope of the Commission's current benzene activities. It should be noted in this regard that gasoline was excluded from the proposed benzene ban. Furthermore, the Commission is aware that unleaded gasoline contains benzene as an intentional ingredient and does not need information from manufacturers of this product at this time. Solvents or reagents for laboratory use containing benzene were also excluded from the

proposed ban. These products, however, are included within the scope of this order because the Commission is concerned about the use of benzene in school laboratories. The Commission, therefore, wishes to receive use and marketing information on these solvents and reagents. The information will be helpful to the Commission in deciding whether any regulatory action, such as labeling, or any other Commission activity, such as the distribution of information and education materials, is warranted in this area.

C. Trade Secrets or Confidential Information

If a manufacturer, importer, or private labeler believes that information furnished in response to the order is a trade secret or proprietary or confidential commercial or financial information under 5 U.S.C. 552(b)(4) of the Freedom of Information Act, or is exempt from disclosure under section 6(a)(2) of the CPSA, 15 U.S.C. 2055(a)(2), or 18 U.S.C. 1905, the manufacturer or private labeler must request and justify confidential treatment at the time the information is submitted, or within 10 working days of the submission and substantiate the claim of confidentiality. Requests for confidential treatment will be handled in accordance with the Freedom of Information Act as amended (5 U.S.C. 552), the Commission's regulations under that act, 16 CFR Part 1015, and 15 U.S.C. 2055(a)(2). Information may be released if a written request for exemption is not made in accordance with 16 CFR 1015.18.

The Commission emphasizes that in accordance with section 6(a)(2) of the CPSA, all information reported to the Commission in response to this order which contains or relates to a trade secret or other matter referred to in 18 U.S.C. 1905 shall be considered confidential and shall not be disclosed except that such information may be disclosed to other officers or employees concerned with this matter.

D. Additional Information

The reporting requirement contained in this order has been approved by the U.S. General Accounting Office under the Federal Reports Act (Approved by GAO B–180232 (RO680 and expires on July 1, 1981.

Failure to respond to the order, or the furnishing of false reports is a prohibited act under section 19(a)(3) of the CPSA, 15 U.S.C. 2068(a)(3) and may subject the manufacturer or private labeler to civil or criminal penalties under sections 20 and 21 of the CPSA, 15 U.S.C. 2069, 2070.

E. The Order

This general order is issued pursuant to section 27(b)(1) and section 5 of the Consumer Product Safety Act (CPSA) (15 U.S.C. 2076(b)(1), 2054).

(1) The Commission hereby orders manufacturers (including importers) and private labelers of the products listed in paragraph (2) to furnish the Commission with information specified in paragraph (3).

(2) *Scope of the Order.* This order applies only to manufacturers (including importers) and private labelers of any consumer products, except gasoline, containing benzene as an intentional ingredient, manufactured, imported or labeled since January 1, 1979; any such products currently being manufactured, imported or labeled; and any such products manufactured, imported, or labeled until July 1, 1981. "Consumer product" is defined in section 3(a) of the CPSA (15 U.S.C. 2052(a)) as any article or component part, produced or distributed for sale to, or for personal use, consumption or enjoyment of a consumer in or around a permanent or temporary household or residence, a school, in recreation, or otherwise. The act at section 3(a)(1)(A–1) excludes from the definition of consumer product the following:

(A) Articles that are not customarily produced or distributed for sale to, or use or consumption by, or enjoyment of, a consumer,

(B) Tobacco and tobacco products,

(C) Motor vehicles or motor vehicle equipment,

(D) Pesticides,

(E) Firearms, firearms ammunition, or components of firearms ammunition, including black powder or gun powder,

(F) Aircraft, aircraft engines, propellers or appliances,

(G) Boats, vessels and appurtenances to vessels, and equipment,

(H) Drugs, devices, or cosmetics, or

(I) Food.

Manufacturers of products containing benzene as an intentional ingredient that are true industrial products, or that are otherwise excepted from the definition of consumer product listed above are not required to furnish the information specified in this order.

For purposes of this order, "benzene as an intentional ingredient" means benzene (C_6H_6, CAS 71–43–2, also known as Benzol) which is added deliberately to a product to impart specific characteristics.

(3) *Information to be furnished.* Firms falling in the following categories shall furnish information under the order: firms manufacturing, importing, or labeling any consumer product, except gasoline, containing benzene as an intentional ingredient since January 1, 1979; firms currently manufacturing, importing, labeling any such products; and firms which begin manufacturing, importing, or labeling such products within a one year period following the date of publication of the order. (Firms in this last category are required to furnish the information within 30 days of the commencement of manufacturing, importing, or labeling a product covered by the order.)

(a) State the name of your firm and the address of your principal place of business. Specify whether you are a manufacturer, importer, or private labeler of the product about which you are submitting information. A private labeler is an owner of a brand or trademark on the label of a consumer product who is not the manufacturer of the product, where the brand or trademark of the manufacturer does not appear on the label.

(b) Provide the following information, in the order listed, for each identifiable type of consumer product, except gasoline, containing benzene as an intentional ingredient manufactured, imported, or labeled since January 1, 1979 or currently being manufactured, imported or labeled.

(i) Give identification information (e.g. brand name, style, model number and/or production date code number) for each product.

(ii) Specify the concentration of benzene in each product. If the concentration of benzene is variable, indicate the range of concentrations and the frequency with which different concentrations occur.

(iii) Specify the dates during which your firm has been manufacturing, importing, or labeling the product with benzene as an intentional ingredient.

(iv) Describe the purpose served by the benzene in each product. State the name of any substitute substance which would serve the same purpose and discuss the cost differential, if any.

(v) Describe the usual promotion, marketing and use patterns of each product identified, including the quantities in which the product is packaged, and the total number of units sold since January 1, 1979.

(vi) Provide the name, title, address, and telephone number of the person filing the response to this order and of the highest level official in your firm responsible for ensuring the accuracy and completeness of the response.

4. *Time and place for submission of information, obligation to submit new information.*

The required information shall be submitted to the Office of the Secretary,

Consumer Product Safety Commission, Washington, D.C. 20207 so as to be received on or before *August 15, 1980.*

The response shall be signed by a responsible executive officer of the firm. Failure or refusal to respond to this order or the furnishing of false reports is a prohibited action under section 19(a)(3) of the CPSA (15 U.S.C. 2068(a)(3)) and may subject the manufacturer, private labeler, or importer to civil or criminal penalties under sections 20 and 21 of the CPSA (15 U.S.C. 2069, 2070).

Any changes in the information shall be submitted within 30 days of the change, until the expiration of the order on July 1, 1981. This provision applies to manufacturing, importing or labeling new products incorporating benzene as an intentional ingredient as well as to any changes in existing products

(15 U.S.C. 2076(b)(1), 2054, 2068(a)(3), 2069, 2070.)

Dated: June 24, 1980.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 80-19675 Filed 6-30-80; 8:45 am]

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federal register

Tuesday
July 1, 1980

Part VII

Department of Energy

Guidelines for Energy Management in General Operations of the Federal Government; Final Rule

DEPARTMENT OF ENERGY

10 CFR Part 436

Federal Energy Management and Planning Programs; Guidelines for Energy Management in General Operations of the Federal Government

AGENCY: Department of Energy.

ACTION: Final rule.

SUMMARY: The Department of Energy is issuing final guidelines for Federal agencies to use as they develop an overall 10-year energy management plan to reduce the rate of energy consumption and increase energy efficiencies in their general operations. These guidelines pertain to all Federal general operations, including energy used for general transportation, services, industrial or production type activities, and for operational training and readiness functions. Guidelines for the related "buildings" plan aspects of the Federal Energy Management and Planning Programs such as heating, lighting, air conditioning and hot water systems were published as a final rule in the **Federal Register** on November 14, 1979. The integration of agency General Operations and Buildings Plans will constitute the planning base for all Federal energy use.

The purposes of the general operations guidelines for Federal agencies are: To reduce the rate of energy consumption, to increase energy efficiency, to provide a methodology for reporting agency progress in meeting energy conservation goals, and to promote emergency energy conservation planning.

Using agency inputs prescribed by the guidelines, the Department of Energy will have a factual basis to disseminate energy-saving information to both the public and private sectors, to initiate actions within the Federal Government that may be necessary to avoid occurrence of energy supply crises, and to promote the establishment and attainment of energy conservation goals on an agency by agency basis.

EFFECTIVE DATE: July 31, 1980.

FOR FURTHER INFORMATION CONTACT:

Paul G. Brumby, (202) 252–9467, Office of Conservation and Solar Energy, Department of Energy, 1000 Independence Ave., SW., Washington, D.C. 20585.

Karen Griffin, (202) 252–4440, Office of Policy and Evaluation, Department of Energy, 1000 Independence Ave., SW., Washington, D.C. 20585.

Christopher T. Smith, (202) 252–9510, Office of the General Counsel, Department of Energy, 1000 Independence Ave., SW., Washington, D.C. 20585.

SUPPLEMENTARY INFORMATION:

I. Introduction

Today, and for the foreseeable future, Federal agencies are faced with rising energy costs and the possibility of a sudden, and possibly severe, reduction of oil-based energy resources, natural gas or electricity. To assist in avoiding or managing such problems, the Department of Energy (DOE) today establishes Subpart F, Part 436 of Title 10 of the Code of Federal Regulations, for Federal agencies to follow as they develop 10-year conservation plans for their general operations and emergency conservation plans for an emergency energy shortage. Besides facilitating conservation planning in agencies' general operations and promoting emergency planning, these guidelines will enable DOE to initiate necessary actions within the Federal Government to avoid or mitigate energy supply crises and to promote the establishment and the attainment of energy conservation goals on an agency by agency basis.

These guidelines are published pursuant to and in accordance with Section 381 of the Energy Policy and Conservation Act, as amended (EPCA) 42 U.S.C. 6361; Executive Order 11912, as amended by Executive Order 12003 (the Executive Order), 42 FR 37523 (July 20, 1977); Title V, Part 3, of the National Energy Conservation Policy Act (NECPA), Pub. L. 95–619, 92 Stat. 3275 (1978); Section 644 of the Department of Energy Organization Act, 42 U.S.C. 7254; Presidential Memorandum, (Reduction of Energy Use by the Federal Government, February 2, 1979); Presidential Memorandum, (Required 5% Reduction in Agency Energy Use, April 10, 1979); and Section 211(c) of the Emergency Energy Conservation Act of 1979, Pub. L. 96–102, 93 Stat 758 (1979), 42 U.S.C. 8511(c).

Under the Executive Order and by operation of Section 301 of the Department of Energy Organization Act, 42 U.S.C 7151, the Secretary of DOE is responsible for developing a Federal 10-year energy management plan. The Executive Order requires each Executive agency to submit to DOE an overall Federal 10-year energy management plan for conserving fuel and energy in all of its operations. Each agency plan is to include a Buildings Plan and a General Operations Plan. Guidelines for establishing the Buildings Plans were published as final rule for inclusion in 10 CFR Part 436, Subpart C (44 FR 65714, November 14, 1979), and this final rule establishes guidelines for the General Operations Plan.

The guidelines published today establish a series of actions to be taken by Federal agencies to reduce energy use. Such actions will include establishing specific energy reduction goals; identifying appropriate baselines for charting and evaluating progress toward agency goals; formulating long-term plans for achievement of goals; adopting appropriate conservation measures; developing emergency conservation plans; and establishing specific evaluation and reporting procedures. All such actions shall be undertaken in accordance with a time-phased program coordinated with DOE, a committee of Federal agency representatives, and the Office of Management and Budget (OMB). The guidelines are designed to assure the earliest possible implementation of all known cost-effective energy conservation measures. It is anticipated that any such action should not jeopardize attainment of fundamental agency functions or missions.

DOE considered assigning annual general operations energy consumption targets (energy Btu budgets) for each Federal agency during the 1980–1985 period. This approach was avoided because information on individual agency missions and budgets was inadequate and because it could adversely affect the agency's mission. Therefore, the general operations guidelines allow goals in general operations to be set by each agency. This approach is taken to ensure that energy conservation is balanced against agency primary missions and to avoid degradation of services which might result from improperly planned and implemented conservation measures. However, these guidelines do prescribe management methodologies for planning, control, and selected operational measures for obtaining energy efficiencies or reductions. Furthermore, DOE intends to supplement these guidelines, as needed, with management controls, additional energy conservation measures for agency consideration, and if necessary, energy-related standards of operations.

Since the missions and operating responsibilities of Federal agencies vary widely, general operations planning consists of heterogeneous sets of agency-specific programs, projects and activities. Agency reports indicate that all major and most lesser energy-using agencies have ongoing programs to train, motivate, and educate employees; to review and revise administrative practices to make them more energy

efficient; to eliminate unnecessary travel; to purchase fuel-efficient automobiles and other equipment; to curtail unnecessary activities; and to improve operational scheduling and maintenance. While most Federal agencies have already made progress toward reducing energy use, these guidelines are expected to reinforce ongoing energy conservation efforts and to provide a more comprehensive and coordinated planning process for achieving greater reductions and efficiencies in energy use.

DOE's Office of Federal Energy Management and Planning Programs (FEMP) is responsible for coordinating the development of the Federal 10-year general operations and buildings plans. Today's final rule was developed in consultation with OMB, the "656" Committee (the Interagency Federal Energy Policy Committee, established under section 656 of the DOE Organization Act and which consists of designated Assistant Secretaries or Assistant Administrators of various agencies), and other Federal agencies who provided advice, participated in interagency meetings, and reviewed drafts of the guidelines. The Director of OMB has concurred in today's final rule.

Section 381 of the EPCA makes many of the Executive Order provisions regarding the Federal 10-year energy management plan applicable to the United States Postal Service and Executive agencies as defined by 5 U.S.C. 105. These agencies are referred to in this rule as "Federal agencies." In addition, because of the significant role of the Department of Defense (DOD) in energy management, DOD will submit separate plans and reports for the Departments of Army, Navy, and Air Force, as well as a collective plan and reports for all DOD organizations including the military departments. However, data from the military departments will be published under the heading of the Department of Defense, and all formal contact from DOE will be with DOD.

II. Technical Assistance From DOE

The development of 10-year plans and the establishment of reporting mechanisms to meet the provisions of these guidelines may require resources in excess of those currently available to some agencies. To the extent requested and possible, DOE will provide technical assistance to agencies.

III. Summary of Comments on the Proposed Rule and DOE Responses

On February 1, 1980 (45 FR 7498), DOE published proposed guidelines for agencies to follow in developing their 10-year plans for conserving energy in their general operations. DOE received nine written comments, some of which were received after the end of the comment period, and considered all of them in the development of this final rule. In addition, other minor technical revisions have been made as a result of continuing DOE analysis and dialogue with agency energy coordinators.

1. Level of Detail in Planning and Reporting.

Two commentors suggested that the guidelines are too prescriptive, require an unneeded and unjustified level of reporting and detail, and fail to give adequate consideration to existing long-term functioning energy management conservation plans and programs.

The President has repeatedly emphasized the need for wise use of energy resources, particularly by the Federal Government. Consistent with this need, the public is entitled to an accounting of energy use planning and performance by the Federal Government. To be effective, the accounting mechanism must conform to principles generally acceptable to Federal agencies, the President, the Congress, and the general public. These guidelines are intended to establish such an accounting mechanism, and if the mechanism is to be effective, it is important that all Federal agencies follow the methodology contained in the guidelines.

DOE recognizes that a burden is imposed on Federal agencies, and that some agencies may be required to modify existing methods and procedures. DOE has attempted to minimize the reporting burden while providing enough detail to support energy policy decisions. Should an agency encounter difficulty in preparing initial plans or revising them, technical assistance may be available through DOE. DOE will review the reporting requirements after agency submissions of the initial plan and subsequent annual reports to determine whether format changes may be appropriate. Should an agency be unable to comply with provisions of this rule, the agency concerned may seek a waiver.

2. Fuel Use Conversion to Btu

Two commentors disagreed about using a total cycle (source) conversion factor of 11,600 Btu/kwh for electricity and 1,360 Btu/lb for steam while on-site factors are used for other fuel types. One commentor suggested that all fuel use be calculated with an on-site factor (3412 Btu/kwh for electricity) while the other commentor suggested that all fuel use be converted using a total cycle analysis. Since conversion to Btu's is not essential for reporting agency progress toward improved conservation and efficiency goals, and in view of the comments, DOE has changed the guidelines to require reporting in physical units of the particular fuel type; e.g., kilowatt hours, gallons, and cubic feet. This also simplifies the reporting calculations agencies must perform.

3. Different Treatment of Smaller Agencies

One commentor suggested that there ought to be different treatment for smaller agencies which might find the paperwork and administrative requirements burdensome.

DOE considered exempting smaller agencies from some provisions of the rule. DOE believes that the scope of supporting detail developed by a smaller agency will be substantially less than that developed by a larger agency. Accordingly, while the added burden of these guidelines is recognized, DOE believes that the requirements should not be unduly burdensome for smaller agencies. Moreover, the planning elements identified in these guidelines are essential for all agencies.

As stated above, DOE intends to provide additional guidance and continuing technical assistance to help agencies achieve the objectives of the guidelines. Furthermore, after the initial plans and subsequent annual reports are submitted, DOE will review the reporting requirements faced by smaller agencies to determine whether they should be changed.

4. 436.101, Definitions

One commenter expressed a preference for the words "objectives and measures" over use of the word "goals." DOE has revised the definition of "goal" to simplify and clarify its intended meaning.

One commenter suggested that the base year be changed from FY 1975 to the previous fiscal year for each report or plan because some agency programs have significantly increased since FY 1975, making it unrealistic to use FY 1975 data to compare and project energy use through FY 1990.

Although significant program increases (or decreases) could make comparisons of energy use with 1975 data misleading, DOE believes that other provisions of these guidelines will allow agencies to accurately demonstrate energy conservation planning and progress. For example, agencies are required to relate energy conservation goals to primary mission goals in the text of 10-year plans and annual reports including data on energy

use avoidance as well as energy use. In addition, information on energy efficiency is included in planning and reporting. It is anticipated that progress in improving energy efficiency should not be hampered by program increases.

Furthermore, it is necessary to establish a common starting point or anchor so that comparisons may be made among agencies and between points in time. DOE believes that FY 1975 is the appropriate base year because that is the base year established by the Executive Order and historically it has been used for comparisons in energy use.

One commenter also proposed that the definition for general operations not include the word "world-wide" since some agencies are not collecting world-wide data and to do so would impose a tremendous burden. The commentor recommended that the elements of general operations be consistent with those presently reported on the quarterly energy conservation report.

Section 436.106, Reporting Requirements, has been amended to make reporting of foreign energy consumption optional if such consumption is *estimated* to be less than 10% of the total energy consumption in the United States of that agency. Since energy consumption in foreign countries is a significant part of general operations for some agencies and is currently being reported, DOE considers it proper to retain "world-wide" in the definition for general operations.

5. 436.102, General Operations Plan Format and Content

Two commentors suggested that the requirement to provide costs and benefits for all conservation measures is unworkable since costs and budget expenditures cross several budget line items. Although DOE recognizes the difficulty and will attempt to assist agencies in this regard, estimation of cost and benefits of conservation measures is considered to be a prerequisite to adequate planning and to insure that only cost-effective measures are adopted.

One commentor noted that personnel ceilings may result in the acquisition of new energy intensive equipment to replace people, and suggested that specific budget guidelines should be provided discussing these trade off considerations. DOE believes that there is enough flexibility in the rule to allow agencies to accommodate personnel ceilings without increasing energy consumption. If an agency has particular difficulty, this fact should be noted in the issues section of the plan.

One commentor recommended striking from the rule the paragraph requiring agency internal procedures and schedules to be a part of the plan since such internal information is considered to be of little value to DOE. The paragraph has been amended to make such reporting permissive as to detail. However, DOE considers inclusion of implementing instructions to be necessary for adequate planning and plan evaluation.

Another commentor suggested that more time be given (at least nine months) for the development of the general operations plan and three commentors suggested that the due date for revisions be made July 1 rather than January 1, annually. The commentor was concerned about the administrative load caused by preparing both building and operations plans. DOE agrees that revisions to both plans should be due on the same date and has thus changed the annual revision due date to July 1. DOE does not consider it appropriate, however, to delay initial submission of the operations plan. Buildings plans should be nearing completion at this time, and the critical nature of the energy situation makes it advisable to complete operations plans as rapidly as possible.

In a comment letter, the Environmental Protection Agency (EPA) expressed concern about the environmental aspects of agencies' plans. Since each agency is responsible for complying with the National Environmental Policy Act in carrying out its responsibilities under these guidelines, DOE has concluded that no change is required in the rule. However, Appendix D has been amended to include environmental considerations as a key element in the development of energy conservation plans.

6. 436.103, Program Goal Setting

At the suggestion of two commentors, Appendix B to this subpart has been clarified to be consistent with § 436.103 by allowing agencies to use their own methods of establishing goals, so long as the agency method provides a method which can be used to measure progress in reducing energy consumption and in improving energy efficiency. This change is consistent with the Executive Order, which does not establish specific goals for the operations plan submitted to DOE by Federal agencies.

One commentor suggested that the ratio, Btu/$ R&D budget, is not a good measure of energy efficiency, and that his agency has not yet been able to find a good measure of R&D energy efficiency. The ratios in Appendix V are only examples. The ratio, Btu/$ R&D budget, has been deleted. Agencies are free to choose any energy efficiency measures. DOE can assist agencies, upon request, with specific problems.

One commentor suggested that the base year be the previous fiscal year rather than FY 1975. For the reasons stated in paragraph 4, above, DOE has decided to retain FY 1975 as the base year.

EPA suggested that "unmitigated negative environmental impacts" be considered as agencies establish their general operations consumption goals. In response to this comment, DOE has added the phrase to § 436.103(c).

7. 436.104, Energy Conservation Measures and Standards

One commentor recommended elimination of this section because the level of detail is too great and an excessive accounting burden is imposed. As an integral part of effective planning, DOE considers it essential that all agencies consider proven energy saving measures. The list of questions in § 436.104 is a checklist of factors that must be considered in determining whether to include any given measure in the plan. There is no accounting requirement.

8. 436.105, Emergency Conservation Plan

In this section, the term "emergency conservation plan" has replaced "contingency plan" which was used in the proposed rule. DOE has made this change to describe better the activity involved.

One commentor expressed concern that this section was too limited. In response, § 436.105(b) has been amended to clarify that agencies can formulate additional planning scenarios as needed.

One commentor suggested that the substitution of coal-fired generation of electricity in priority over on-site natural gas should not apply because of the low total cycle efficiency of electricity.

In an energy emergency, the availability of the fuel source outweighs considerations of efficiency. DOE thus considers it appropriate to look to fuels in more plentiful supply, to include coal-fired generation of electricity. For example, for the Department of Defense, a guaranteed source of supply is necessary for assured operational readiness. In the case of coal, a 120-day supply is normally stockpiled on site. On the other hand, most natural gas supply contracts with Federal agencies are interruptible. This reflects the priority for natural gas to go first to residential users. From a practical standpoint, fuel conversions are limited to those which

can be completed in a three-month period. This limitation favors the substitution of natural gas, which is more easily installed. However, when oil supplies are interrupted, it is anticipated that the natural gas production capability will be absorbed quickly by the private residential and industrial sectors.

9. 436.106, Reporting Requirements

One commentor suggested that agencies be allowed to add their own unique functional categories. Section 436.106(a)(2) has been clarified to accommodate agency-unique categories.

A comment was also made that the quarterly report required by § 436.106(c) appears to be a duplication of the current Quarterly Energy Consumption Report. DOE does not require duplicate quarterly reports. The Quarterly Energy Consumption Report format is being revised to be consistent with the information required by § 436.106(c).

One commentor suggested that an unnecessary level of detail is introduced and that the additional shred-outs requested for the plan would require an expensive and lengthy reconstruction of historical information.

Concern over the level of detail to be reported is understandable. Providing increased visibility to the President, Congress, DOE, OMB, and agency conservation managers places an increased reporting burden on all Federal agencies. DOE believes this burden is justified because:

- When energy reductions were relatively easy to achieve, reduction targets could be met with little impact on agency missions or budgets. Additional energy reductions are now more difficult to achieve, hence examination in greater detail is required for setting Federal energy policy and managing energy conservation programs.
- The level of detail established by the reporting requirements of the buildings guidelines and the general operations guidelines will provide needed information about the links between energy reduction and mission performance and resource allocation.

—The link between energy consumption and mission performance is shown in greater detail by the 12 functional categories for buildings and 5 functional categories for operations. (However, each agency may report as few as two categories for operations). Goal-setting and reporting for general transportation have been made mandatory because of the importance of transportation-related fuel consumption in the conservation program and because of the attention focused on government transportation activities. Reporting energy efficiency provides information about the link between energy consumption and the magnitude of mission activity.

—Reporting energy investment programs, and more importantly, graphically displaying the relationship between investment and energy consumption and between investment and energy efficiency, gives a view of the impact of investment on energy savings.

- Total energy consumption is already being reported. For prior years, estimates using available information are permissible. For future years, agencies may allocate fuel use to the predominate function for multi-function activities, however, agencies should also establish a procedure for collecting data by functional category and fuel type.

In response to two other comments, DOE revised § 436.106(a) to indicate that annual reports will be based on fiscal year data.

10. 436.107, Review of Plan

One commentor recommended that the review process for general operations plans follow the same process as the buildings plans, and that it is not necessary to involve the "656" Committee to review major problem areas of plans not in compliance with guidelines.

DOE intends that both buildings and operations plans follow the same review process. In both cases, it is considered appropriate to involve the "656" Committee when major problem areas arise that require significant interagency actions for solution. The purpose of the "656" Committee involvement is to find solutions to major problem areas and to advise the Secretary and the President.

11. Fuel Switching

One commentor expressed concern that the goal setting methodology and reporting requirements did not provide a method for measuring shifting from the use of oil-based fuel and natural gas to fuels in more plentiful supply from domestic resources. Accordingly, the rule has been changed to require agencies to establish goals and to report progress in fuel switching.

12. Miscellaneous

Additional minor changes of a technical nature have been made as a result of continuing DOE analysis and dialogue with the "656" Committee and agency energy coordinators. Any further substantial changes in or modifications to these guidelines will be coordinated through the "656" Committee and OMB and published, as appropriate, for review and comment.

IV. National Environmental Policy Act Review

After reviewing the proposed guidelines pursuant to DOE's responsibilities under the National Environmental Policy Act of 1969, (NEPA), as amended, 42 U.S.C. 4321 *et seq.*, DOE has determined that because these guidelines only establish procedures which agencies are to follow in developing their plans, the proposed administrative action does not constitute a major Federal action significantly affecting the quality of human environment. Therefore, no environmental impact statement (EIS) or environmental assessment is necessary to support this action.

V. Regulatory Analysis

In accordance with the provisions of Executive Order 12044, 43 FR 12661 (March 24, 1978), implementing DOE directives, and OMB circular A–116, it has been determined that neither a regulatory analysis nor an urban and community impact analysis is necessary or appropriate in connection with this rulemaking. Although today's final rule is deemed to be "significant" because of the widespread impact on Federal agencies of the Executive Branch, this rule is not considered to be "major" because it will not have the kind or degree of effect which, under Executive Order 12044, necessitates a regulatory analysis.

In consideration of the foregoing, the DOE hereby amends Chapter II Title 10, Code of Federal Regulations, by establishing Subpart F and Appendices A, B, C, and D to Part 436 as set forth below.

Issued in Washington, D.C. June 13, 1980.

Worth Bateman,

Acting Under Secretary.

PART 436—FEDERAL ENERGY MANAGEMENT AND PLANNING PROGRAMS

Subpart F—Guidelines for General Operations Plans

Sec.

Authority: Sec. 381, Energy Policy and Conservation Act, as amended, (42 U.S.C. 6361); Executive Order 11912, as amended by Executive Order 12003, 42 FR 37523 (July 20, 1977); National Energy Conservation Policy Act, Title V, Part 3, Pub. L. 95-619, 92 Stat. 3275 (1978); sec. 644, Department of Energy Organization Act, (42 U.S.C. 7254).

Subpart F—Guidelines for General Operations Plans

§ 436.100 Purpose and scope.

(a) *Purpose.*—The purpose of this subpart is to provide guidelines for use by Federal agencies in their development of overall 10-year energy management plans to establish energy conservation goals, to reduce the rate of energy consumption, to promote the efficient use of energy, to promote switching for petroleum-based fuels and natural gas to coal and other energy sources, to provide a methodology for reporting their progress in meeting the goals of those plans, and to promote emergency energy conservation planning to assuage the impact of a sudden disruption in the supply of oil-based fuels, natural gas or electricity. The plan is intended to provide the cornerstone for a program to conserve energy in the general operations of an agency. A description of the elements necessary for a successful energy conservation program appears in Appendix D of this subpart. These elements must be reflected in the 10-year plan prescribed in § 436.102.

(b) *Scope.*—This subpart applies to all general operations of Federal agencies and is applicable to the management of all energy used by Federal agencies that is not included under the regulations in Subpart C of this part. Energy use and energy-saving actions for Federal buildings excluded from the buildings plans under Subpart C of this part, are to be included in the general operations plans under this subpart.

§ 436.101 Definitions.

As used in this subpart—

"Automotive gasoline" means all grades of gasoline for use in internal combustion engines except aviation gasoline. Does not include diesel fuel.

"Aviation gasoline (AVGAS)" means all special grades of gasoline for use in aviation reciprocating engines.

"Btu" means British thermal unit; the quantity of heat required to raise the temperature of one pound of water one degree Fahrenheit.

"Cogeneration" means the utilization of surplus energy, e.g., steam, heat or hot water produced as a by-product of the manufacture of some other form of energy, such as electricity. Thus, diesel generators are converted to cogeneration sets when they are equipped with boilers that make steam and hot water (usable as energy) from the heat of the exhaust and the water that cools the generator.

"Diesel and petroleum distillate fuels" means the lighter fuel oils distilled-off during the refining process. Included are heating oils, fuels, and fuel oil. The major uses of distillate fuel oils include heating, fuel for on- and off-highway diesel engines, marine diesel engines and railroad diesel fuel.

"DOE" means the Department of Energy.

"Emergency conservation plan" means a set of instructions designed to specify actions to be taken in response to a serious interruption of energy supply.

"Energy efficiency goal" means the ratio of production achieved to energy used.

"Energy use avoidance" means the amount of energy resources, e.g., gasoline, not used because of initiatives related to conservation. It is the difference between the baseline without a plan and actual consumption.

"Facility" means any structure or group of closely located structures, comprising a manufacturing plant, laboratory, office or service center, plus equipment.

"Federal agency" means any Executive agency under 5 U.S.C. 105 and the United States Postal Service, each entity specified in 5 U.S.C. 5721(1)(B) through (H) and, except that for purposes of this subpart, the Department of Defense shall be separated into four reporting organizations: the Departments of the Army, Navy and Air Force and the collective DOD agencies, with each responsible for complying with the requirements of this subpart.

"Fiscal year or FY" means, for a given year, October 1 of the prior year through September 30 of the given year.

"Fuel types" means purchased electricity, fuel oil, natural gas, liquefied petroleum gas, coal, purchased steam, automotive gasoline, diesel and petroleum distillate fuels, aviation gasoline, jet fuel, Navy special, and other identified fuels.

"General operations" means world-wide Federal agency operations, other than building operations, and includes services; production and industrial activities; operation of aircraft, ships, and land vehicles; and operation of Government-owned, contractor-operated plants.

"General transportation" means the use of vehicles for over-the-road driving as opposed to vehicles designed for off-road conditions, and the use of aircraft and vessels. This category does not include special purpose vehicles such as combat aircraft, construction equipment or mail delivery vehicles.

"Goal" means a specific statement of an intended energy conservation result which will occur within a prescribed time period. The intended result must be time-phased and must reflect expected energy use assuming planned conservation programs are implemented.

"Guidelines" means a set of instructions designed to prescribe, direct and regulate a course of action.

"Industrial or production" means the operation of facilities including buildings and plants which normally use large amounts of capital equipment, e.g., GOCO plants, to produce goods (hardware).

"Jet fuel" means fuels for use, generally in aircraft turbine engines.

"Life cycle cost" means the total cost of acquiring, operating and maintaining equipment over its economic life, including its fuel costs, determined on the basis of a systematic evaluation and comparison of alternative investments in programs, as defined in Subpart A of this part.

"Liquefied petroleum gas" means propane, propylene-butanes, butylene, propane-butane mixtures, and isobutane that are produced at a refinery, a natural gas processing plant, or a field facility.

"Maintenance" means activities undertaken to assure that equipment and energy-using systems operate effectively and efficiently.

"Measures" means actions, procedures, devices or other means for effecting energy efficient changes in general operations which can be applied by Federal agencies.

"Measure of performance" means a scale against which the fulfillment of a requirement can be measured.

"Navy special" means a heavy fuel oil that is similar to ASTM grade No. 6 oil or Bunker C oil. It is used to power U.S. Navy ships.

"Non-renewable energy source" means fuel oil, natural gas, liquefied petroleum gas, synthetic fuels, and purchased steam or electricity, or other such energy sources.

"Operational training and readiness" means those activities which are necessary to establish or maintain an agency's capability to perform its primary mission. Included are major activities to provide essential personnel

strengths, skills, equipment/supply inventory and equipment condition. General administrative and housekeeping activities are not included.

"Overall plan" means the comprehensive agency plan for conserving fuel and energy in all operations, to include both the Buildings Plan developed pursuant to Subpart C of this part and the General Operations Plan.

"Plan" means those actions which an agency envisions it must undertake to assure attainment of energy consumption and efficiency goals without an unacceptably adverse impact on primary missions.

"Program" means the organized set of activities and allocation of resources directed toward a common purpose, objective, or goal undertaken or proposed by an agency in order to carry out the responsibilities assigned to it.

"Renewable energy sources" means sunlight, wind, geothermal, biomass, solid wastes, or other such sources of energy.

"Secretary" means the Secretary of the Department of Energy.

"Services" means the provision of administrative assistance or something of benefit to the public.

"Specific Functional Category" means those Federal agency activities which consume energy, or which are directly linked to energy consuming activities and which fall into one of the following groups: Services, General Transportation, Industrial or Production, Operational Training and Readiness, and Others.

"Standard" means an energy conservation measure determined by DOE to be applicable to a particular agency or agencies. Once established as a standard, any variance or decision not to adopt the measure requires a waiver.

"Under Secretary" means the Under Secretary of the Department of Energy.

"Variance" means the difference between actual consumption and goal.

"656 Committee" means the Interagency Federal Energy Policy Committee, the group designated in Section 656 of the DOE Organization Act to provide general oversight for interdepartmental FEMP matters. It is chaired by the Under Secretary of DOE and includes the designated Assistant Secretaries or Assistant Administrator of the Department of Defense, Commerce, Housing and Urban Development, Transportation, Agriculture, Interior and the U.S. Postal Service and General Services Administration, along with similar level representatives of the National Aeronautics and Space Administration and the Veterans Administration.

§ 436.102 General operations plan format and content.

(a) Each Federal agency shall prepare and submit to the Under Secretary, DOE, within six months from the effective date of these guidelines, a general operations 10-year plan which shall consist of two parts, an executive summary and a text. Subsequent agency revisions to plans shall be included in each agency's annual report on progress which shall be forwarded to DOE by July 1 annually.

(b) The following information shall be included in each Federal agency general operations 10-year plan for the period of fiscal years 1980–1990:

(1) An Executive Summary which includes—

(i) A brief description of agency missions, and applicable functional categories pursuant to § 436.106(a)(2);

(ii) A Goals and Objectives Section which summarizes what energy savings or avoidance will be achieved during the plan period, and what actions will be taken to achieve those savings, and the costs and benefits of measures planned for reducing energy consumption, increasing energy efficiencies, and shifting to a more favorable fuel mix. Assumptions of environmental, safety and health effects of the goals should be included;

(iii) A chart depicting the agency organizational structure for energy management, showing energy management program organization for headquarters and for major subordinate elements of the agency;

(iv) A schedule for completion of requirements directed in this subpart, including phase-out of any procedures made obsolete by these guidelines; and

(v) Identification of any significant problem which may impede the agency from meeting its energy management goals.

(2) A Text which includes—

(i) A Goals and Objectives Section developed pursuant to § 436.103 describing agency conservation goals; these goals will be related to primary mission goals;

(ii) An Investment Section describing the agency planned investment program by fiscal year, pursuant to Appendix B of this subpart, all measures selected pursuant to § 436.104, and the estimated costs and benefits of the measures planned for reducing energy consumption and increasing energy efficiencies;

(iii) An Organization Section which includes: (A) Designation of the principal energy conservation officer, such as an Assistant Secretary or Assistant Administrator, who is responsible for supervising the preparation, updating and execution of the Plan, for planning and implementation of agency energy conservation programs, and for coordination with DOE with respect to energy matters; (B) designation of a middle-level staff member as a point of contact to interface with the DOE Federal Programs Office at the staff level; and (C) designation of key staff members within the agency who are responsible for technical inputs to the plan or monitoring progress toward meeting the goals of the plan;

(iv) An Issues Section addressing problems, alternative courses of action for resolution, and agency recommendations that justify any decisions not to plan for or implement measures contained in Appendix C of this subpart, and identifying any special projects, programs, or administrative procedures which may be beneficial to other Federal agency energy management programs;

(v) An implementing Instructions Section which includes a summary of implementing instructions issued by agency headquarters, and attachments of appropriate documents such as:

(A) Specific tasking resulting from development of the Plan;

(B) Guidance for the development of emergency conservation plans;

(C) Task milestones;

(D) Listing of responsible sub-agencies and individuals at both agency headquarters and subordinate units;

(E) Reporting and administrative procedures for headquarters and subordinate organizations;

(F) Report schedules pursuant to § 436.106(c);

(G) Schedules for feedback in order to facilitate plan updating, to include reviews of emergency conservation plans developed pursuant to § 436.105;

(H) Schedules for preparing and submitting the annual report on energy management pursuant to § 436.106(a);

(I) Schedules of plan preparation and publication;

(J) Communication, implementation, and control measures such as inspections, audits, and others; and

(vi) An Emergency Conservation Plan Summary Section pursuant to the requirements of § 436.105(d).

(3) Appendices which are needed to discuss and evaluate any innovative energy conserving technologies or methods, not included in this Part, which the agency has identified for inclusion in its plan.

(c) Each plan must be approved and signed by the principal energy conservation officer designated pursuant to paragraph (b)(2) of this section.

§ 436.103 Program goal setting.

(a) In developing and revising plans for a projected 10-year plan each agency shall establish and maintain energy conservation goals in accordance with the requirements of this section.

(b) Agencies shall establish three types of conservation goals:

(1) Energy consumption goals, by fuel type by functional category (see Appendix B).

(2) Energy efficiency goals by fuel type by functional category (see Appendix B).

(3) Fuel switching goals for shifting energy use from oil and natural gas to other fuels in more plentiful supply from domestic sources (see Appendix B).

(c) General operations energy conservation goals shall be established by each Federal agency with the broad purpose of achieving reductions in total energy consumption and increased efficiency without serious mission degradation or unmitigated negative environmental impacts. Within the broad framework, each agency should seek first to reduce energy consumption per unit of output in each applicable functional category. In evaluating energy efficiency, each agency should select and use standards of measurement which are consistent throughout the planning period. Particular attention should be given to increased energy use efficiency in nonrenewable fuel consumption. The second focus of attention should be on initiatives which shift energy use from oil and natural gas to other fuels in more plentiful supply from domestic sources.

§ 436.104 Energy conservation measures and standards.

(a) Each agency shall consider for inclusion in its plan the measures identified in appendix C of this subpart.

(b) The following questions should be considered in the evaluation of each measure:

(1) Does this measure provide an incentive or disincentive?

(2) What is the estimate of savings by fuel type?

(3) What are the direct and indirect impacts of this measure?

(4) Is this measure to be mandatory throughout the agency?

(5) If not mandatory, under what circumstances will it be implemented, and who will be responsible for determining specific applicability?

(6) Who will be the direct participants in the implementation of this measure?

(7) What incentives (if any) are to be provided for the participants?

(8) When will this measure be implemented?

(9) Will this measure be implemented in a single step or will it be phased in? If it will be phased in, over what period of time?

(10) Will performance of the measure be evaluated and reported?

(11) By what criterion will performance be determined?

(12) Who will prepare performance reports?

(13) What is the reporting chain?

(14) What is the reporting period?

(c) Each agency will take all necessary steps to implement the energy conservation standards for general operations listed in appendix A (reserved).

§ 436.105 Emergency conservation plan.

(a) Each agency shall establish an emergency conservation plan, a summary of which shall be included in the general operations plan, for assuaging the impact of a sudden disruption in the supply of oil-based fuels, natural gas or electricity. Priorities for temporarily reducing missions, production, services, and other programmatic or functional activities shall be developed in accordance with paragraph (b) of this section. Planning for emergencies is to address both buildings and general operations. Provisions shall be made for testing emergency actions to ascertain that they are effective.

(b) Federal agencies shall prepare emergency conservation plans for 10 percent, fifteen percent, and 20 percent reduction compared to the previous fiscal year in gasoline, other oil-based fuels, natural gas, or electricity for periods of up to 12 months. In developing these plans, agencies shall consider the potential for emergency reductions in energy use in buildings and facilities which the agency owns, leases, or has under contract and by employees through increased use of car and van pooling, preferential parking for multipassenger vehicles, and greater use of mass transit. Agencies may formulate whatever additional scenarios they consider necessary to plan for various energy emergencies.

(c) In general, Federal agencies' priorities shall go to those activities which directly support the agencies' primary missions. Secondary mission activities which must be curtailed or deferred will be reported to DOE as mission impacts. The description of mission impacts shall include estimates of the associated resources and time required to mitigate the effects of the reduction in energy. Other factors or assumptions to be used in energy conservation emergency planning are as follows:

(1) Agencies will be given 15–30 days notice to implement any given plan.

(2) Substitution of fuels in plentiful supply for fuels in short supply is authorized, if the substitution can be completed within a 3-month period and the cost is within the approval authority of the executive branch.

(3) All costs and increases in manpower or other resources associated with activities or projects to assuage mission impacts will be clearly defined in respective agency plans. One-time costs will be identified separately.

(4) Confronting the emergency situation will be considered a priority effort and all projects and increases in operating budgets within the approval authority of the executive branch will be expeditiously considered and approved if justified.

(d) Summary plans for agency-wide emergency conservation management shall be provided to DOE pursuant to § 436.102(b)(2)(vi). Such summaries shall include:

(1) Agency-wide impacts of energy reductions as determined in accordance with paragraph (b) of this section.

(2) Actions to be taken agency-wide to alleviate the energy shortfalls as they occur.

(3) An assessment of agency services or production that may need to be curtailed or limited after corrective actions have been taken.

(4) A summation of control and feedback mechanisms for managing an energy emergency situation.

§ 436.106 Reporting requirements.

(a) By July 1 of each year each Federal agency shall submit an "Annual Report on Energy Management" based on fiscal year data to the Secretary of DOE. The general operations portion of this report will encompass all agency energy use not reported in the buildings portion and shall include:

(1) A summary evaluation of progress toward the achievement of energy consumption, energy efficiency, and fuel switching goals established by the agency in its plans;

(2) Energy consumption reported by functional categories. Reports must include General Transportation and one or more of the following functional categories: industrial or production, services, operational training and readiness, and other. Agencies may report in subcategories of their own choosing. The following information is to be reported for the usage of each fuel type in physical units for each selected functional category:

(i) Total energy consumption goal,

(ii) Total energy consumed,

(iii) Total energy use avoidance;

(iv) Variance between actual consumption and consumption goal;
(v) Cost saved;
(vi) Status of planned investments, and if different from the investment program upon which existing goals are based, the expected impact on meeting goals; and
(vii) Summary of any other benefits realized.
(3) The energy efficiencies as calculated in accordance with appendix B of this subpart, or by an equivalent method, for the appropriate functional categories identified in paragraph (a)(2) of this section. The following information is to be reported for the energy efficiency for each fuel type by functional category:
(i) Energy efficiency goal;
(ii) Efficiency for the reporting period;
(iii) Summary of any other benefits realized.
(4) A summary of fuel switching progress including:
(i) Description and cost of investments in fuel switching;
(ii) Avoidance in use of oil-based fuels and natural gas;
(iii) Increased use of solar, wood, gasohol and other renewable energy sources;
(vi) Increased use of coal and coal derivatives, and
(vii) Use of all other alternative fuels.
(b) Each agency's annual report shall be developed in accordance with a format to be provided by DOE and will include agency revisions to 10-year plans.
(c) Agencies whose annual total energy consumption exceeds one hundred billion Btu's, shall, in addition to the annual report required under paragraph (a) of this section, submit quarterly reports of the energy usage information specified in paragraph (a)(2) of this section.
(d) Agencies who consume energy in operations in foreign countries will include data on foreign operations if foreign consumption is greater than 10% of that consumed by the agency in the United States, its territories and possessions. If an agency's estimated foreign consumption is less than 10% of its total domestic energy use, reporting of foreign consumption is optional. Reports should be annotated if foreign consumption is not included.

§ 436.107 Review of plan.

(a) Each plan or revision of a plan shall be submitted to DOE and DOE will evaluate the sufficiency of the plan in accordance with the requirements of this subpart. Written notification of the adequacy of the plan including a critique, will be made by DOE and sent to the agency submitting the plan or revision within 60 days of submission. Agencies shall be afforded an opportunity to modify and return the plan within an appropriate period of time for review by DOE.
(b) A general operations plan under the guidelines will be evaluated with respect to:
(1) Adequacy of information or plan content required to be included by § 436.102;
(2) Adequacy of goal setting methodology or baseline justification as stated in § 436.103;
(3) Adequacy of a well-justified investment program which considers all measures included in Appendix C of this subpart; and
(4) Other factors as appropriate.
(c) After reviewing agency plans or revisions of plans, the Under Secretary of DOE, may submit to the "656" Committee for its recommendation, major problem areas or common deficiencies.
(d) Status of the plan review, the Under Secretary's decisions, and "656" Committee recommendations, will be published as appropriate in the DOE annual report to the President, titled "Energy Management in the Federal Government."

§ 436.108 Waivers.

(a) Any Federal agency may submit a written request to the Under Secretary for a waiver from the procedures and requirements of this subpart. The request for a waiver must identify the specific requirements and procedures of this subpart from which a waiver is sought and provide a detailed explanation, including appropriate information or documentation, as to why a waiver should be granted.
(b) A request for a waiver under this section must be submitted at least 60 days prior to the due date for the required submission.
(c) A written response to a request for a waiver will be issued by the Under Secretary no later than 30 days from receipt of the request. Such a response will either (1) grant the request with any conditions determined to be necessary to further the purposes of this subpart, (2) deny the request based on a determination that the reasons given in the request for a waiver do not establish a need that takes precedence over the futherance of the purposes of this subpart, or (3) deny the request based on the failure to submit adequate information upon which to grant a waiver.
(d) A requested waiver may be submitted by the Under Secretary to the "656" Committee for its review and recommendation. The agency official that submitted the request may attend any scheduled meeting of the "656" Committee at which the request is planned to be discussed. The determination to approve or disapprove a request for a waiver shall be made by the Under Secretary.
(e) Status of the requests for a waiver, the Under Secretary's decisions, and "656" Committee recommendations, will be published, as appropriate, in the DOE annual report to the President, entitled "Energy Management in the Federal Government."

Appendix A—Energy Conservation Standards for General Operations [Reserved]

Appendix B—Goal Setting Methodology

In establishing and updating agency goals for energy conservation, the following methodology or an equivalent method should be utilized:
(a) For overall energy consumption—
(1) An analysis shall be made to determine what factors have the most significant impact upon the amount of each fuel type used by the agency in performing functions in support of its overall mission. Consideration is to be given, but not limited to, the following factors: Number of people using energy; number of vehicles using gasoline; amounts of other equipment using energy; tempo of operations (one, two, or three shifts); the type of operations (degree of equipment or labor intensity); equipment fuel limitations; environmental conditions (tropical versus arctic, etc.); budget levels for fuel, operations, maintenance, and equipment acquisition; and phase-out schedule (of older equipment or plants which may be inefficient). After identifying these factors, a further analysis shall be made to identify any projected workload changes in the quality or quantity of these factors on a yearly basis up to 1990.
(2) Based upon the analysis in (a)(1) and an evaluation of available information on past energy usage, a baseline of energy use by fuel type by functional category shall be established beginning with FY 1975. In addition to "General Transportation," other functional categories should be selected to enhance energy management. Total fuel use for a particular activity may be allocated to the functional category for which the preponderance of fuel is used. Figure B–1 is an example of one such baseline.

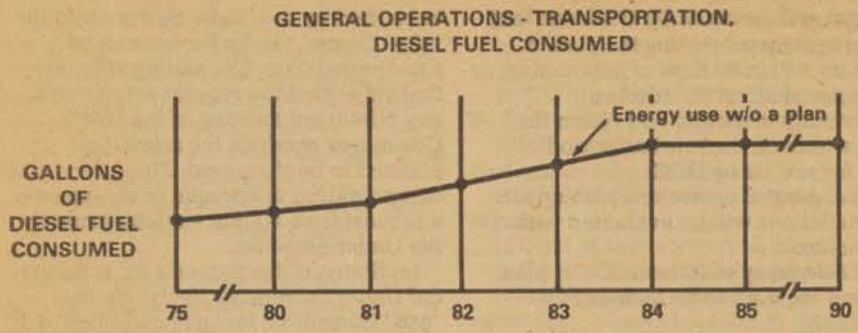

FIGURE B-1: GENERAL OPERATIONS - TRANSPORTATION, DIESEL FUEL CONSUMED

This example shows an increase in energy use, for a specific fuel type, during the period 1975–1981, with a further increase from 1981 to 1984 and a leveling off and no growth from 1984–1990. A justification, based on factors as discussed above, shall accompany each baseline.

(3) Thereafter, analyses should be made of the measures available for reducing the energy consumption profiles without adverse impact on mission accomplishment. Finding viable opportunities for reducing energy use, increasing energy efficiency and switching energy sources, will require consultation with specialists in the fields of operations, maintenance, engineering, design, and economics, and consideration of the measures identified in Appendix C. The DOE Federal Energy Management Programs Office can, upon request, provide information on where such resources can be located. Once these measures are identified, they are to be incorporated into a time-phased investment program, (using where appropriate, the life cycle costing factors and methodology in subpart A of this part). If investment and other costs for implementing a measure are insignificant, a Federal agency may presume that a measure is cost-effective without further analysis. An estimate must then be made as to the lead time required to implement the program and realize energy reductions.

Figure B–2 shows a summarized investment program, which should be accompanied by a detailed description of the measures, projects, and programs making up the total planned investments for each year. This summary need not be by function or fuel type.

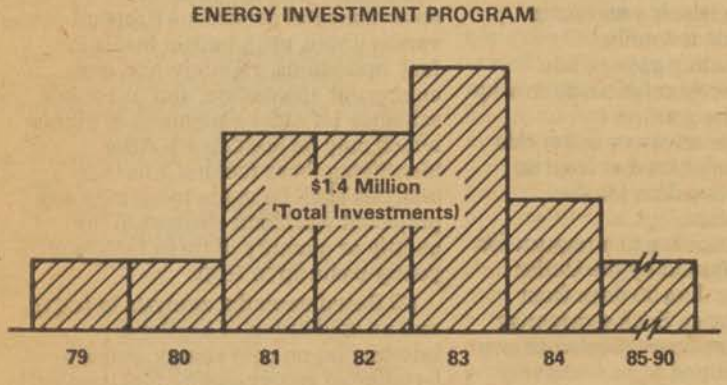

FIGURE B-2: ENERGY INVESTMENT PROGRAM

These analyses should enable the agency to project an energy consumption goal, with the assumption that funds for executing the planned projects will be approved. Figure B–3 shows a new energy use profile, with planned initiatives and related investments taken into consideration, and the resulting goal entitled "Energy Use With A Plan" superimposed on Figure B–1. Included are the anticipated effects on consumption cause by improvements in energy efficiency and fuel switching.

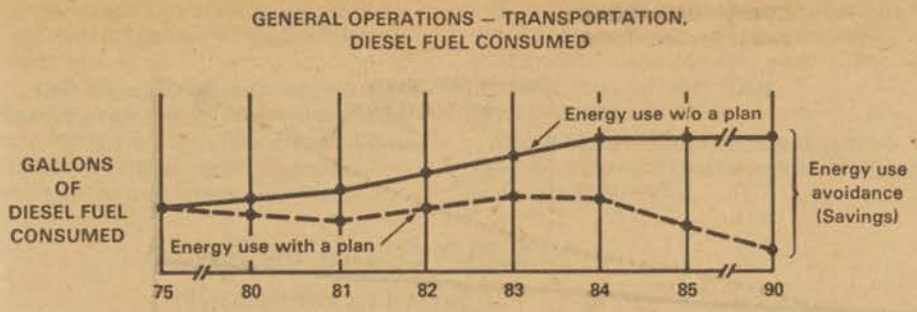

FIGURE B-3: GENERAL OPERATIONS – TRANSPORTATION, DIESEL FUEL CONSUMED

A comparison of these projections will show the energy use avoidance resulting from the investment program as depicted in Figure B–2. Using the prices of fuel contained in Appendix C to subpart A, the dollars saved can be projected against the dollars invested. Life cycle costing methodology pursuant to subpart A, will be used to determine priorities for submitting individual initiatives into the appropriate budget year.

(b) For energy efficiencies—Energy efficiency baselines and goals for each fuel type shall be calculated using the same consumption factors and similar methodology to that outlined in paragraph (a). Energy consumption by fuel type shall be linked to mission through the functional categories listed in § 436.106(a)(2). This will identify a rate which will indicate energy efficiency trends. This linkage may be accomplished through the following algorithm:

Step 1: Determine functional categories from section 436.106(a)(2) which best describe the Agency overall mission.

Step 2: Determine types of fuels used to support the functions selected in Step 1.

Step 3: Determine quantities of fuel consumed or planned for consumption over a specific period of time.

Step 4: Determine quantity of output of function for same period of time used in Step 3. Quantify output in a standard measure which best describes functional category.

Step 5: Determine the energy efficiency ratio by dividing quantity from Step 4 by quantity from Step 3.

This ratio of fuel consumed to a unit measure of output will be used to develop a projection of a baseline and goals through 1990, and used in reporting variance. Examples of ratios that should be considered are:

- Production or industrial process type operations

$$\frac{\text{Ton of product}}{\text{Cu. ft. of natural gas}}$$

- Services, such as postal delivery

$$\frac{\text{Customers served or pounds delivered}}{\text{Gallons of automotive gasoline}}$$

- General Transportation

$$\frac{\text{Passenger Miles}}{\text{Gallons of automotive gasoline}}$$

- Training

$$\frac{\text{Persons trained or in training}}{\text{Gallons of navy special}}$$

Agencies shall select one or more of these ratios, which shall be used throughout the planning period, or use more appropriate energy efficiency ratios, to describe their overall functions. Figure B–4 illustrates the planning baseline and goal resulting from this type of analysis.

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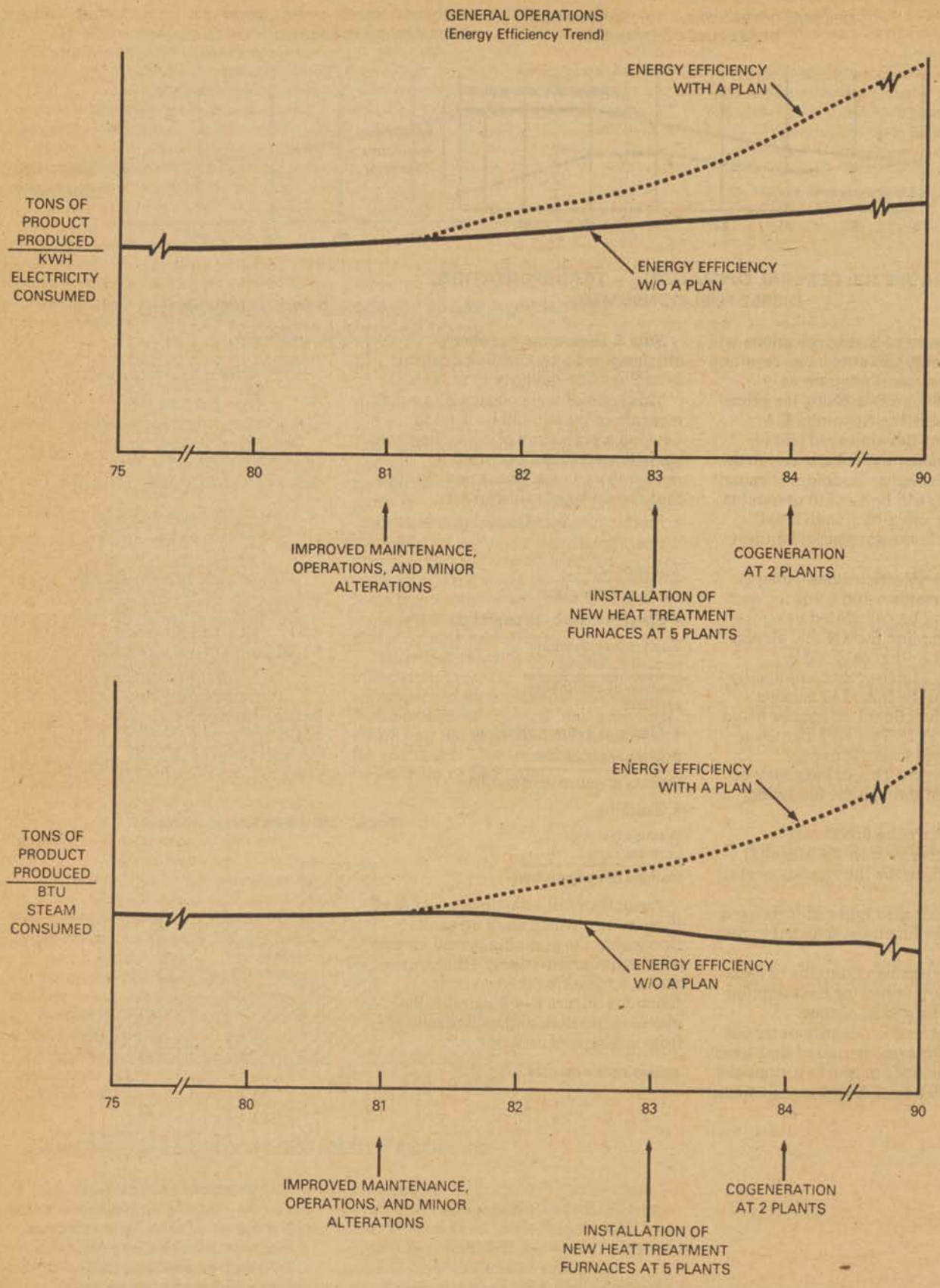

FIGURE B-4: GENERAL OPERATIONS, ELECTRICITY, STEAM CONSUMED.

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(c) For fuel switching—Fuel switching goals for gaoline other oil-based fuel and natural gas may be calculated as follows:

Step 1: For each fiscal year, identify investments, where appropriate, in fuel switching from gasoline, other oil-based fuel and natural gas to alternate renewable or nonrenewable fuel sources.

Step 2: Project for each fiscal year, the avoidance in the use of gasoline, other oil-based fuel and natural gas resulting from previous fuel switching investments.

Completion of these steps will permit the formulation of charts such as that shown in Figure B–5.

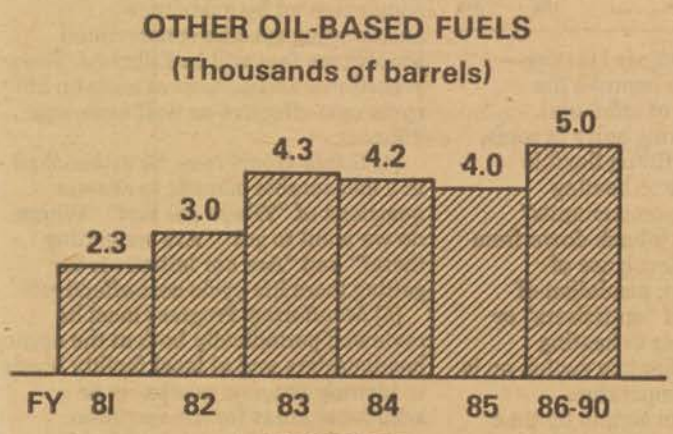

FIGURE B-5
FUEL SWITCHING GOALS

Appendix C—General Operations Energy Conservation Measures

(a) The following individual measures or set of measures must be considered for inclusion in each agency 10-year energy management plan:

(1) Federal Employee Ridesharing Programs—Includes the use of vanpooling and carpooling and complies with existing orders and regulations governing parking for vanpools and carpools.

(2) Fleet Profile Change—Includes energy considerations in equipment selection and assignment.

(3) Fleet Mileage Efficiency—Includes agency plans to implement existing orders, goals, and laws related to vehicle fuel economy.

(4) Driver Training—Includes development of appropriate programs for training operators of U.S. Government vehicles in energy conservation.

(5) Maintenance Procedures Improvement—Includes activities to insure proper vehicle maintenance to optimize energy conservation.

(6) Operating Procedures Improvement—Includes use of cooperative passenger shuttle and courier services on an interagency or other basis within each metropolitan area.

(7) Mass Transit—Includes employee use of existing services for business-related activities and commuting.

(8) Public Education to Promote Vanpooling and Carpooling—Includes activities to support the EPCA requirement to establish "responsible public education programs to promote vanpooling and carpooling arrangements" through their employee awareness programs.

(9) Elimination of Free or Subsidized Employee Parking—Includes elimination of free or subsidized employee parking on Federal installations in accordance with OMB Cir. A–118, August 13, 1979.

(10) Two-Wheeled Vehicle Programs—Includes activities to encourage the substitution of bicycles, mopeds, etc. for automobiles for commuting and operational purposes. These may include the establishment of weather-protected secure storage facilities, shower and locker facilities, and restricted routes for these vehicles on Federal property. Cooperative programs with local civil authorities may also be included.

(11) Consolidation of Facilities and Process Activities—Includes such measures as physical consolidation of operations to minimize intra-operational travel and may include facility closure or conversion. Alternative work patterns, availability of transportation, energy source availability, and technical and financial feasibility are among the considerations that should be evaluated.

(12) Agency Procurement Programs—Includes activities to ensure that energy conservation opportunities are fully exploited with respect to the agency's procurement programs including procurements relating to operations and maintenance activities; e.g., (a) giving preference to fuel-efficient products whenever practicable, and (b) ensuring that agency's contractors having a preponderance of cost-type contracts pursue a comprehensive energy conservation program.

(13) Energy Conservation Awareness Programs—Includes programs aimed toward gaining and perpetuating employee awareness and participation in energy conservation measures on the job and in their personal activities.

(14) Communication—Includes substitution of communications for physical travel.

(15) Dress Code—Includes measures to allow employees greater freedom in their choice of wearing apparel to promote greater participation in conservation.

(16) Land Use—Includes energy considerations to be employed in new site selection, such as colocation.

(17) Automatic Data Processing (ADP)—Includes all energy aspects of ADP operation and equipment selection.

(18) Aircraft Operations—Includes energy-conserving measures developed for both military and Federal administrative and research and development aircraft operations.

(19) GOCO Facilities and Industrial Plants Operated by Federal Employees—Includes development of energy conservation plans at these facilities and plants which contain measures such as energy efficient periodic maintenance.

(20) Energy Conserving Capital Plant and Equipment Modification—Includes development of energy conservation and life cycle cost parameter measures for replacement of capital plant and equipment.

(21) Process Improvements—Includes measures to improve energy conservation in industrial process operations. These may include consideration of equipment replacement or modification, as well as scheduling and other operational changes.

(22) Improved Steam Maintenance and Management—Includes measures to improve energy efficiency of steam systems. These may include improved maintenance, installation of energy-conserving devices, and the operational use of substitutes for live steam where feasible.

(23) Improvements in Waste Heat Recovery—Includes measures utilizing waste heat for other purposes.

(24) Improvement in Boiler Operations—Includes energy-conserving retrofit measures for boiler operations.

(25) Improved Insulation—Includes measures addressing the addition or replacement of insulation on pipes, storage tanks, and in other appropriate areas.

(26) Scheduling by Major Electric Power Users—Includes measures to shift major electrical power demands to non-peak hours, to the maximum extent possible.

(27) Alternative Fuels—Includes measures to alter equipment such as generators to use lower quality fuels and to fill new requirements with those that use alternative fuels. The use of gasohol in stationary gasoline-powered equipment should be considered, in particular.

(28) Cogeneration—Includes measures to make full use of cogeneration in preference to single-power generation.

(29) Mobility Training and Operational Readiness—Includes measures which can reduce energy demands through the use of simulators, communications, computers for planning, etc.

(30) Energy Conservation Inspection or Instruction Teams—Includes measures which formulate and perpetuate the review of energy conservation through inspections to determine where specific improvements can be made and then followed by an instruction and training program.

(31) Intra-agency and Interagency Information Exchange Program—Includes measures providing a free exchange of energy conservation ideas and experiences between elements of an agency and between other agencies in the same geographic area.

(32) Recycled Waste—Includes measures to recycle waste materials such as paper products, glass, aluminum, concrete and brick, garbage, asphalt road materials or any material which requires a petroleum base.

(33) Fuel Conversion—Includes measures to accomplish conversion from petroleum based fuels and natural gas to coal and other alternative fuels for appropriate equipment.

(34) Operational Lighting—Includes measures to reduce energy consumption for lighting in operational areas and GOCO plants by: switching off by means of automatic controls; maximizing the use of daylight by floor planning; keeping window and light fixtures clean and replacing fixtures when they begin to deteriorate, rather than when they fail altogether; providing automatic dimmer controls to reduce lighting when daylight increases; and cleaning the work area during daylight, if possible, rather than at night.

(35) Lighting Fixtures—Includes measures to increase energy efficiency of lighting. The following reveals the relative efficiencies of common lamp types.

Lamp type	Lumens/watt	Improvement over tungsten
Tungsten lamp	12	X1
Modern fluorescent lamp	85	X7
Mercury halide lamp	100	X8
High pressure sodium lamp	110	X9
Low pressure sodium lamp	180	X15

(36) Industrial Buildings Heating—Includes measures to improve the energy conservation of industrial buildings such as: fixing holes in roofs, walls and windows; fitting flexible doors, fitting controls to heating systems; use of "economizer units" which circulate hot air back down from roof level to ground level; use of controlled ventilation; insulation of walls and roof; use of "optimisers" or optimum start controls in heating systems, so that the heating switch-on is dictated by actual temperature conditions rather than simply by time.

(37) Hull Cleaning and Antifouling Coating—Includes measures to reduce energy consumption through periodic cleaning of hulls and propellers or through the use of antifouling coatings.

(39) Building Temperature Restrictions on Thermostat Setting for Heating, Cooling and Hot Water—Includes enforcement of suggested restriction levels: 65 degrees for heating, 78 degrees for cooling, and 105 degrees or ban for hot water.

(40) Such other measures as DOE may from time-to-time add to this appendix, or as the Federal agency concerned may find to be energy-saving or efficient.

Appendix D—Energy Program Conservation Elements

(a) In all successful energy conservation programs, certain key elements need to be present. The elements listed below must be incorporated into each agency conservation program and must be reflected in the 10-year plan prescribed in § 436.102. Those organizations that have already developed programs should review them to determine whether the present management systems incorporate these elements.

(1) *Top Management Control.* Top management must have a personal and sustained commitment to the program, provide active direction and motivation, and require regular review of overall energy usage at senior staff meetings.

(2) *Line Management Accountability.* Line managers must be accountable for the energy conservation performance of their organizations and should participate in establishing realistic goals and developing strategies and budgets to meet these goals.

(3) *Formal Planning.* An overall 10-year plan for the period 1980–1990 must be developed and formalized which sets forth performance-oriented conservation goals, including the categorized reduction in rates of energy consumption that the program is expected to realize. The plan will be supplemented by guidelines enumerating specific conservation procedures that will be followed. These procedures and initiatives must be life cycle cost-effective as well as energy efficient.

(4) *Goals.* Goals must be established in a measurable manner to answer questions of "Where are we?" "Where do we want to go?" "Are we getting there?" and "Are our initiatives for getting there life cycle cost-effective?"

(5) *Monitoring.* Progress must be reviewed periodically both at the agency headquarters and at local facility levels to identify program weakness or additional areas for conservation actions. Progress toward achievement of goals should be assessed, and explanations should be required for non-achievement or unusual variations in energy use. Monitoring should include personal inspections and staff visits, management information reporting and audits.

(6) *Using Technical Expertise.* Personnel with adequate technical background and knowledge of programmatic objectives should be used to help management set technical goals and parameters for efficient planning and implementation of energy conservation programs. These technicians should work in conjunction with the line managers who are accountable for both mission accomplishment and energy conservation.

(7) *Employee Awareness.* Employees must gain an awareness of energy conservation through formal training and employee information programs. They should be invited to participate in the process of developing an energy conservation program, and to submit definitive suggestions for conservation of energy.

(8) *Energy Emergency Planning.* Every energy management plan must provide for programs to respond to contingencies that may occur at the local, state or National level. Programs must be developed for potential energy emergency situations calling for reductions of 10 percent, 15 percent and 20 percent for up to 12 months. Emergency plans must be tested to ascertain their effectiveness.

(9) *Budgetary and Fiscal Support.* Resources necessary for the energy

conservation program must be planned and provided for, and the fiscal systems adjusted to support energy management investments and information reporting.

(10) *Environmental Considerations.* Each agency shall fulfill its obligations under the National Environmental Policy Act in developing its plan.

[FR Doc. 80-19728 Filed 6-30-80; 8:45 am]
BILLING CODE 6450-01-M

federal register

Tuesday
July 1, 1980

Part IX

Department of Commerce

Federal Emergency Management Agency

Federal Reserve System

Interstate Commerce Commission

Department of Transportation

Transfer, Redesignation, and Removal of Regulations from 32A CFR

DEPARTMENT OF COMMERCE

FEDERAL RESERVE SYSTEM

DEPARTMENT OF TRANSPORTATION

12 CFR Ch. II

32A CFR Chapters VII and XV

44 CFR Ch. IV

Transfer and Redesignation of Regulations

Editorial Note.—The Office of the Federal Register (OFR) is transferring all regulations currently in Title 32A to other titles of the Code of Federal Regulations (CFR). This action will aid the OFR in the orderly development of the CFR. This document transfers joint Department of Commerce and Department of Transportation regulations to Title 44 and Federal Reserve System regulations to Title 12.

Notice is given elsewhere in the rules section of today's **Federal Register** of the transfer of Federal Emergency Management Agency regulations from 32A CFR Ch. I to 44 CFR Ch. I; International Trade Administration regulations from 32A CFR Ch. VI to 15 CFR Ch. III; and National Shipping Authority regulations from 32A CFR Ch. XVIII to 46 CFR Ch. II. In addition, the Interstate Commerce Commission is today publishing a document removing regulations appearing in 32A CFR Ch. VIII.

32A CFR Ch. VII—Department of Commerce and Department of Transportation

Accordingly, Chapter VII of Title 32A of the Code of Federal Regulations is transferred and redesignated as Chapter IV of Title 44. The regulations are transferred and redesignated as follows:

Old part 32A CFR	Title of Regulation	New part 44 CFR
701	Shipping restrictions (T-1)	401
701a	Shipments on American flag ships and aircraft (T-1, Int. 1)	402
702	Shipping restrictions; North Korea and the Communist-controlled area of Viet-Nam (Y-2)	403

Title 32A Chapter VII is vacated.

32A CFR Chapter XV—Federal Reserve System

Part 1505—Loan Guarantees for Defense Production, of Title 32A of the Code of Federal Regulations, is transferred and redesignated as Part 245 of Title 12 CFR Chapter II.

Title 32A Chapter XV is vacated.

Abolishment of Title 32A

Title 32A of the Code of Federal Regulations is abolished.

BILLING CODES 3510-17-M, 6210-1-M, 4910-62-M

DEPARTMENT OF COMMERCE

International Trade Administration

15 CFR Ch. III

32A CFR Ch. VI

Transfer and Redesignation of Industrial Mobilization Regulations

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Final rule.

SUMMARY: At the request of the Office of the Federal Register, the International Trade Administration is transferring and redesignating the regulations in Title 32A to Title 15. This action will aid the Office of the Federal Register in the orderly development of the Code of Federal Regulations.

This document also removes from Title 32A certain obsolete regulations concerning organizational and administrative aspects of the industrial mobilization regulations.

EFFECTIVE DATE: July 1, 1980.

FOR FURTHER INFORMATION CONTACT: Maurice E. Schweinhart, Office of Management and Systems, International Trade Administration, Department of Commerce, Washington, D.C. 20230, 202-377-3585.

Redesignation of Regulations

Accordingly, existing regulations of the International Trade Administration set forth at 32A CFR Chapter VI are transferred and redesignated to Title 15, Chapter III, under a new "Subchapter B—Industrial Mobilization Regulations" as set out in the table below. Existing Subchapter B—Export Administration Regulations of Title 15, Chapter III, is redesignated Subchapter C—Export Administration Regulations.

Old Part 32A CFR	Title of Regulation	New Part 15 CFR
621	Basic rules of the defense materials system (DMS Reg. 1)	330
621a	Self-authorization procedure for MRO needed to fill mandatory acceptance orders (DMS Reg. 1, Dir. 1)	331
621b	Controlled materials producers and distributors (DMS Reg. 1, Dir 2)	332
631	Iron and steel (DMS Order 1)	340
632	Nickel alloys (DMS Order 2)	341
633	Aluminum (DMS Order 3)	342
634	Copper and copper-base alloys (DMS Order 4)	343
651	Basic rules of the defense priorities system (DPS Reg. 1)	350
652	Operations of the priorities and allocations system between Canada and the United States (DPS Reg. 2)	351
653	Compliance and enforcement procedures (DPS Reg. 3)	352
661	Metalworking machines (DPS Order 1)	353
662	Nickel (DPS Order 2)	354

Removal of Obsolete Regulations

In addition, Parts 601, 602, and 603 of Title 32A are removed.

Title 32A Chapter VI is vacated.

Dated: June 23, 1980.

Eric L. Hirschhorn,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 80-19740 Filed 6-30-80; 8:45 am]

BILLING CODE 3510-25-M

INTERSTATE COMMERCE COMMISSION

32A CFR Part 801

AGENCY: Interstate Commerce Commission.

ACTION: Rescission of final rule.

SUMMARY: Regulations currently found in Title 32A, Part 801, dealing with the Commission's cadre of the National Defense Executive Reserve are removed.

EFFECTIVE DATE: July 1, 1980.

FOR FURTHER INFORMATION CONTACT: Richard K. Shullaw, Emergency Coordinator, Interstate Commerce Commission, (202) 275-7639.

SUPPLEMENTARY INFORMATION: The regulations concerning the establishment of a cadre of the National Defense Executive Reserve, currently found in Title 32A, have been supplanted by internal procedures of the agency. The need for these regulations has, therefore, been removed. This action does not have any effect on the current status of the cadre, or of cadre members. This action is similar to that taken by other agencies having similar NDER responsibilities.

Accordingly, Part 801 of 32A CFR is removed and Chapter VIII is vacated.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-19647 Filed 6-30-80; 8:45 am]

BILLING CODE 7035-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

32A CFR Ch. I

44 CFR Ch. I

[Docket No. FEMA-PP-320]

Transfer, Redesignation, Removal, and Revision of Regulations.

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: Reorganization Plan No. 3 of 1978 established the Federal Emergency Management Agency (FEMA). The plan was activated effective April 1, 1979, by Executive Order 12127 of March 31, 1979, "Federal Emergency Management Agency." Executive Order 12148 of July 20, 1979, effective July 15, 1979, "Federal Emergency Management" transferred or reassigned to the Director, FEMA, all the functions of the Federal Preparedness Agency (FPA) which had been a part of the General Services Administration. FEMA Regulations now appear mainly in Title 44 CFR. The regulations of the former FPA appear in Title 32A. This rule removes certain obsolete regulations from the Code, transfers the remaining regulations in title 32A CFR to Title 44, and makes changes for outdated nomenclature, statutory provisions and references and organization.

EFFECTIVE DATE: July 1, 1980.

FOR FURTHER INFORMATION CONTACT: William L Harding, Office of General Counsel, (FEMA). Telephone: (202) 634-4113.

SUPPLEMENTARY INFORMATION: Establishment of Title 44, Chapter I for FEMA regulations was published on Wednesday, May 2, 1979 (44 FR 25794).

Other than FPA, regulations of agencies from which FEMA was formed were transferred from other Titles in the Code to Title 44 on September 28, 1979 (44 FR 56172). Those of FPA were not transferred as there were certain variations from standard CFR codification in the text of the regulations in Chapter I of Title 32A.

This document is designed, among other matters, to take care of this codification. It is not intended in any way to change the content of the regulations in Title 32A. FEMA is presently engaged in a thorough revision of many of these regulations which have remained largely unchanged for a number of years. Therefore, only the minimum changes in text have been made to conform to CFR format, and to reflect organizational changes and minimal changes due to statutory changes.

Three of the parts have been removed. These dealt with Pub. L. 875, a law dealing with disaster relief which has been superseded by other laws dealing with this subject, particularly the Disaster Relief Act of 1974. If new regulations are needed to replace those removed, these will be adopted in connection with the revision of the regulations.

Two of the parts have recently been revised and are merely transferred to Title 44 without any changes. These are: 32A CFR Part 106, "Emergency Health and Medical Occupations" (45 FR 8600) and 32A CFR Part 134 "Preservation of the Mobilization Base Through the Replacement of Procurement & Facilities in Labor Surplus Areas" (45 FR 34884).

FEMA does not presently have a general regulation effectuating for the Agency Title VI of the Civil Rights Act of 1964. The former FPA regulations, 32 CFR Part 165, can be used temporarily, and is therefore transferred to Part 7 of the FEMA regulation with nomenclature changes.

Because this rule is simply a redesignation of existing regulations, it has been determined that a period for notice and comment is not necessary. Accordingly:

1. The following regulations are removed from Title 32A Chapter I

Part 102a—Emergency action for maintenance of the mobilization base under disaster conditions (DMO–2 Supp. 1)

Part 108—Program for expansion of supplies of materials needed for defense purposes in the event of a major disaster (as defined and determined under Pub. L. 875, 81st Congress (42 U.S.C. 1855)) (DMO–8)

Part 109—Provision of materials under Government control as needed to supplement supplies commercially available in the event of a major disaster (as defined and determined under Pub. L. 875, 81st Congress (42 U.S.C. 1855)) (DMO–9)

2. The following existing regulations set forth in Title 32A are transferred and redesignated to Title 44, Chapter I, as follows:

Old part 32A CFR	Title of regulation	New part 44 CFR
106	Emergency health and medical occupations	325
134	Preservation of the mobilization base through the replacement of procurement and facilities in labor surplus areas	331
165	Nondiscrimination in Federally assisted programs	7

NOMENCLATURE CHANGE: The term "Office of Emergency Planning" and the abbreviation "OEP" whenever appearing in the headings and text of the regulation listed above are changed to "Federal Emergency Management Agency" and "FEMA" respectively.

3. In Title 44 Chapter I, Subchapter E a new undesignated center heading "Civil Defense and Disaster Preparedness" is added before Parts 300–319.

4. The following regulations are transferred from Title 32A to Title 44 Chapter I Subchapter E, and are set out below.

Old part 32A CFR	Title of regulation	New part 44 CFR
	Resource Preparedness	
101	Dispersion and protective construction; policy, criteria, responsibilities (DMO–1)	320
102	Maintenance of the mobilization base (Department of Defense, Department of Energy and the Maritime Administration)	321
103	Defense production; priorities and allocations authority (DMO–3)	322
104	Guidance on priority use of resources in immediate postattack period (DMO–4)	323
105	National security policy governing scientific and engineering manpower (DMO–5)	324
107	Policy guidance for a national emergency blood program (DMO–7)	326
110	Policy on use of Government-owned industrial plant equipment by private industry (DMO–10A)	327
111	General policies for strategic and critical materials stockpiling (DMO–11)	328
112	Use of priorities and allocation authority for Federal Supply Classification (FSC) common use items (DMO–12)	329
113	Policy guidance and delegation of authorities for use of priorities and allocations to maximize domestic energy supplies in accordance with subsection 101(c) of the Defense Production Act of 1950, as amended (DMO–13)	330
	RESERVED	332-349

5. Title 32A Chapter I is vacated.

(Reorganization Plan No. 3 of 1978 (43 FR 41943); Executive Order 12127, dated March 31, 1979 (44 FR 10367); Executive Order 12148, dated July 20, 1979)

PART 320—DISPERSION AND PROTECTIVE CONSTRUCTION: POLICY, CRITERIA, RESPONSIBILITIES (DMO–1)

Sec.

320.1 Policy.
320.2 Criteria.
320.3 Responsibilities.

Authority: National Security Act of 1947, as amended, 50 U.S.C. 404; Defense Production Act of 1950, as amended, 50 U.S.C. App. 2061 *et seq;* Reorganization Plan No. 3 of 1978, 3 CFR 1978 Comp. p. 329; Executive Order 12148, 44 FR 43239.

320.1 *Policy.*

It is the policy of the United States to encourage and, when appropriate, to require that new facilities and major expansions of existing facilities important to national security be located in so far as practicable, so as to reduce the risk of damage in the event of attack; and to encourage and, when appropriate, require the incorporation of protective construction features in new and existing facilities to provide

resistance to weapons effects suitable to the locations of said facilities.

320.2 *Criteria.*

(a) The distance of a facility from the probable area of destruction is the controlling factor in reducing the risk of attack damage to such facility. In determining the appropriate distance consideration will be given to all relevant factors, including:

(1) The most likely objects or targets of enemy attack, such as certain military, industrial, population, and governmental concentrations.

(2) The size of such targets.

(3) The destructive power of a large yield weapon or weapons suitable to the particular target.

(4) The gradation of pressures and thermal radiation at various distances from an assumed point of detonation.

(5) The characteristics of the proposed facility, including underground and built-in protective construction features, with respect to its resistance to nuclear, chemical, and unconventional weapons.

(6) The degree of damage which a facility could sustain and still remain operable.

(7) The ground environment or natural barriers which might provide added protection to the facility.

(8) The economic, operational, and administrative requirements in carrying out the function for which the facility is to be provided.

(b) While no single distance standard and no single set of protective construction specifications against nuclear, chemical and unconventional weapons are feasible for all situations, the above factors will be applied so as to achieve the most protection practicable for a specific situation.

1320.3 *Responsibilities.*

(a) All departments and agencies of the Executive Branch of the Federal Government are responsible for adherence to the policy and criteria herein set forth with respect to programs under their control. Without limitation, specific reference is made to the following:

(1) All agencies: (i) Programs for minimizing the vulnerability of the mobilization base (DMO I–4, paragraph 17); (ii) Consideration of dispersed location and protective construction in the review of application for tax amortization (DMO III–1, paragraphs 4 and 5); (iii) Application of Dispersion Standards to Facilities of the Executive Branch, in accordance with policy and standards issued by the Director, Federal Emergency Management Agency.

(2) Department of Defense—Programs for maximum use of dispersed plants, and development of standards for strategic locations and physical security. (DMO I–12, paragraph 2, g, h, and o.)

(3) Department of the Interior—Programs for continuity of production of certain assigned industries.

(4) Department of Agriculture—Programs for operation of vital food facilities.

(5) Department of Commerce—Programs for dispersion and continuity of production.

(6) Federal Emergency Management Agency—Development and coordination of plans and programs for the reduction of urban vulnerability.

(b) The Department of Commerce is responsible for providing guidance and assistance to departments and agencies of the Federal Government, to industry, public and private persons and organizations including local Dispersion Committees, in the application of the policy and criteria contained herein.

(1) By agreement between the Department of Defense and the Department of Commerce, Department of Defense will provide guidance on certain industrial and other non-military projects in which it has a direct and special interest.

(2) The Department of Commerce may make similar arrangements with other departments and agencies to provide guidance on projects in which they have a direct and special interest, provided that reasonable safeguards to assure consistency and uniformity in the application of the policy and standards are maintained.

(3) The Department of Defense is responsible for the application of this policy to military projects without consultation with the Department of Commerce, but with due regard to the location of other vital facilities and plans for reduction of urban vulnerability as developed by the Federal Emergency Management Agency.

(c) The Federal Emergency Management Agency, responsible for the development and coordination of plans and programs for the reduction of urban vulnerability, is responsible for integrating at the metropolitan target zone level dispersion actions with all other measures which can make urban areas less attractive targets. It is also responsible for promulgating construction standards and specifications for the protection of persons and property from nuclear and unconventional weapons effects. The Department of Commerce and all others concerned will be governed by such standards in rendering the guidance and assistance described in paragraph (b) of this section.

PART 321—MAINTENANCE OF THE MOBILIZATION BASE (DEPARTMENT OF DEFENSE, DEPARTMENT OF ENERGY, MARITIME ADMINISTRATION)

Sec.

Authority: National Security Act of 1947, as amended 50 U.S.C. 404; Defense Production Act of 1950, as amended; 50 U.S.C. App. 2061 *et seq.;* Reorganization Plan No. 3 of 1978, 3 CFR 1978 Comp. p. 329; Executive Order 12148 (44 FR 43239)

§ 321.1 General.

A sustained state of mobilization production readiness is necessary to place the United States in a defense posture which will enable the nation to defend itself against aggression in peripheral conflicts or general war involving nuclear attacks on this country. Therefore, the facilities, machine tools, production equipment, and skilled workers necessary to produce the wartime requirements of the Department of Defense, Department of Energy, and the Maritime Administration shall be maintained in a state of readiness which will facilitate their immediate use or conversion in time of emergency, with especial emphasis on measures to maximize the probability of continued post-attack production of those items judged to be vital to survival and victory.

§ 321.2 Selection of the mobilization base.

(a) The Department of Defense shall select, for its mobilization base, facilities which produce or are capable of producing critically important military items or components (military class A components used entirely in the production, maintenance, or repair of military items) which meet one of the following:

(1) Those items which would be so urgent to the defense of this country that utmost effort must be exerted to produce them even in case of general war involving severe damage to the facilities necessary to produce these items and the components thereof.

(2) Those items essential to survival and retaliation, maintenance of health, or combat efficiency required to support peripheral war and which meet one or more of the following criteria:

(i) Items requiring a long lead-time or long manufacturing cycle.

(ii) Items currently not in production or which are required in quantities far in excess of peacetime production.

(iii) Items requiring the conversion of an industry or a number of plants within an industry.

(iv) Items requiring materials or manufacturing processes essentially different from those in current use.

(v) Items for which industry does not have production experience.

Paragraph (a)(2) of this section is inclusive of the Department of Defense Preferential Planning List of End Items.

(b) In selecting facilities for the Department of Defense mobilization base, consideration shall be given to their vulnerability to nuclear attack, with particular attention to the possibility of (1) minimizing vulnerability of facilities producing "urgent" items under paragraph (a)(1) of this section, including the need for dispersal, protective construction, and special security measures to safeguard against sabotage of clandestine attack, and (2) reducing concentration of uncommon critical production facilities so that a productive segment of each critical industry would be likely to survive a nuclear attack.

(c) The Department of Energy and the Maritime Administration, in cooperation with the Federal Emergency Management Agency, shall determine the items and facilities which meet the above criteria for their respective programs for maintaining the mobilization base.

§ 321.3 Maintaining the mobilization base.

(a) Facilities selected to produce "urgent" items shall be maintained within limits of existing procurement authority and funds available by the Department of Defense, the Department of Energy, and the Maritime Administration in the following manners to the maximum practical degree:

(1) Current procurement shall be placed in these facilities to the extent which will maintain them in a state of readiness compatible with the plans of the procuring agency.

(2) Machine tools and production equipment will be installed in these facilities to the extent found necessary by the procuring agency.

(3) Develop and maintain plans for alternate production capacity in case disaster destroys current facilities, such capacity to be located to the maximum extent possible away from highly concentrated industrial areas and major military installations.

(b) Other facilities selected as part of the mobilization base, shall be maintained to the fullest extent possible.

(1) Procurement agencies shall integrate current procurement with their industrial mobilization plans to the greatest possible extent with the objective of supporting the mobilization base within authorities and funds available.

(2) Data assembled on essential mobilization suppliers by the industrial mobilization planning of these agencies shall be used in planning current procurement. The policy of using contractors and facilities essential to the mobilization base is considered to be in the best interest of the Government.

(3) Planned producers that are deemed to be a part of the mobilization base will be invited to participate in appropriate current procurement.

(4) Upon expiration of current procurement contracts in a facility, the procuring agency shall take such of the following actions as are compatible with its plans for maintaining a state of readiness:

(i) *Government-owned facilities and tools.* Within the limitations that may be imposed by Congressional appropriations, place government-owned facilities and tools in standby status and establish provisions for their adequate maintenance. This does not preclude the use of government-owned production equipment, on a loan basis, to enable the military departments to meet current production schedules, as provided in DMO–VII–4, Amendment 1.

(ii) *Privately-owned facilities and government-owned tools.*

(A) Arrange with management of privately-owned facilities, wherever possible, to place government-owned tools and production equipment in the status provided by DMO–VII–4, as amended, taking into account the desirability of safe location.

(B) Arrange with management, on a voluntary basis, to keep a group of key managers, engineers, and skilled workers familiar with the items planned for mobilization production.

(C) Determine the gaps which exist in government-owned packages of tools and production equipment needed to produce mobilization requirements in privately-owned plants. Within the limit of fund availability, plan the procurement of such tools and equipment with priority being given to long lead-time tools and equipment or those not used in general manufacturing. These tools and equipment, when procured, should be placed in the status provided by DMO–VII–4, as amended, taking into account the desirability of safe locations.

(D) Determine which government-owned tools and equipment have become obsolete, or which would not be used in event of mobilization, and plan for their disposal in accordance with the provisions of DMO–VII–4, as amended.

§ 321.4 Achieving production readiness.

(a) In order to achieve a capability for maximum production of "urgent" items during the initial phase of war, the following readiness measures shall be taken where advisable for facilities producing such items:

(1) Establishment of emergency production schedules.

(2) Development of a production capability which would function under widespread disruption and damage imposed by enemy attack, including, where necessary:

(i) Maintenance of an increased inventory of finished components and related production supplies at assembly plants, or arrangements for alternative supply lines where increased inventories are not feasible.

(ii) A capability to carry on urgent production without dependence on additional personnel, external sources of power, fuel, and water, or on long-distance communications; with spare replacements for highly vulnerable or unreliable parts of production equipment.

(iii) Protection of production facilities from enemy sabotage through adequate physical security measures.

(iv) Protection of personnel from widespread radiological fallout through provisions for decontamination and shelter.

§ 321.5 Retention of industrial facilities.

(a) Industrial properties, owned by the Department of Defense, the Department of Energy, and the Maritime Administration, shall be retained in the Industrial reserves (National Industrial Reserve, Departmental Industrial Reserve for the Department of Defense) of the department and agencies to the extent the capacity of said reserves is necessary for the production of defense or defense-supporting end items, materials or components in a mobilization period.

(b) Each idle plant in the reserves shall be reviewed annually by the heads of the respective agencies to determine if the capacity of the plant continues necessary for mobilization purposes.

(c) Upon the determination by the head of the agency that the capacity of a plant is excess to the mobilization requirements of the agency immediate steps will be taken to dispose of the plant through existing government channels for surplus disposal. The Federal Emergency Management Agency shall be informed by General Services Administration of each

proposed surplus action prior to final determination.

§ 321.6 Participation of small business.

The agencies concerned with the order shall, in all of their programs for maintaining the mobilization base, be mindful of the national policy to protect the interests of small business, and to assure the maximum participation of small business in the mobilization base, including current procurement.

§ 321.7 [Reserved]

§ 321.8 Reports.

The Department of Defense, Department of Energy, and Maritime Administration shall furnish the Director of the Federal Emergency Management Agency with reports on items and facilities for programs under paragraphs 321.2 (a) and (b) above, and with such other periodic and special reports as he may require affecting the maintenance of the mobilization base.

PART 322—DEFENSE PRODUCTION: PRIORITIES AND ALLOCATIONS AUTHORITY (DMO-3)

Sec.
322.1 Purpose.
322.2 Policy.
322.3 Delegation of authority.

Authority: Defense Production Act of 1950, as amended, 50 U.S.C. App. 2061 *et seq.;* Reorganization Plan No. 3 of 1978, 3 CFR 1978 Comp. p. 329; Executive Order 12148, 44 FR 43239.

§ 322.1 Purpose.

This order:

(a) Establishes policy guidance in accordance with section 101 of Executive Order 10480 and sections 1–103 and 5–202 of Executive Order 12148;

(b) Delegates authority in accordance with section 201 of Executive Order 10480, as amended, and

(c) Delegates other authorities under the Defense Production Act of 1950, as amended.

§ 322.2 Policies.

(a) Authority of title I of the Defense Production Act of 1950, as amended, to control the distribution and use of materials and facilities, shall not be used except to require preference in the performance of contracts and orders and to allocate materials and facilities to accomplish the following:

(1) Direct military and atomic energy programs.

(2) Other programs and activities which are related to the military and atomic energy programs and which are certified by the Department of Defense or the Department of Energy and specifically authorized by the Federal Emergency Management Agency.

(3) Deliveries, production, and construction in industry required to fulfill direct military and atomic energy programs and the related programs and activities authorized under paragraph (a)(2) of this section.

(4) The general distribution in the civilian market of materials found to be scarce and critical pursuant to the provisions of section 101(b) of the Defense Production Act of 1950, as amended, and approved by the Director of the Federal Emergency Management Agency under section 201(b) of Executive Order 10480, as amended.

(5) Assistance in providing materials and facilities for the restoration of productive capacity damaged or destroyed by a major disaster as defined and determined under the provisions of Public Law 93–288 (42 U.S.C. 5121 *et seq.*).

(i) Whenever the facility to be restored has delivery orders identified by authorized program identification symbols under the defense materials system.

(ii) Whenever failure to restore the facility would result in failure to meet a defense delivery schedule.

(iii) Whenever failure to restore the facility would prevent the provision of a service necessary to meet a defense delivery schedule.

(iv) When and to the extent that assistance is necessary to restore mobilization base capacity for the production of defense items including materials and services covered by the Federal Emergency Management Agency expansion goals whether or not such goals remain open.

(b) The distribution of steel, copper, aluminum and nickel alloys for military and atomic energy and authorized related programs and activities shall assure:

(1) That supplies of these materials are available to those programs and activities on time and in proper quantity.

(2) That demands of these programs and activities shall be distributed among suppliers on a generally fair and equitable basis.

(3) That allotments are not made in excess of actual current requirements of these programs and activities.

These criteria shall also apply to the maximum practicable extent to the use of priorities for materials other than steel, copper, aluminum and nickel alloys in support of direct military and atomic energy programs and other authorized programs and activities.

(c) The Federal Emergency Management Agency shall review requirements and issue program determinations approving programs and making allotments of steel, copper, aluminum and nickel alloys to the Department of Defense and the Department of Energy for direct military and atomic energy programs and related programs and activities that have been authorized and assigned to these agencies for purposes of establishing them as programs eligible for priorities and allocations support, in accordance with the Department of Commerce regulations issued pursuant to title 1 of the Defense Production Act of 1950, as amended.

(d) All agencies now or hereafter designated by the Director of the Federal Emergency Management Agency to furnish supply and requirements data shall be responsible for the provision of such data and shall be entitled to be heard in connection with the determination of programs by the Director. The evaluation of supply and requirements data and the determination of programs shall be the function of the Associate Director, Plans and Preparedness of the Federal Emergency Management Agency with right of appeal to the Director of the Federal Emergency Management Agency by any designated agency.

(e) Exceptions to the foregoing basic policy may be made in the interests of the national defense by or with the authority of the Director of the Federal Emergency Management Agency.

§ 322.3 Delegation of authority.

(a) The functions of the Director of the Federal Emergency Management Agency under title 1 of the Defense Production Act of 1950, as amended, are hereby delegated to those offices and agencies named in section 201 of Executive Order 10480, as amended with respect to the areas of responsibilities designated, and subject to the limitations prescribed in that section.

(b) The functions conferred upon the Director of the Federal Emergency Management Agency by sections 310(b) and 311(b) of Executive Order 10480, as amended, to certify the essentiality of loans to the Secretary of the Treasury and the Export-Import Bank of Washington are hereby delegated to the Administrator of General Services to the extent that such loans are a part of and in accordance with the terms of programs certified by the Director of the Federal Emergency Management Agency pursuant to section 312 of Executive Order 10480.

(c) The functions conferred upon the Director of the Federal Emergency Management Agency by section 304 of Executive Order 10480, as amended,

relative to the encouragement of exploration, development and mining of strategic and critical metals and minerals are hereby delegated to the Secretary of the Interior.

(d) The functions delegated by this order may be redelegated with or without authority for further redelegation, and redelegations on the date hereof shall continue in effect until rescinded or modified by appropriate authority.

(e) Officers and agencies performing the functions delegated by this order or redelegated by, or by authority of, the delegates hereunder shall perform such functions subject to the direction and control of the Director of the Federal Emergency Management Agency as provided by section 101 of Executive Order 10480, as amended. Such officers and agencies shall furnish such reports on the use of the authority as the Director may require.

PART 323—GUIDANCE ON PRIORITY USE OF RESOURCES IN IMMEDIATE POST ATTACK PERIOD (DMO-4)

Sec.

Appendix I—List of Essential Survival Items

Authority: National Security Act of 1947, as amended, 50 U.S.C. 404; Defense Production Act of 1950, as amended, 50 U.S.C. App. 2061 *et seq.;* Reorganization Plan No. 3 of 1978, 3 CFR 1978 Comp. p. 329, Executive Order 12148 of July 20, 1979, 44 FR 43239.

§ 323.1 Purpose.

This part:

(a) States the policy of the Federal Government on use of resources in the period immediately following a nuclear attack on the United States;

(b) Provides general guidance for Federal, State, and local government officials on activities to be accorded priority in the use of postattack resources; and

(c) Lists those items essential to national survival in the immediate postattack period.

§ 323.2 General policy.

(a) In an immediate postattack period all decisions regarding the use of resources will be directed to the objective of national survival and recovery. In order to achieve this objective, postattack resources will be assigned to activities concerned with the maintenance and saving of lives, immediate military defense and retaliatory operations, and economic activities essential to continued survival and recovery.

(b) This guidance is designed to achieve a degree of national equity in the use of resources and to assign and conserve resources effectively in the immediate postattack period. Until more specific instructions are available, these are the general guidelines within which managerial judgment and common sense must be used to achieve national objectives under widely differing emergency conditions.

§ 323.3 Responsibilities.

(a) As stated in The National Plan for Emergency Preparedness, the direction of resources mobilization is a Federal responsibility. However, in the period immediately following an attack, certain geographical areas may be temporarily isolated, and State and local governments will assume responsibility for the use of resources remaining in such areas until effective Federal authority can be restored. State and local governments will not assume responsibility for resources under the jurisdiction of a Federal agency where the Federal agency is able to function.

(b) As soon as possible after an attack and until specific national direction and guidance on the use of resources is provided, Federal, State, and local officials will determine what resources are available, to what needs they can be applied, how they are to be used, and the extent to which resources are deficient or in excess of survival needs. They will base determinations as to the relative urgency for use of resources primarily upon the importance of specific needs of defense, survival, and recovery.

§ 323.4 Priority activities in immediate postattack period.

The following activities are to be accorded priority over all other claims for resources. There is no significance in the order of the listing—all are important. The order in which and the extent to which they are supported locally may vary with local conditions and circumstances. If local conditions necessitate the establishment of an order of priority among these activities, that order shall be based on determinations of relative urgency among the activities listed, the availability of resources for achieving the actions required, and the feasibility and timeliness of the activities in making the most rapid and effective contribution to national survival.

(a) The immediate defense and retaliatory combat operations of the Armed Forces of the United States and its Allies: This includes support of military personnel and the production and distribution of military and atomic weapons, materials and equipment required to carry out these immediate defense and retaliatory combat operations.

(b) Maintenance or reestablishment of Government authority and control to restore and preserve order and to assure direction of emergency operations essential for the safety and protection of the people. This includes:

(1) Police protection and movement direction;

(2) Fire defense, rescue and debris clearance;

(3) Warnings;

(4) Emergency information and instructions;

(5) Radiological detection, monitoring and decontamination.

(c) Production and distribution of survival items and provision of services essential to continued survival and rapid recovery. (For list of survival items, see Appendix 1 to this part.) These include:

(1) Expedient shelter;

(2) Food, including necessary processing and storage;

(3) Feeding, clothing, lodging, and other welfare services;

(4) Emergency housing and community services;

(5) Emergency health services, including medical care, public health and sanitation;

(6) Water, fuel, and power supply;

(7) Emergency repair and restoration of damaged vital facilities.

(d) Essential communications and transportation services needed to carry out the above activities.

(e) Provision of supplies, equipment, and repair parts to produce and distribute goods needed for the above activities.

§ 323.5 Assignment of resources.

Resources required for essential uses, including manpower, will be assigned to meet the emergency requirements of the priority activities indicated above. The principal objectives are to use available resources to serve essential needs promptly and effectively, and to:

(a) Protect and to prevent waste or dissipation of resources prior to their assignment to priority activities;

(b) Support production of essential goods. Other production will be permitted to continue only from inventories on hand and when there is no emergency requirement for the resources vital to this production.

(c) Support construction for emergency repair and restoration, construction of facilities needed for

survival, or the conversion of facilities to survival use, where this can be accomplished quickly. Other construction already under way should be stopped, and no new construction started unless it can be used immediately for essential purposes upon completion.

Appendix 1 to Part 323—List of Essential Survival Items

This document contains a list of items considered essential to sustain life at a productive level to assure national survival in an emergency. The list identifies items to which major attention should be given in all phases of preattack planning to insure the availability of basic essentials for a productive economy in the event of a nuclear attack. Supply-requirements studies and assessments for these items will be made to disclose critical deficiencies or other problems that can be anticipated. Revisions will be made as necessary to keep the items as up-to-date as possible.

The items are arranged by seven major groups:

(1) Health Supplies and Equipment,
(2) Food,
(3) Body Protection and Household Operations,
(4) Electric Power and Fuels,
(5) Sanitation and Water Supply,
(6) Emergency Housing and Construction Materials and Equipment, and
(7) General Use Items.

Survival items are defined as "those items without which large segments of the population would die or have their health so seriously impaired as to render them both burdensome and non-productive." The items have been classified into Group A or Group B, with Group A representing end products consumed or used directly by the population, and Group B consisting of those items essential to the effective production and utilization of the Group A items, which are consumed or used directly by the people.

There are no Group B items in the categories of Health Supplies and Equipment, Body Production and Household Operations, and Emergency Housing and Construction Materials and Equipment. All of these items are considered to be consumed directly and any attempt to separate them in to A and B groupings would be too arbitrary to be meaningful.

It is important to keep in mind the fact that while the items listed are the basic essentials necessary for maintaining a viable economy during the first six months following an attack, not all of them would create problems that would require government action preattack to insure adequate supplies. The aforementioned supply-requirements studies will be undertaken to identify the problem areas. In developing supply data, all available production capacity, existing inventories, and possible substitutions will be considered. For example, in analyzing clothing items, all available supplies would be considered from sport to dress shirts, from overalls to dress suits. However, new production would be limited to the simplest form of the basic item which can be produced. The final determination as to which of the items are most critical and which may require preattack actions by the Government, as well as the type of actions which must be taken, can be made only after a comprehensive supply-requirements analysis is completed.

List of Essential Survival Items

I. *Health Supplies and Equipment:*

Group A

1. *Pharmaceuticals:*
Alcohol.
Analgesics, non-narcotic.
Antibiotics and antibacterials.
Antidiabetic agents, oral.
Antihistamines.
Antimalarials.
Atropine.
Blood derivatives.
Carbon dioxide absorbent.
Cardiovascular depressants.
Cardiovascular stimulants.
Corticosteriods.
Diuretics.
General anesthetics.
Hypnotics.
Insulin.
Intravenous solutions for replacement therapy.
Local anesthetics.
Lubricant, surgical.
Morphine and substitutes.
Oral electrolytes.
Oxygen.
Surgical antiseptics.
Sulfa drugs.
Synthetic plasma volume expanders.
Vitamin preparations, pediatric.
Water for injection.

2. *Blood Collecting and Dispensing Supplies:*
Blood collecting and dispensing containers.
Blood donor sets.
Blood grouping and typing sera.
Blood recipient sets.
Blood shipping containers.

3. *Biologicals:*
Diphtheria toxoid.
Diphtheria antitoxin.
Diphtheria and tetanus toxoids and pertussis vaccine.
Gas gangrene antitoxin.
Poliomyelitis vaccine, oral.
Rabies vaccine.
Smallpox vaccine.
Tetanus antitoxin.
Tetanus toxoid, absorbed.
Typhoid vaccine.
Typhus vaccine, epidemic.
Yellow fever vaccine.

4. *Surgical Textiles:*
Adhesive plaster.
Bandage, gauze.
Bandage, muslin.
Bandage, plaster of paris.
Cotton, USP.
Surgical pads.
Stockinette, surgical.
Wadding, cotton sheet.

5. *Emergency Surgical Instruments and Supplies:*
Airway, pharyngeal.
Anesthesia apparatus.
Basin, wash, solution.
Blade, surgical knife.
Brush, scrub, surgical.
Catheter, urethral.
Containers for sterilization.
Chisel, bone.
Drain, Penrose.
Dusting powder.
Forceps, dressing.
Forceps, hemostatic.
Forceps, obstetrical.
Forceps, tissue.
Gloves, surgeon's.
Handles, surgical knife.
Holder, suture needle.
Inhaler, anesthesia, Yankauer (ether mask).
Intravenous injection sets.
Knife, cast cutting.
Lamps, for diagnostic instruments.
Lamps, for surgical lights.
Laryngoscope.
Light, surgical, portable.
Litter.
Mallet, bone surgery.
Needles, hypodermic, reusable.
Needles, suture, eyed.
Otoscope and ophthalmoscope set.
Probe, general operating.
Razor and blades (for surgical preparation).
Retractor, rib.
Retractor set, general operating.
Rongeur, bone.
Saw, amputating.
Saw, bone cutting, wire (Gigli).
Scissors, bandage.
Scissors, general surgical.
Sigmoidoscope.
Speculum, vaginal.
Sphygmomanometer.
Splint, leg, Thomas.
Splint, wire, ladder.
Sterilizer, pressure, portable.
Stethoscope.
Sutures, absorbable.
Sutures, absorbable, with attached needle.
Sutures, nonabsorbable.
Sutures, nonabsorbable, with attached needle.
Syringes, Luer, reusable (hypodermic syringes).
Thermometers, clinical.
Tracheotomy tube.
Tube, nasogastric.
Tubing, rubber or plastic, and connectors.
Vascular prostheses.
Webbing, textile, with buckle.

6. *Laboratory Equipment and Supplies:*
Bacteriological culture media and apparatus.
Balance, laboratory with weights.
Blood and urine analysis instruments, equipment and supplies.
Chemical reagents, stains and apparatus.
Glassware cleaning equipment.
Laboratory glassware.
Microscope and slides.
Water purification apparatus.

Group B

None.

II *Food:*

Group A

1. *Milk Group.* Milk in all forms, milk products. Important for calcium, riboflavin, protein, and other nutrients.

2. *Meat and Meat Alternate Group.* Meat, poultry, fish, eggs; also dry beans, peas, nuts. Important for protein, iron, and B-vitamins.

3. *Vegetable-Fruit Group.* Including 1. Dark Green and yellow vegetables. Important for Vitamin A. 2. Citrus fruit or other fruit or vegetables. Important for Vitamin C. 3. Other fruits and vegetables, including potatoes.

4. *Grain Products.* Especially enriched, restored, cereal and cereal products, and bread, flours, and meals. Important for energy, protein, iron, and B-vitamins.

5. *Fats and Oils.* Including butter, margarine, lard, and other shortening oils. Important for palatability and food energy; some for Vitamin A and essential fatty acids.

6. *Sugars and Syrups.* Important for palatability and food energy.

7. *Food Adjuncts.* Certain food adjuncts should be provided to make effective use of available foods. These include antioxidants and other food preservatives, yeast, baking powder, salt, soda, seasonings and other condiments. In addition, coffee, tea, and cocoa are important for morale support.

Group B

Food containers.
Nitrogenous fertilizers.
Seed and livestock feed.
Salt for livestock.
Veterinary Medical Items:
Anthrax vaccine.
Black leg vaccine.
Hog cholera vaccine.
Newcastle vaccine.

III. *Body Protection and Household Operations:*

Group A

1. *Clothing:*
Gloves and mittens.
Headwear.
Hosiery.
Outerwear.
Shoes and other footwear.
Underwear.
Waterproof outer garments.
2. *Personal Hygiene Items:*
Diapers, all types.
Disposable tissues.
First aid items (included on Health Supplies and Equipment List).
Nipples.
Nursing bottles, all types.
Pins.
Sanitary napkins.
Soaps, detergents, and disinfectants.
Toilet tissue.
3. *Household Equipment:*
Bedding.
Canned heat.
Cots.
Hand sewing equipment.
Heating and cooking stoves.
Incandescent hand portable lighting equipment (including flashlights, lamps, batteries).
Kitchen, cooking, and eating utensils.
Lamps (incandescent medium base) and lamp holders.
Matches.
Nonelectric lighting equipment.
Sleeping bags.

Group B

None.

IV. *Electric Power and Fuels:*

1. *Electric Power.*

Group A

Electricity.

Group B

Conductors (copper and/or aluminum), including bare cable for high voltage lines and insulated wire or cable for lower voltage distribution circuits.
Switches and circuit breakers.
Insulators.
Pole line hardware.
Poles and crossarms.
Transformers (distribution, transmission, and mobile).
Tools for live-circuit operations, including rubber protective equipment, and linemen's tools.
Utility repair trucks, fully equipped.
Prime mover generator sets up to 501 kilowatts and 2400 volts, including portable and mobile sets up to 150 kilowatts and 110/220/440 volts, 3-phase, 60-cycle complete with fuel tank and switchgear in self-contained units.

2. *Petroleum Products.*

Group A

Gasoline.
Kerosene.
Distillate fuel oil.
Residual fuel oil.
Liquefied petroleum oil.
Lubricating oil.
Grease.

Group B

Storage tanks.
Pumps for loading and unloading.
Pressure containers and fittings for liquefied petroleum gas.

3. *Gas.*

Group A

Natural gas.
Manufactured gas.

Group B

Various sizes of pipe (mostly steel).
Various sizes of valves, fittings, and pressure regulators.
Specialized repair trucks and equipment.

4. *Solid Fuels.*

Group A

Coal and coke.

Group B

Conveyor belting.
Insulated trail cables.
Trolley feeder wire.
Roof bolts.

V. *Sanitation and Water Supply:*

Group A

1. *Water.*
2. *Water Supply Materials:*
a. *Coagulation:*
Ferric chloride.
Ferrous sulfate.
Ferric sulfate.
Chlorinated copperas.
Filter alum.
Hydrated lime.
Pulverized limestone.
Soda ash.
b. *Disinfection Chemicals:*
High-test hypochlorites (70 percent) in drums, cans, ampules.
Iodine tablets.
Liquid chlorine, including containers.
Chlorine compounds (not gas).
c. *Miscellaneous Materials:*
Diatomaceous earth.
Activated carbon.
3. *Chemical Biological, and Radiological (CBR) Detection, Protection, and Decontamination Items:*
Calibrators.
Chemical agent detection kits, air, food, and water.
Dosimeters and chargers.
Protective masks, clothing, helmets.
Survey meters (Alpha, Beta, Gamma).
Warning signs—biological, chemical, and radiological contamination.
4. *Insect and Rodent Control Items:*
a. *Insecticides:*
DDT, water dispersible powder (75 percent).
Lindane powder, dusting (1 percent).
Malathion, liquid, emulsifiable concentrate (57 percent).
Deet (diethyltoluamide) 75 percent in denatured alcohol.
Pyrethrum.
b. *Rodenticides:*
Anticoagulant type, ready-mixed bait.
"1080" (sodium monofluoroacetate) (for controlled use only).
5. *General Sanitation:*
Lye.

Group B

1. *General Supplies and Equipment:*
Chemical feeders.
Mobile and portable pressure filters.
Chlorinators (gas and hypochlorites).
Pumps and appurtenances, Hand—Electric—Gasoline—Diesel.
Well-drilling equipment, including well casing, drive pipe and drive points.
2. *Storage and Transport Equipment:*
Lyster bags.
Storage tanks, collapsible and portable.
Storage tanks, rigid, transportable.
Storage tanks, wood stave, knock-down.
3. *Laboratory Equipment and Supplies:*
Membrane filter kits with filters and media.
Chlorine and pH determination equipment.
4. *Sanitation Equipment:*
Hand sprayer, continuous type.
Hand sprayer, compression type.
Hand duster, plunger type.
Spraying equipment for use with helicopter, fixed-wing light aircraft, high-speed fixed-wing attack aircraft, and cargo-type aircraft.

VI. *Emergency Housing and Construction Materials and Equipment.*

Group A

Asphalt and tar roofing and siding products.
Builders hardware—hinges, locks, handles, etc.
Building board, including insulating board, laminated fiberboard, hardpressed fiberboard, gypsum board, and asbestos cement (flat sheets and wallboard).
Building papers.
Plastic patching, couplings, clamps, etc. for emergency repairs.
Plumbing fixtures and fittings.
Prefabricated emergency housing.
Rough hardware—nails, bolts, screws, etc.
Sewer pipe and fittings.

Tents and tarpaulins; canvas, plastics, and other similar materials.
Lumber and allied products; Lumber, principally 1-inch and 2-inch, minor quantities of small and large timbers; siding and flooring; plywood; millwork, doors, and windows.
Masonry products—brick, cement, lime, concrete block, hollow tile, etc.
Translucent window coverings.
Water pipe and hose, plus fittings—all types including fire hose.

Group B

None.

VII. *General Use Items.*

Group A

None.

Group B

Batteries, wet and dry cell.
Bulldozers.
Fire fighting equipment.
Light equipment and hand tools (including electric powered) for carpentry, masonry, plumbing, and excavation.
Pipe installation materials and equipment.
Refrigerators, mechanical.
Rigging tools—cables, ropes, tackles, hoists, etc.
Tank railroad cars.
Tank Trucks and trailers.
Tires.
Trenching equipment.
Truck tractors and trailers, including low bed.
Trucks up to five tons (25 percent equipped with power takeoff).
Welding equipment and supplies (electric and acetylene).

[29 FR 15124, Nov. 10, 1964. Redesignated at 40 FR 27218, June 27, 1975]

PART 324—NATIONAL SECURITY POLICY GOVERNING SCIENTIFIC AND ENGINEERING MANPOWER (DMO-5)

Sec.
324.1 Purpose.
324.2 Background.
324.3 Policy.
324.4 Action.

Authority: National Security Act of 1947, as amended, 50 U.S.C. 404; Defense Production Act of 1950, as amended, 50 U.S.C. App. 2061 *et seq.;* Reorganization Plan No. 3 of 1978, 3 C.F.R. 1978 Comp. p. 329, Executive Order 12148 of July 20, 1979, 44 FR 43239.

§ 324.1 Purpose.

This part provides current policy on the training and utilization of scientific and engineering manpower as it affects the national security.

§ 324.2 Background.

(a) The essential role of scientific and engineering manpower in any period of national emergency is well recognized. While the quantity and quality of scientific and engineering manpower are materially influenced by Government action, the development and use of such manpower are greatly dependent upon policies and actions of the private sector.

(b) Since the issuance of Defense Manpower Policy 8, many steps have been taken by the Government and the private sector to assure the adequacy of scientific and engineering manpower for total national security. This statement of current Government policy is intended to continue the constructive policies and actions already in being and to assure the adequacy of this important national resource during a major emergency.

§ 324.3 Policy.

It is the policy of the Federal Government to project the Nation's scientific and engineering manpower requirements sufficiently into the future to permit long-range planning; to relate those requirements to other resource requirements, including requirements for other manpower skills; to relate peacetime and emergency requirements; and to cooperate with educators, industry, professional societies, and employee associations to:

(a) Support training and education programs which enhance our national security through the development of defense related skills.

(b) Stimulate individuals with scientific and technical aptitudes to attain the highest level of formal education in science and technology for which they are capable.

(c) Stress basic principles and fundamentals of science and technology in educational curricula.

(d) Offer significant on-the-job training which will broaden the experience and capabilities of individual scientists and engineers.

(e) Provide realistic retraining opportunities which will assist in updating the knowledge and skills of scientists and engineers.

(f) Broaden the selection base in order to assure entry of all qualified individuals, including women and members of minority groups, into scientific and technical positions.

(g) Encourage continued employment of senior scientists and engineers who are yet capable of efficient performance, even though the retention of such personnel may be only on a part-time basis.

(h) For maximum security explore and, where appropriate, adopt the principle of decentralized scientific and technical operations.

§ 324.5 Action.

Consistent with the policies contained herein, each department and agency of the Federal Government should (a) review its current manpower policies and update its policies and programs for scientific and engineering manpower to assure their maximum contribution to national security and emergency preparedness, (b) base its policies and actions on projected peacetime and emergency requirements, and (c) encourage and support private sector efforts to assure the fulfillment of future requirements for this critical manpower resource.

PART 326—POLICY GUIDANCE FOR A NATIONAL EMERGENCY BLOOD PROGRAM (DMO-7)

Sec.
326.1 Purpose.
326.2 Background.
326.3 Objectives.
326.4 Policy.
326.5 Responsibilities.
326.6 Interagency research relationships.
326.7 Reports.

Authority: National Security Act of 1947, as amended, 50 U.S.C. 404; Defense Production Act of 1950, as amended, 50 U.S.C. App. 2061 *et seq.;* Reorganization Plan No. 3 of 1978, 3 CFR 1978 Comp. p. 329, Executive Order 12148 of July 20, 1979, 44 FR 43239.

§ 326.1 Purpose.

This order prescribes the objectives, policies, and responsibilities of the National Emergency Blood Program.

§ 326.2 Background.

Provision of adequate blood and related items and activities to meet basic military, civil defense and civilian needs in an emergency is of recognized national importance. Certain government agencies and civilian blood banking systems have developed programs designed to contribute to this end. Coordination of these programs is essential to achieve maximum effectiveness and to avoid duplication of efforts and conflict of activities.

§ 326.3 Objectives.

The National Emergency Blood Program is established to develop, prior to a national emergency, the capability and readiness to make optimum use of available resources to meet the Nation's requirements for blood and related products in any such emergency. Actions directed toward this objective include planning and organization for emergency operations, standardization, and stockpiling of supplies and equipment, training of personnel in blood program techniques, and development of donor appeal measures.

§ 326.4 Policy.

(a) *Coordination.* No Federal agency shall duplicate the efforts of any other agency participating in this program except in situations where it is clearly recognized that the task in question

cannot be otherwise adequately performed. Further, any such duplicating effort shall not be undertaken without prior agreement among the Federal agencies involved and the Federal Emergency Management Agency. All other agencies participating in the program are urged to coordinate their efforts with all other participants so as to avoid unnecessary duplication.

(b) *Blood collection activities.*

(1) The blood collection activities of Federal agencies shall be administered so as to make maximum, efficient use of available sources while assuring minimum impact on provision of normal blood supplies for the civilian community.

(2) The collection facilities of the Department of Defense shall be limited to Armed Services installations and blood shall be drawn only from military personnel or from civilian personnel on military installations.

(c) *Reserves.*

(1) Reserves of blood products, artificial plasma volume expanders and related items shall be established and maintained by the Department of Defense and by the Department of Health and Human Services.

(2) Blood derivative reserves for the National Emergency Blood Program shall be established by contracting with the civilian suppliers for the collection of blood for this purpose, except that the Department of Defense may utilize blood salvaged from its blood collection program for the purpose of adding to the Department of Defense blood derivative reserve.

(3) Blood or blood derivatives going into the reserves shall be allocated according to military and nonmilitary defense requirements to the Department of Defense and the Department of Health and Human Services by the Director, Federal Emergency Management Agency.

(4) In the event of a national emergency, the total reserves of blood products, artificial plasma volume expanders and related items shall be subject to immediate reallocation by Executive order.

(d) *Emergency allocation of blood and blood derivatives.* The Director, Federal Emergency Management Agency, may, in an emergency, allocate blood collected by organizations actively participating in this Program. With modifications dependent on the magnitude and type of emergency, the following priorities will be applied:

(1) First priority shall be given to the allocation of blood to the Armed Services for whole blood transfusion purposes.

(2) Second priority shall be given to the allocation of whole blood and blood derivatives for civilian needs.

(e) *Recruitment of volunteer blood donors.* When directed by the Federal Emergency Management Agency, the total donor recruitment program shall be geared to soliciting donors for the Blood Program as a whole rather than for specific parts of the whole. The various agencies involved in this program shall unite in a coordinated effort to inform the people clearly of the urgent need for blood. The Federal Emergency Management Agency shall designate the agency to administer this effort.

§ 326.5 Responsibilities.

(a) The Federal Emergency Management Agency will exercise authoritative coordination of the program. It will develop and promulgate overall policy guidance and will adjudicate conflicts between participating Federal agencies.

(b) The Department of Defense is responsible for administering the military aspects of this program.

(c) The Department of Health and Human Services is responsible for the nonmilitary aspects of this program as part of its assignment of responsibility for planning the mobilization of the nation's civilian health resources.

(d) The Secretary of Defense shall maintain an interagency committee to coordinate Federal agency funding and programing aspects for research and development projects relating to the National Emergency Blood Program so as to best support that program. However, this mission should not be construed as control or direction of the research of any agency represented on this committee.

(e) The National Research Council shall:

(1) Formulate, evaluate, and recommend programs and projects relating primarily to scientific aspects of the National Emergency Blood Program.

(2) Recommend actions which may be taken by the various agencies involved in the operation of the National Emergency Blood Program based on relevant research determinations.

§ 326.6 Interagency research relationships.

(a) Funds shall be provided for the work of the National Research Council in connection with the National Emergency Blood Program by participating agencies in accordance with established practices.

(b) Interested Federal agencies, such as the Federal Emergency Management Agency, Department of Defense, Public Health Service, and the Food and Drug Administration, shall seek the advice of the National Research Council on problems relating primarily to the scientific aspects of Research and Development for the National Emergency Blood Program.

(c) The National Research Council, the Department of Defense interagency committee, and the Federal Emergency Management Agency shall keep each other informed of program developments.

§ 326.7 Reporting.

(a) Reports of the activities of the Council and the committee shall be submitted when and as requested by the Federal Emergency Management Agency.

(b) As and when directed by the Federal Emergency Management Agency, the Department of Health and Human Services, and the Department of Defense, shall provide the Federal Emergency Management Agency with reports covering (1) the respective requirements and reserves of blood program items; and (2) related activities.

PART 327—POLICY ON USE OF GOVERNMENT-OWNED INDUSTRIAL PLANT EQUIPMENT BY PRIVATE INDUSTRY (DMO-10A)

Sec.

Authority: National Security Act of 1947, as amended, 50 U.S.C. 404; Defense Production Act of 1950, as amended, 50 U.S.C. App. 2061 *et seq.*; Reorganization Plan No. 3 of 1978, 3 C.F.R. 1978 Comp. p. 329; Executive Order 12148 of July 20, 1979, 44 F.R. 43239.

§ 327.1 Purpose.

This part establishes policy on the use by private industry of Government-owned industrial plant equipment. This policy is necessary to maintain a highly effective and immediately available reserve of such equipment for the emergency preparedness programs of the U.S. Government.

§ 327.2 Scope and applicability.

(a) This part applies to all Federal departments and agencies having, for purposes of mobilization readiness, Government-owned industrial plant equipment under their jurisdiction or control and having emergency preparedness functions assigned by Executive orders concerning use of that equipment.

(b) As used herein, "industrial plant equipment" means those items of equipment, each with an acquisition cost of $1,000 or more, that fall within

specified classes of equipment listed in DOD regulations. Classes of equipment may from time to time be added to or deleted from this list.

§ 327.3 Policy.

(a) *General.*—(1) Primary reliance for defense production shall be placed upon private industry.

(2) When it is determined by an agency that, because of the lack of specific industrial plant equipment, private industry of the United States cannot be relied upon for needed Government production, that agency may provide to private industry such Government-owned industrial plant equipment as is deemed necessary to ensure required production capability. Requirements for such equipment should be reviewed at least annually to ascertain the continuing need, particularly with a view toward private industry furnishing the equipment for long term requirements.

(3) When it is necessary for Federal agencies to supply Government-owned industrial plant equipment to private industry, these agencies will maintain uniformity and fairness in the arrangements for the use of this equipment by following regulations for the use of such equipment as developed and published by the Secretary of Defense pursuant to section 809 of Pub. L. 93–155. The regulations to be developed by the Secretary of Defense shall be in consonance with this order. These regulations will attempt to ensure that no Government contractor is afforded an advantage over his competitors and that Government-owned industrial plant equipment is maintained properly and kept immediately available for the emergency preparedness needs of the United States.

(b) *Interagency use of idle equipment.* In any instances in which a Government contractor cannot meet Government production schedules because necessary industrial plant equipment is not available from private industry or from the contracting Federal department or agency, idle industrial plant equipment under the control of other Federal agencies may be made available for this purpose through existing authorities on a transfer, loan, or replacement basis by interagency agreement.

(c) *Availability of equipment for emergency use.* Government-owned industrial plant equipment may be provided by controlling agencies for emergency use by essential Government contractors whose facilities have been damaged or destroyed.

(d) *Uniform rental rates.* All new agreements entered into by any agency of the Federal Government under which private business establishments are provided with Government-owned industrial plant equipment shall be subject to rental rates established by the Secretary of Defense pursuant to section 809 of Pub. L. 93–155. The rental rates shall ensure a fair and equitable return to the U.S. Government and be generally competitive with commercial rates for like equipment.

(e) *Use of Government-owned industrial plant equipment for commercial (non-Government) purposes.* Subject to adequate controls being established under DOD regulations pursuant to Pub. L. 93–155, and statutory authority for leasing, Government-owned industrial plant equipment may be authorized for commercial use by contractors performing contracts or subcontracts for the Government agency if it is necessary to keep the equipment in a high state of operational readiness through regular usage to support the emergency preparedness programs of the U.S. Government.

§ 327.4 Disputes.

In the event of an interagency dispute about the regulations developed by the Department of Defense in accordance with this order, the Director, Federal Emergency Management Agency, shall adjudicate.

§ 327.5 Reports.

Such reports of operations under this order as may be required by the Federal Emergency Management Agency, shall be submitted to the Director.

PART 328—GENERAL POLICIES FOR STRATEGIC AND CRITICAL MATERIALS STOCKPILING (DMO–11)

Sec.

Authority: Strategic and Critical Materials Stock Piling Act, as amended, 50 U.S.C. 98; National Security Act of 1947, as amended, 50 U.S.C. 404; Defense Production Act of 1950, as amended, 50 U.S.C. App. 2061 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR 1978 Comp. p. 329; Executive Order 12148 of July 20, 1979, 44 FR 43239; Executive Order 12155 of September 10, 1979, 44 FR 53071.

§ 328.1 Purpose.

This part sets forth revised policies for the administration of strategic and critical materials stockpiling.

§ 328.2 Policies.

By virtue of the authority vested in me by Executive Order 11051, the following policies are promulgated to govern the administration of strategic and critical materials stockpiling:

(a) *General.* The strategic stockpile shall be so administered as to assure the availability of strategic and critical materials in times of national emergency.

(b) *Period covered by stockpiling.* All strategic stockpile goals for conventional war shall be limited to meeting estimated shortages of materials for the first three years of a war.

(c) *Stockpile objectives.* Strategic stockpile goals shall be adequate for supplies of these materials in time of national emergency.

(d) *Emergency requirements.* The requirements estimates for use in times of national emergency, where appropriate, reflect specific requirements to the extent available. It shall be assumed that the total requirements will approximate the capacity of industry to consume, taking into account necessary wartime limitation, conservation and substitution measures. Departments and agencies having responsibilities with regard to requirements data on stockpile materials shall review such data and provide, upon his request, the Director of the Federal Emergency Management Agency with information as to all significant changes.

(e) *Emergency supplies.* Estimates of supply for the mobilization period shall be based on readily available capacity and known resources in the United States and such other countries as directed by the National Security Council. Departments and agencies having the responsibilities with regard to supply data on stockpile materials shall review such data and provide the Director of the Federal Emergency Management Agency upon his request, with information as to all significant changes.

(f) *Provision for special-property materials.* Arrangements shall be made for the regular availability of objective scientific advice to assist in the evaluation of prospective needs for high-temperature and other special-property materials. Such materials shall be stockpiled if reasonably firm minimum requirements indicate the existence of a supply deficit in the event of an emergency.

(g) *Supply-requirements reviews.* The supply-requirements balance for any material that is now or may become important to defense shall be kept under continuing surveillance. Supply-requirements data submitted pursuant to paragraphs d. and e. above shall be examined upon receipt. A full-scale review may be undertaken at any time

that a change is believed to be taken place that would have a significant bearing on the wartime readiness position. Priority of review shall be given to materials under procurement.

(h) *Procurement policy.* Unfilled objectives shall be attained expeditiously by cash procurement or otherwise as the Director shall deem appropriate. Long-term contracts shall contain termination clauses whenever possible. All feasible measures for meeting materials deficits in an emergency shall be considered. Stockpiling shall be undertaken only when it is clear that it is the best solution.

(i) *Maintenance of the mobilization base.* A portion of the mobilization base comprises existing or projected productive capacity the output of which will be relied on to fill defense requirements. All inventories of Government-owned materials held for long-term storage are a part of the mobilization base and should be weighed in determining the need for a relevant portion of the productive segment of the mobilization base. The maintenance of any portion of the productive segment of the mobilization base through stockpile procurement shall be undertaken only within unfilled stockpile objectives.

(j) *Upgrading to ready usability.* In order to satisfy the initial surge of abnormal demands following intensive mobilization in a period of national emergency, stockpile objectives of upgraded forms of such materials shall be established for immediate use in such circumstances. For this purpose a minimum readiness inventory shall be provided near centers of consumption. Materials in Government inventories may be upgraded for such stockpiling purposes only when the net cost of such processing including transportation and handling is less than the cost of new material. Materials should be upgraded to forms which will permit the greatest use-flexibility. Surplus materials may be used to pay for the upgrading of the same or other materials required to meet objectives providing that the use of excess materials for this purpose is in conformance with disposal criteria.

(k) *Beneficiation of subspecification materials.* Subspecification-grade materials in Government inventories may be beneficiated within the limits of the objectives when this can be accomplished at less cost than buying new material.

(l) *Cancellation of commitments.* Commitments for deliveries to national stockpile and Defense Production Act inventories beyond the objectives shall be canceled or reduced when settlements can be arranged which would be mutually satisfactory to the supplier and the Government and which would not be disruptive to the economy or to projects essential to the national security. Such settlements may take into account anticipated profits and cover adjustments for above-market premiums. The settlement of commitments may be made through the payment of cash or through the use of surplus materials. Responsibility with respect to the settlement of commitments in the light of overall interest of the Government rests with the Administrator of General Services who shall keep other agencies advised and consult with them to the extent appropriate.

(m) *Retention of other inventories.* Within the limits of unfilled stockpile objectives, stockpile-grade materials in the Defense Production Act and the supplemental stockpile inventories shall be retained for national stockpile purposes.

(n) *Disposals:* (1) The Director of the Federal Emergency Management Agency will authorize the disposal of excess materials only after due regard to: (i) Avoidance of serious disruption of the usual markets of producers, processors and consumers, and (ii) the protection of the United States against avoidable loss.

(2) In general, excess materials constitute unneeded assets and shall be disposed of as expeditiously as possible.

(3) In making such disposals preference shall be given to materials that deteriorate, that are likely to become obsolete, that do not meet quality standards, or that do not have stockpile objectives.

(4) The Administrator of General Services shall be responsible for disposal of excess materials. He shall advise the Secretary of State and the appropriate Assistant to the President in advance on all disposal plans.

(o) *Government use.* Under such policies and procedures as the Administrator of General Services may prescribe, Government agencies which directly or indirectly use strategic and critical materials shall fulfill their requirements through the use of materials in Government inventories that are excess to the needs thereof. Direct use means use in a Government-owned and operated facility and use in a Government-owned facility which is operated by a contractor for the Government. Indirect Government use means use by prime contractors and all tiers of subcontractors in the production of items being procured by the Government.

§ 328.3 Delegation of authority—Preparation of reports.

The Administrator of General Services shall prepare on behalf of the Director of the Federal Emergency Management Agency and forward to him for transmittal to the Congress reports as required by the Director.

PART 329—USE OF PRIORITIES AND ALLOCATION AUTHORITY FOR FEDERAL SUPPLY CLASSIFICATION (FSC) COMMON USE ITEMS (DMO–12)

Sec.
329.1 Purpose.
329.2 Policies.
329.3 Procedures.
329.4 Implementation.

Authority: Defense Production Act of 1950, as amended, 50 U.S.C. App. 2601 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR 1978 Comp. p. 329; Executive Order 12148 of July 20, 1979, 44 FR 43239; Executive Order 10480 of August 14, 1953, (18 FR 4939) as amended.

§ 329.1 Purpose.

This part provides policy guidance concerning the use of priorities and allocation authority under Title I of the Defense Production Act of 1950, as amended, for the procurement of common use items in the Federal Supply Classification (FSC).

§ 329.2 Policies.

The following guidance is provided pursuant to the Defense Production Act of 1950, as amended; section 201 of Executive Order 10480, and § 322.2 of this chapter (DMO–3).

(a) Priority ratings under Title I of the Defense Production Act of 1950, as amended, are not authorized for certain FSC Groups, Classes, and Items:

(1) Which are of the types commonly available in commercial markets for general consumption,

(2) Which do not require major modification when purchased for military or other ratable government use, and

(3) Which are in sufficient supply as to cause no hindrance to the accomplishment of military or other national defense objectives.

Such Groups, Classes, and Items will be as specified from time to time by the Department of Commerce with the approval of the Federal Emergency Management Agency. Procurement in these Groups, Classes, and Items is to be made without priority assistance, including single service procurement that may include defense and defense-supporting needs. In the event procurement difficulties are encountered which threaten timely delivery, application for special assistance may be made for those categories of supply

authorized special assistance in existing lists, and must be accompanied by full justification to support the need for such assistance.

(b) Priority ratings may be used for the procurement of other authorized FSC Groups, Classes, and Items only in quantities required to meet the needs of approved programs of ratable agencies. The quantities of current procurement of each Group, Class, and Item shall be based on and shall not exceed the ratio of rated purchases to total purchases for that Group, Class, and Item that was consummated in the 6-month period preceding the first day of January and July in each year. Any other periodic cycle considered suitable and agreed to by the Domestic and International Business Administration, Department of Commerce, and the procuring agency may be substituted.

(c) In the interest of minimizing administrative costs, where rated procurement under paragraph 2b, above, constitutes 97 percent or more of the total procurement of a Group, Class, or Item, all of the Group, Class, or Item may be bought on ratings.

§ 329.3 Procedures.

Requests for additional authorizations of Classes, Groups, or Items should be presented to General Services Administration (AP), Washington, D.C. 20405, accompanied by a statement of justification indicating why the Class, Group, or Item should be regarded as necessary or appropriate to promote the national defense and why defense-related requirements cannot be met without the use of priorities.

§ 329.4 Implementation.

Departments and agencies involved with this program shall issue implementing instructions and directives no later than 30 work days from the effective date of this order. Copies of such instructions, directives, and related documents shall be furnished to the General Services Administration (AP) on a routine basis as issued.

PART 330—POLICY GUIDANCE AND DELEGATION OF AUTHORITIES FOR USE OF PRIORITIES AND ALLOCATIONS TO MAXIMIZE DOMESTIC ENERGY SUPPLIES IN ACCORDANCE WITH SUBSECTION 101(c) OF THE DEFENSE PRODUCTION ACT OF 1950, AS AMENDED (DMO-13)

Sec.
330.1 Purpose.
330.2 Policies.
330.3 Delegation of Authority.

Authority: Defense Production Act of 1950, as amended, including amendment to sec. 101(c) by section 104 of the Energy Policy and Conservation Act (Pub. L. 94–163) 50 U.S.C. App. 2061 *et seq.;* Reorganization Plan No. 3 of 1978, 3 C.F.R. 1978 Comp. p. 329; Executive Order 12148 of July 20, 1979, 44 F.R. 43239; Executive Order 11912 of April 13, 1976.

§ 330.1 Purpose.

This Part:

(a) Establishes policy guidance on determination and use of priorities and allocations for materials and equipment to maximize domestic energy supplies pursuant to section 104 of the Energy Policy and Conservation Act (Pub. L. 94–163, 89 Stat. 878), which added subsection 101(c) to the Defense Production Act of 1950, as amended (the Act); and

(b) Delegates authority and assigns responsibility related thereto pursuant to sections 7 and 8 of Executive Order 11912, dated April 13, 1976.

§ 330.2 Policies.

(a) The authority of subsection 101(c) of the Act to require the allocation of, or priority performance under contracts or orders relating to, supplies of materials and equipment to maximize domestic energy supplies shall be limited to those exceptional circumstances when it is found that:

(1) Such supplies of material and equipment are scarce, critical, and essential; and

(2) The maintenance or furtherance of exploration, production, refining, transportation, or conservation of energy supplies, or the construction and maintenance of energy facilities, cannot reasonably be accomplished without exercising this authority.

(b) The authority contained in subsection 101(c) shall not be used to require priority performance under contracts or orders relating to, or the allocation of, any supplies of materials and equipment except for programs or projects to maximize domestic energy supplies as specifically determined by the Secretary of Energy, after coordination with the Director, Federal Emergency Management Agency.

(c) The allocation of, or priority performance under contracts or orders relating to, supplies of materials and equipment in support of authorized programs or projects shall be so undertaken as to ensure that:

(1) Supplies of the specified materials and equipment are available to the extent practicable on time and in proper quantity to authorized programs or projects.

(2) The demands of these authorized programs or projects are distributed among suppliers on a fair and equitable basis.

(3) Allotments of supplies of materials and equipment are not made in excess of actual current requirements of these authorized programs or projects.

(4) Fulfillment of the needs of these authorized programs and projects are achieved in such manner and to such degree as to minimize hardship in the market place.

(d) The authority of subsection 101(c) of the Act will not be used to control the general distribution of any supplies of material and equipment in the civilian market, as that phrase is used in subsection 101(b) of the Act, except after Presidential approval as required by subsection 7(d) of Executive Order 11912.

§ 330.3 Delegation of authority.

(a) The functions of the Director of the Federal Management Agency under subsection 101(c) of the Act are hereby delegated to the Secretary of Commerce with respect to the areas of responsibility designated and subject to the limitations prescribed and section 7 of Executive Order 11912. Specifically:

(1) The Secretary of Commerce is delegated the function, provided in subsection 101(c)(1) of the Act, of requiring the allocation of, or priority performance under contracts or orders (other than contracts of employment) relating to, supplies of materials and equipment to maximize domestic energy supplies, if the findings specified in subsection 101(c)(3) of the Act are made.

(2) The Secretary of Commerce is delegated those functions provided in subsection 101(c)(3) of the Act, but shall redelegate to the Secretary of Energy the function of making the findings that supplies of materials and equipment are critical and essential to maximize domestic energy supplies. The Secretary of Commerce shall retain the functions of finding that supplies of materials and equipment are scarce, and that the purposes described in subsection 101(c)(3)(B) of the Act cannot reasonably be accomplished without exercising the authority specified in subsection 101(c)(1). This finding will include, to the extent practicable, an assessment of the effects of using the authority for the project in question on other significantly impacted projects.

(b) The Director of the Federal Emergency Management Agency shall be responsible for the overall coordination and direction of the functions provided by subsection 101(c) of the Act in a manner similar to the exercise of functions under subsections 101(a) and 101(b) of the Act. In line with these functions, the Director is also responsible for resolving any conflicts between claimant agencies regarding

particular supplies of materials and equipment. In addition, the Federal Emergency Management Agency will monitor the impact of the implementation of the authorities of subsection 101(c) and other authorities under section 101 of the Defense Production Act on each other and on the national economy.

(c) The functions assigned, delegated, or required to be redelegated by this order to the Secretary of Commerce and the Secretary of Energy may not be redelegated to other agencies without first being coordinated with the Director, Federal Emergency Management Agency.

(d) Procedures to execute the above delegations will be carried out in accordance with guidance provided by the Director, Federal Emergency Management Agency, pursuant to this order and Executive Order 11912.

Dated: June 25, 1980.

John W. Macy, Jr.,

Director, Federal Emergency Management Agency.

[FR Doc. 80-19741 Filed 6-30-80; 8:45 am]

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DEPARTMENT OF COMMERCE

Maritime Administration

32A CFR Ch. XVIII

46 CFR Ch. II

Transfer of National Shipping Authority (NSA) Regulations

AGENCY: Maritime Administration, Department of Commerce.

ACTION: Transfer and redesignation of NSA regulations.

SUMMARY: All regulations administered by the NSA, which relate to shipping operations and control and utilization of ports, are now set forth in 32A CFR, Chapter XVIII. At the request of the Office of the Federal Register (OFR) the agency is transferring these regulations to 46 CFR, Chapter II, and redesignating them with respect to part numbers. This action will assist the OFR in the orderly development of the CFR. No substantive changes are being made at this time, but some clarifying changes are anticipated in the near future to some provisions in the regulations for control and utilization of ports.

EFFECTIVE DATE: July 1, 1980.

FOR FURTHER INFORMATION CONTACT: Harris L. Kane, Maritime Administration, Office of General Counsel, Washington, D.C. 20230, Tel. (202) 377-3158.

Accordingly, CFR Title 32A, Chapter XVIII, is vacated and its contents are transferred to 46 CFR, Chapter II, Subchapter I (now reserved), to be redesignated as shown in the following table of contents, which also reflects the old designation.

SUBCHAPTER I—NATIONAL SHIPPING AUTHORITY

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By order of the Assistant Secretary for Maritime Affairs.

Dated: June 17, 1980.

Robert J. Patton,

Secretary, Maritime Administration.

[FR Doc. 80-19742 Filed 6-30-80; 8:45 am]

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federal register

Tuesday
July 1, 1980

Part X

Department of the Treasury

Fiscal Service, Bureau of the Public Debt

Regulations Governing Payments by Banks and Other Financial Institutions of United States Savings Bonds and United States Savings Notes

Dept. Circular No. 750, 3rd Revision

DEPARTMENT OF THE TREASURY

Bureau of the Public Debt

31 CFR Parts 321 and 322

Payments by Banks and Other Financial Institutions of United States Savings Bonds and United States Savings Notes (Freedom Shares)

AGENCY: Fiscal Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: Department of the Treasury Circular No. 750 (31 CFR, Part 321) contains the regulations governing financial institutions qualified to redeem United States Savings Bonds and United States Savings Notes. This Third Revision of the Circular is necessary because of changes in the Savings Bond Program involving (1) the introduction of Series EE savings bonds; (2) the introduction of a redemption-exchange offer for Series HH savings bonds; and (3) the withdrawal from sale of Series H savings bonds and the termination of the Series H exchange offer.

EFFECTIVE DATE: July 1, 1980.

FOR FURTHER INFORMATION CONTACT: Calvin Ninomiya, Chief Counsel, Bureau of the Public Debt, Washington, D.C. 20226 (202–376–0244).

SUPPLEMENTARY INFORMATION: Department of the Treasury Circular No. 750, Second Revision, authorized qualified paying agents to: (1) redeem Series A, B, C, D, and E savings bonds and savings notes presented for payment, and (2) to redeem eligible securities presented in exchange for Series H bonds.

Effective as of January 1, 1980, several changes were made to the Savings Bonds Program, including the introduction of new Series EE and HH bonds and a new Series HH exchange offering, concurrent with the termination of sale of Series E and H bonds and the withdrawal of the Series H exchange offering.

The Third Revision of Circular No. 750 provides for these Program changes by extending the payment authority of qualified agents to include eligible Series EE bonds, as well as the Series A–E bonds and savings notes. Additionally, qualified agents are authorized to redeem eligible Series EE and E bonds and savings notes in exchange for the new Series HH bonds.

All paying agents currently qualified are automatically requalified to redeem savings bonds and notes in accordance with the provisions of the Third Revision.

Department of the Treasury Circular No. 751, Second Revision, contained regulations regarding the manner of accounting for losses resulting from the erroneous redemption of savings bonds and notes. This material has now been incorporated, without substantive change, in the Third Revision of Circular No. 750, and Circular No. 751 is being rescinded.

Apart from the changes already mentioned, the Third Revision of Circular No. 750 does not differ substantially from the Second Revision. Where appropriate, there has been some reorganization of the contents and rewording for clarity. Differences between the two revisions are discussed in the following paragraphs.

General Information

The definitions in Sec. 321.1 have been reordered and expanded.

Procedures for Qualification

Subpart B has been retitled and contains the instructions regarding the manner in which eligible financial institutions may qualify and serve as paying agents. Although the material in the Third Revision has been reorganized and expanded, there are no substantive differences between it and the provisions of the Second Revision contained in Secs. 321.2, 321.3, 321.4 and 321.6. Parapraph (c) of Sec. 321.5 is new, but the reservation it expresses was implicit in the earlier revision.

Scope of Authority

Sec. 321.6 is substantially the same as the previous Sec. 321.7 but includes reference to the regulations governing the new Series EE bonds. The prohibition against payment to a designated beneficiary was moved from this section to Sec. 321.9.

Sec. 321.7 deals with bonds and notes presented for cash redemption and contains information formerly in Sec. 321.8. It also extends the redemption authority of agents to Series EE bonds.

Sec. 321.8 replaces the previous Sec. 321.9 and authorizes the agents to redeem eligible bonds and notes presented in exchange for Series HH bonds under the provisions of Department of the Treasury Circular, Public Debt Series No. 2–80. This section also covers in more detail the requirements for redemption-exchange.

Sec. 321.9 lists the securities not eligible for payment by agents, replacing the previous Sec. 321.10. The current list has been updated to include Series EE bonds presented within six months after issue. It has also been expanded to identify more specifically such ineligible securities as those presented: by a beneficiary, by anyone acting under a power of attorney, or by a presenter whose social security number is not furnished.

Sec. 321.10 contains information regarding the responsibilities of agents to pay eligible securities and the restrictions against the collateralizing and discounting of securities. This material was formerly in the Memorandum of Instructions Issued in Conjunction with the Second Revision of the Circular.

Payment and Transmittal

With some title changes and required updating, Secs. 321.11, 321.12, 321.13 and 321.14 of Subpart D contain material previously in Secs. 321.12, 321.13 and 321.14.

Losses Resulting From Erroneous Payments

Subpart E is new. It contains material formerly in Sec. 321.15 of Circular No. 750, in the Memorandum of Instructions, and in Circular No. 751, Second Revision. Although the information has been reorganized, it contains no basic changes in the existing procedures or substantive rules for dealing with erroneous payments and losses resulting from such payments.

Forwarding Items

Subpart F contains material previously in Sec. 321.11, without significant change.

Miscellaneous

Sec. 321.23 provides information regarding fees formerly in Sec. 321.5. The new material states that details regarding the fee schedule will be published separately in the **Federal Register.**

Sec. 321.24 contains information regarding claims on account of lost securities, which was formerly in the Memorandum of Instructions.

Appendix

The Memorandum of Instructions Issued in Conjunction with Department Circular No. 750, Second Revision, is being replaced by an Appendix to the Third Revision. The Appendix supplements the provisions of Circular No. 750 and provides additional guidance to agents on the payment and processing of securities. The Appendix will be subject to amendment or revision from time to time by the Commissioner of the Public Debt to incorporate nonregulatory changes that affect the activities of paying agents under the provisions of the Circular and its Appendix.

Accordingly, Department of the Treasury Circular No. 751, Second Revision, dated October 25, 1968 (31 CFR, Part 322) is hereby revoked, and Department of the Treasury Circular No. 750, Second Revision, dated October 25, 1968 (31 CFR, Part 321) is hereby revised and reissued as Department of the Treasury Circular No. 750, Third Revision, effective July 1, 1980.

This revocation and revision are effected under authority of Section 22 of the Second Liberty Bond Act, as amended (49 Stat. 21, as amended; 31 U.S.C. 757c) and 5 U.S.C. 301. Since these actions involve the fiscal policy of the United States and do not meet the Department's criteria for significant regulations, it has been determined that notice and public procedures are unnecessary.

Dated: June 20, 1980.

Paul H. Taylor,

Fiscal Assistant Secretary.

31 CFR is amended as follows:

PART 322 [Revoked]

1. Part 322 is revoked.

2. Part 321 is revised to read as follows:

PART 321—PAYMENTS BY BANKS AND OTHER FINANCIAL INSTITUTIONS OF UNITED STATES SAVINGS BONDS AND UNITED STATES SAVINGS NOTES (FREEDOM SHARES)

Authority: Sec. 22, 49 Stat. 21, as amended; 31 U.S.C. 757c.

Source: Department of the Treasury Circular No. 750, Third Revision.

Subpart A—General Information

§ 321.0 Purpose.

The regulations in this Part govern the manner in which financial institutions may qualify and act as paying agents for the redemption of (a) United States Savings Bonds of Series A, B, C, D, E, and EE and United States Savings Notes (Freedom Shares) presented for cash payment; and (b) eligible Series E and EE savings bonds and savings notes presented for redemption in exchange for Series HH savings bonds under the provisions of Department of the Treasury Circular, Public Debt Series No. 2–80 (31 CFR, Part 352).

§ 321.1 Definitions.

(a) "Cash payment" means payment in currency, by check or by credit to a checking, savings or share account.

(b) "Federal Reserve Bank" or "Bank" refers to the Federal Reserve Bank of the district in which a paying agent or applicant-organization is located and includes the Branch(es) of the Bank, where appropriate.

(c) "Owner" means an individual whose name is inscribed as owner or coowner in his or her own right on a bond or note.

(d) "Paying agent(s)" or "agent(s)" means (1) any eligible financial institution qualified under the provisions of this Circular, as originally issued, or any subsequent revision, to make payments of savings bonds and notes, and includes branches of such institutions located within the United States, its territories and possessions, and the Commonwealth of Puerto Rico; and (2) any banking facilities of such institutions established at military installations overseas, provided the offering of such redemption services has been authorized by the Department of the Treasury.

(e) "Presenter" means the individual requesting the redemption or redemption-exchange of securities.

(f) "Redemption" and "payment" are used interchangeably for payment of a bond or note in accordance with the terms of its offering and the regulations governing the security, including redemption-exchange.

(g) "Redemption-exchange" means the authorized redemption of eligible securities for the purpose of applying the proceeds in payment for other securities offered in exchange by the Treasury.

(h) "Savings bond(s)" or "bond(s)" means a United States Savings Bond of Series A, B, C, D, E, or EE.

(i) "Savings note(s)" or "note(s)" means a United States Savings Note (Freedom Share).

(j) "Security" or "securities" means a savings bond or savings note, as defined in (f) and (g) of this section.

Subpart B—Procedures for Qualification

§ 321.2 Eligible organizations.

Organizations eligible to apply for qualification and to serve as paying agents are commercial banks, trust companies, savings banks, savings and loan associations, building and loan associations (including cooperative banks), credit unions, cash depositories, industrial banks, and similar financial institutions which (a) are incorporated under Federal law or the laws of a State, territory or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico; (b) in the usual course of business accept, subject to withdrawal, funds for deposit or the purchase of shares; (c) are under the supervision of the banking department or equivalent authority of the jurisdiction in which incorporated; and (d) maintain regular offices for the transaction of their business.

§ 321.3 Procedure for qualifying and serving as paying agent.

(a) *Execution of application-agreement.* An eligible organization wishing to act as a paying agent shall obtain from, execute and file with a Federal Reserve Bank an application-agreement form. The terms of each application-agreement shall include the provisions prescribed by Sec. 202 of Executive Order No. 11246, entitled "Equal Employment Opportunity" (3 CFR, Subchapter B, 42 U.S.C. 2000e note). For the purpose of these regulations, eligible institutions in Puerto Rico and the Virgin Islands shall make application to the Federal Reserve Bank of New York, and eligible institutions in Guam shall make

application to the Federal Reserve Bank of San Francisco.

(b) *Qualification.* Each Federal Reserve Bank, as fiscal agent of the United States, is authorized to qualify any eligible institution located in its district which possesses adequate authority under its charter to act as paying agent. Upon approval of an application-agreement, the Federal Reserve Bank will issue a certificate of qualification to the organization. Such a certificate automatically qualifies the domestic branches of the organization to redeem securities.

(c) *Announcement of authority.* Upon receipt of a certificate of qualification from a Federal Reserve Bank, a financial institution may announce or advertise its authority to cash bonds and notes and process exchanges of Series E and EE bonds and notes for Series HH bonds.

(d) *Adverse action.* An organization will be notified by the Federal Reserve Bank in writing if its application-agreement to act as paying agent is not approved.

§ 321.4 Paying agents previously qualified.

Institutions qualified as paying agents under previous revisions of this Circular are authorized to continue to act in that capacity without requalification. By so acting, they shall be subject to the terms and conditions of their previously executed application-agreements and these regulations in the same manner and to the same extent as though they had requalified hereunder.

§ 321.5 Termination of qualification.

(a) *By the Treasury.* The Secretary of the Treasury or his delegate, the Commissioner of the Public Debt, may authorize a Federal Reserve Bank to terminate the qualification of any paying agent at any time, following prior written notice of such action to the agent.

(b) *At request of paying agent.* A Federal Reserve Bank will terminate the qualification of a paying agent upon its written request, provided the agent renders a final accounting for all paid bonds, and is found to have fully complied with the terms of its agreement and the applicable regulations and instructions.

(c) *Reservation.* Termination of the qualification as paying agent of any institution shall not prejudice the right of the Treasury to recover the amounts of any erroneous payments made by the institution subsequent to the termination.

Subpart C—Scope of Authority

§ 321.6 General.

Savings bonds and savings notes are issued only in registered form, are not transferable, may not be hypothecated or used as collateral for a loan, and, except as otherwise specifically provided for in the governing regulations, are payable only to the owner or coowner named on the securities. The regulations governing Series EE and HH bonds are contained in Department of the Treasury Circular, Public Debt Series No. 3–80 (31 CFR, Part 353), and those governing all other savings bonds, as well as savings notes, are contained in Department of the Treasury Circular No. 530, current revision (31 CFR, Part 315).

§ 321.7 Authorized cash payments.

(a) *General.* Subject to the terms and conditions appearing on the securities, the governing regulations, and the provisions of this Circular and any instructions issued in connection therewith, an agent may make payment of savings bonds of Series A, B, C, D, E, and EE and savings notes presented for cash redemption. Except as provided in (b) and (c) of this section, the securities must be presented for redemption by an individual whose name is inscribed on the securities as owner or coowner, and who is known to the agent or can establish his or her identity in accordance with Treasury instructions and guidelines. (See Sec. 321.12(b).)

(b) *Change of name by marriage.* If the name of the owner or coowner inscribed on the security has been changed by marriage and the agent knows or establishes that the presenter and the person whose name appears on the security are one and the same individual, the agent may pay the security in accordance with paragraph (a) of this section. The signature to the request for payment should show both names, for example, "Mary J. Smith, changed by marriage from Mary T. Jones".

(c) *Parent of a minor.* If the name of the owner inscribed on the security is that of a minor child who is not of sufficient competency and understanding to execute the request for payment and comprehend the nature of the act, payment may be made to either parent with whom the child resides or to whom custody has been granted, provided the form of registration does not indicate that a guardian or similar representative of the estate of the minor owner has been appointed or is otherwise legally qualified. The parent requesting payment must sign the request for payment in the form, for example, "John A. Jones, on behalf of John C. Jones", and place an endorsement in substantially the following form, which may be typed or imprinted, on the back of the security:

"I certify that I am the (father or mother) of John C. Jones and the person (with whom he resides) (to whom custody has been granted). He is —— years of age and is not of sufficient competency and understanding to sign the request."

Payment under this paragraph may not be made to any person other than a father or mother.

§ 321.8 Redemption-exchange of Series E and EE Savings Bonds and Savings Notes.

(a) *General.* Subject to the provisions of Circular No. 2–80, the governing regulations, and the provisions of this Circular and its Appendix, an agent may make payment of eligible savings bonds of Series E and EE and savings notes presented for redemption in exchange for Series HH bonds. Securities eligible for exchange are (1) Series E bonds presented no later than one year after their final maturity dates; (2) Series EE bonds presented no earlier than six months after their issue dates; and (3) all savings notes.

(b) *Requirements for redemption-exchange.* Agents shall not accept and redeem eligible securities on exchange unless:

(1) The securities are accompanied by a completed exchange subscription form signed by the person requesting the exchange;

(2) The person requesting the exchange is (i) the owner named on the surrendered securities who is to be named as owner or first-named coowner on the Series HH bonds; (ii) the "principal coowner", as defined in Sec. 352.7(e)(2) of Circular No. 2–80, who is to be named as owner or first-named coowner on the Series HH bonds; or (iii) either coowner, if the form of registration requested for the Series HH bonds is identical to that appearing on all of the surrendered securities; and

(3) The request for payment on each surrendered security is signed by the person requesting the exchange, unless the agent is authorized and elects to use the special endorsement procedure provided for in Department of the Treasury Circular No. 888, current revision (31 CFR, Part 330).

If the name of the presenter has been changed by marriage, the agent may process the transaction in accordance with the provisions of Sec. 321.7(b) of this Circular.

(c) *Completion of transaction.* The agent shall forward securities redeemed on exchange, the exchange subscription

and full payment of the issue price of the Series HH bonds to the Federal Reserve Bank, which will complete the transaction by issuing the new bonds. (See Sec. 321.14.)

§ 321.9 Specific limitations on payment authority.

An agent is not authorized to pay a security for cash or on redemption-exchange:

(a) If it is a Series EE bond presented for payment prior to the end of six months from its issue date.

(b) If it is a savings bond of Series F, G, H, J, K, or HH.

(c) If the presenter is the designated beneficiary.

(d) If the presenter is acting under a power of attorney.

(e) If the agent does not know or cannot establish the identity of the presenter as the owner of the security, including the establishment of the identity of a parent requesting payment on behalf of a minor child, as provided in Sec. 321.7(c).

(f) If the presenter does not sign his or her name in ink as it is inscribed on the security and show a home or business address. (See also Sec. 321.7(b) and (c).)

(g) If the presenter's social security number is not shown in the inscription and he or she refuses to furnish the number.

(h) If the security bears a material irregularity, such as an illegible, incomplete or unauthorized inscription, issue date or issuing agent's validating stamp impression; or if any essential part of the security appears to have been altered or is mutilated or defaced in such a manner as to create doubt or arouse suspicion.

(i) If the security is registered in the name of a corporation, association, partnership, or other organization, or a guardian, administrator, trustee, or other fiduciary.

(j) If Treasury regulations require the submission of documentary evidence to support the redemption, as in the case of deceased owners, incompetents, or minors under legal guardianship, or the change of an owner's name other than by marriage.

(k) If the presenter is a minor who, in the opinion of the agent, is not of sufficient competency and understanding to execute the request for payment and comprehend the nature of the act.

(l) If it is known to the agent that the owner has been legally declared incompetent to manage his or her affairs.

(m) If partial redemption is requested.

§ 321.10 Responsibilities of paying agents.

(a) *Payment of securities.* A financial institution qualified as a paying agent is required to cash eligible savings bonds and savings notes for any presenter, whether or not a customer, during its regular business hours, in accordance with the provisions of this Circular and its Appendix, and the Treasury Identification Guide for Cashing United States Savings Bonds.

(b) *Restrictions.* A paying agent shall not advance money, or make loans on, or discount the redemption value of securities, nor in any manner assist others to do so. An agent shall not pay an owner the current value of a security and then defer presentation to the Treasury for the purpose of obtaining for its own profit an increased value.

Subpart D—Payment and Transmittal of Securities

§ 321.11 Payment.

(a) *Examination.* Before making payment of a security, the agent shall examine it to determine that it is eligible for redemption and is one the agent is authorized to pay under the provisions of this Circular.

(b) *Identification.* The agent shall determine that the individual presenting the security is the same person whose name is inscribed as owner or coowner, except as provided in Sec. 321.7 (b) and (c). Unless the presenter is a person whose identity is well-known to the agent, or is an established customer, he or she should be asked to furnish satisfactory identification in accordance with the Treasury instructions and guidelines. At the time of payment, the agent should make a notation on the back of the security, or in its own records, specifying precisely what was relied on to establish the presenter's identity.

(c) *Execution of request.* The agent shall require that the request for payment on the back of each security be executed by the presenter in the presence of one of its officers or authorized employees, unless the agent is qualified under Circular No. 888, current revision, and elects to use the special endorsement procedure. If the request has already been executed when the security is presented, it should ordinarily be reexecuted.

(d) *Certification of request.* An agent is not required to complete the certification to the request for payment on securities it redeems.

§ 321.12 Redemption value of securities.

The redemption value of each security, which is based on the length of time it has been outstanding, is published in a redemption value table appended to the offering circular. The Bureau of the Public Debt provides each agent with booklets containing tables showing the redemption values of eligible securities during each month, that are to be used in paying the securities.

§ 321.13 Cancellation of redeemed securities.

An agent shall cancel each redeemed security by imprinting the word "PAID" on its face and entering the amount and date of the actual payment, and the name, location and code number assigned to the agent by the Federal Reserve Bank. The recordation of this data shall constitute a certification by the agent that the security was redeemed in accordance with the provisions of this Circular, that the identity of the presenter was duly established, and that the proceeds were paid to the presenter or remitted to a Federal Reserve Bank in payment for Series HH bonds.

§ 321.14 Transmittal to and settlement by a Federal Reserve Bank.

The paying agent shall forward securities redeemed for cash and on redemption-exchange, with covering transmittal letter forms, to the Federal Reserve Bank in accordance with the latter's instructions. Upon receipt of the securities, the Bank will make immediate settlement with the paying agent for the total amount paid, as reflected on the transmittal letter form. Such settlement shall be subject to adjustment if discrepancies are subsequently discovered. The Federal Reserve Bank will forward all redeemed securities to the Bureau of the Public Debt for audit.

Subpart E—Losses Resulting from Erroneous Payments

§ 321.15 Statutory provisions.

Under the governing statute, as amended (Title 31, United States Code, Sec. 757c(i)), an agency that redeems savings bonds and savings notes cannot be relieved of liability for a loss resulting from an erroneous payment unless the Secretary of the Treasury can make a determination that the loss resulted from no fault or negligence on the part of the agency.

§ 321.16 Report of erroneous payment.

If a paying agent discovers an erroneous payment of securities, it should immediately advise the Bureau of the Public Debt, 200 Third Street, Parkersburg, West Virginia 26101. If the circumstances of the payment warrant

such action, the agent should also notify the nearest office of the United States Secret Service.

§ 321.17 Investigation of potential loss.

(a) *Notice to agent.* When it determines that a potential loss has occurred because of the erroneous payment of securities, the Bureau of the Public Debt will promptly notify the paying agent in writing, identifying the securities and furnishing appropriate details and instructions. Notification may also be made through a personal visit from a Secret Service agent, rather than in writing.

(b) *Investigative procedure.* The Bureau of the Public Debt shall request the United States Secret Service to investigate potential losses and to assist in the recovery of improper payments. The paying agent, upon receipt of notification of an erroneous payment, shall make available to the Bureau of the Public Debt or its investigative agent all records and information pertaining to the redemption transaction in question, including the disposition of the redemption proceeds. If those proceeds were deposited in an account maintained by the agent, the information made available shall include the ultimate dispositon of the redemption proceeds from the account.

(c) *Opportunity to present evidence.* The paying agent involved in any erroneous payment shall be given every opportunity to present the full facts relating to the payment, prior to a determination of final loss.

§ 321.18 Determination of loss.

Upon completion of the investigation, and after consideration of the results, the Bureau of the Public Debt shall advise the agency through which the payment occurred:

(a) That no final loss to the United States has occurred, and, accordingly, that it is relieved from liability for the payment, or that no claim for reimbursement shall be made unless and until a loss has been sustained; or

(b) That while a final loss to the United States has occurred, it is not required to make reimbursement therefor, as the Secretary of the Treasury, or the Comissioner of the Public Debt, as his delegate, has determined that such loss resulted from no fault or negligence on the part of such agency; or

(c) That a final loss to the United States has occurred, and that, as the Secretary of the Treasury, or the Commissioner of the Public Debt, as his delegate, has been unable to make an affirmative finding that such loss resulted from no fault or negligence on the part of such agency, reimbursement must be made promptly, except where credit for the payment had not previously been extended.

§ 321.19 Certification of signatures.

The regulations in this Subpart shall, to the extent appropriate, apply to losses resulting from payments made in reliance on certifications of signatures to any requests for payment of savings bonds and savings notes by an officer or designated employee of any financial institution authorized to certify such requests.

§ 321.20 Applicability of provisions.

The provisions of this Subpart shall apply to securities redeemed by any Federal Reserve Bank, as fiscal agent, or any Treasury office authorized to pay savings bonds and notes, as well as to qualified paying agents.

§ 321.21 Replacement and recovery of losses.

If a final loss has resulted from the redemption of a savings bond or savings note, and no reimbursement has been or will be made, the loss shall be subject to replacement out of the fund established by the Government Losses in Shipment Act, as amended.

Subpart F—Forwarding Items

§ 321.22 Forwarding securities not payable by an agent.

Any securities an agent is not authorized to pay under the provisions of this Circular should be forwarded for redemption, with the requests for payment properly certified, to a Federal Reserve Bank or to the Bureau of the Public Debt, 200 Third Street, Parkersburg, West Virginia 26101. Any documentary evidence required to support the redemption should accompany the securities. If the securities are presented for redemption-exchange, they must also be accompanied by a completed exchange subscription and the cash difference, if any, due on the exchange. If an institution undertakes to forward unpaid securities at the request of and on behalf of the person entitled to payment, they must be transmitted separately from securities the institution has paid.

Subpart G—Miscellaneous Provisions

§ 321.23 Paying agent fees and charges.

(a) *Fees.* Paying agents receive a fee for each security redeemed. A schedule setting out the fees and the basis on which they are computed and paid is separately published in the **Federal Register.** Current information is available from a Federal Reserve Bank or the Bureau of the Public Debt.

(b) *Charges to owners.* Paying agents shall not make any charge whatever to owners of savings bonds and savings notes for redeeming securities under the provisions of this Circular.

§ 321.24 Claims on account of lost securities.

If a security paid by an agent is lost, stolen or destroyed while in the custody of the agent or while in transit to a Federal Reserve Bank, the Bureau of the Public Debt will consider an agent's claim for reimbursement of the amount paid on the missing security, provided it can be identified by serial number.

§ 321.25 Role of Federal Reserve Banks.

The Federal Reserve Banks, as fiscal agents of the United States, shall perform such services in connection with this Part as may be requested by the Secretary of the Treasury or his delegate, the Commissioner of the Public Debt. The Banks are authorized and directed to perform such duties, including the issuance of instructions and forms, as may be necessary to fulfill the purposes and requirements of these regulations.

§ 321.26 Preservation of rights.

Nothing contained in this Circular shall limit or restrict any existing rights which holders of savings bonds and savings notes may have acquired under the Circulars offering the securities for sale and the applicable regulations.

§ 321.27 Supplements, amendments, or revisions.

The Secretary of the Treasury may, at any time or from time to time, revise, supplement, amend or withdraw, in whole or in part, the provisions of this Circular.

Appendix to Department of the Treasury Circular No. 750; Third Revision

Fiscal Service, Bureau of the Public Debt

Subpart A—General Information

1. *Purpose.* This appendix is issued for the guidance of banks and other financial institutions qualified as paying agents of United States Savings Bonds and United States Savings Notes (Freedom Shares) under the provisions of Department of the Treasury Circular No. 750, Third Revision. Its purpose is to provide (a) information to supplement the regulations contained in the Circular, and (b) specific instructions for processing redemption and redemption-exchange transactions. The information and instructions are indexed to the sections and paragraphs of the Circular which they explain or expand.

2. *Other pertinent circulars.* In addition to Circular No. 750, agents should be familiar with the provisions of the following Treasury

Circulars that contain the terms and conditions of the individual security offerings and the governing regulations:

(a) *Offering circulars.* Department of the Treasury Circulars, Public Debt Series Nos. 1–80 (Series EE bonds), 2–80 (Series HH bonds), and 3–67 (savings notes); and Department of the Treasury Circular No. 653 (Series E bonds).

(b) *Regulations.* Department of the Treasury Circular, Public Debt Series No. 3–80 (Series EE and HH bonds), and Department of the Treasury Circulars Nos. 530 (all other series of savings bonds and savings notes), and 888 (special endorsements).

Subpart B—Procedures for Qualification

3. *Qualification of branches.* (Sec. 321.3(b)) Qualification of an institution as a paying agent automatically qualifies only its domestic branches. A foreign branch of a qualified paying agent may redeem savings bonds and notes, provided settlement is made through a qualified facility located in the United States.

4. *Paying agent code numbers.* (Sec. 321.3(b)) The Federal Reserve Bank will assign a code number to each agent it qualifies. A separate number will be assigned to each branch authorized to remit paid bonds directly to the Federal Reserve Bank for its own account. This number is used to identify the paying agent in the audit of paid bond and note transmittals, the preparation of adjustment advices and the computation and payment of fees.

5. *Requalification.* (Sec. 321.3(b)) If there has been a change in the corporate name of an agent, whether through merger, consolidation, sale of assets, or in any other manner, the agent may be asked by the Federal Reserve Bank to requalify to reflect the change.

6. *Announcement of authority.* (Sec. 321.3(c)) On and after the effective date of its qualification, a paying agent may appropriately announce or advertise its authority to cash savings bonds and notes and to process redemptions of eligible bonds and notes in exchange for Series HH bonds. Such statements and notices should not, directly or indirectly, encourage the encashment of the securities. Two illustrations of an acceptable type of statement for use in advertisements or displays are:

(a) "We are an authorized agent for payment of U.S. Savings Bonds and U.S. Savings Notes (Freedom Shares)."

(b) "This (bank, savings and loan association/credit union, etc.) is authorized to pay U.S. Savings Bonds and U.S. Savings Notes (Freedom Shares) and process eligible Series E and EE bonds and savings notes in exchange for Series HH bonds."

Subpart C—Scope of Authority

7. *Authorized cash payments.* (Sec. 321.7)

(a) *General.* (Sec. 321.7(a)) The general authority of paying agents to redeem securities for cash extends to Series A, B, C, D, E, and EE bonds and savings notes, presented by the owner or coowner, or by the parent of a minor child, who establishes his or her identity and signs the request for payment.

(b) *Securities submitted by mail.* (Sec. 321.7(a)) An agent may also accept eligible securities submitted by mail or otherwise for payment from known customers, provided each such customer is also the owner requesting payment. In such cases, the agent should be satisfied that the signature to the request for payment is that of the "owner-customer", and should have written instructions to credit the proceeds to his or her checking, savings, or share account, or to make other disposition thereof. For the agent's protection, such instructions should be retained.

8. *Redemption-exchange of Series E and EE savings bonds and savings notes.* (Sec. 321.8)

(a) *General.* (Sec. 321.8 (a) and (b)) The general authority of paying agents to redeem securities in exchange for Series HH bonds extends only to eligible Series E and EE savings bonds and savings notes presented with a completed "Exchange Subscription for United States Savings Bonds of Series HH", Form PD 3253. The current redemption value of securities presented in one transaction must be at least $500. The presenter must be an owner or coowner who (1) is qualified under the regulations to request the exchange, (2) establishes his or her identity, and (3) signs the exchange subscription and the requests for payment on the securities.

(b) *Securities in the name of a minor.* (Sec. 321.8(b)) If an exchange subscription is submitted on behalf of a minor who is too young to comprehend the nature of the transaction, the form must be completed to request that the Series HH bonds be registered either in the minor's name alone or, in exactly the same form as the surrendered securities. Agents are instructed to discourage exchange transactions involving minor owners who are too young to conduct them on their own.

9. *Specific limitations on payment authority.* (Sec. 321.9)

(a) *Allowable exceptions.* (Sec. 321.9) Securities which an agent may not redeem because of the limitations in Sec. 321.9 of the Circular should ordinarily be forwarded to a Federal Reserve Bank for handling. However, if an agent is willing to assume full responsibility, it may make payment of an eligible security which bears a minor irregularity, such as a misspelled name, a transposition of letters, etc., because of its knowledge of the facts or because it wishes to rely on the integrity of the owner.

(b) *Social security number of presenter.* (Sec. 321.9(g)) Agents are directed to refuse payment of any savings bond or savings note if the social security number of the presenter does not appear in the inscription and he or she is unwilling to furnish the number. Instructions regarding the recordation of the number are provided in paragraph 12(b) of this Appendix.

(c) *Payments to minors.* (Sec. 321.9(k)) A minor owner or coowner may not request payment of securities if he or she is not of sufficient competency and understanding to comprehend the nature of the act. Because of individual differences in comprehension, the Treasury has not laid down any rule as to the exact age at which a minor should be able to cash his or her securities. If the age of the minor is such that, in the opinion of the paying agent, the child should ordinarily be able to request payment, or in cases of doubt, the agent may require an interview with the minor.

10. *Responsibilities of paying agents.* (Sec. 321.10)

(a) *Requirements for redeeming securities.* (Sec. 321.10(a)) Although a qualified paying agent is required to cash eligible bonds and notes for any properly identified presenter during its regular business hours, in accordance with the provisions of the Circular, it is not required to cash securities during Saturday and evening hours, if it is open during such periods primarily as a service for its depositors. While an agent is not required to redeem eligible securities submitted to it for redemption-exchange, it is encouraged to do so.

(b) *Restrictions.* (Sec. 321.10(b)) Violation of the regulatory prohibitions on making charges for redeeming securities; on advancing money on, making loans on, or discounting the redemption value of securities; and on deferring presentation of a paid bond to obtain a larger credit, will be cause for disqualification and, in some cases, for recovery of the redemption proceeds and profits realized therefrom.

Subpart D—Payment and Transmittal of Securities

11. *Identification of presenter.* (Sec. 321.11(b))

(a) *Identification guide.* (Sec. 321.11(b)) The Treasury has issued an identification guide, Form PD 3900, for use by paying agents in redeeming savings bonds and notes. If followed, the guide should enable agents to accommodate reasonable payment requests for presenters, including noncustomers, and, at the same time, protect themselves from losses. Reliance on newly opened customer accounts as identification should be particularly avoided. The guide may be obtained from a Federal Reserve Bank.

(b) *Record of identification practice.* (Sec. 321.11(b)) At the time of payment, the agent should make a notation on the back of the paid security, or in its own records, specifying precisely what was relied on to establish the presenter's identity. The identification practice should be adequate to identify the payee under the circumstances of the transaction. Otherwise, the agent runs the risk that no evidence can be developed to show that it acted with due care, in which case it could not be relieved of liability if a loss should develop.

12. *Request for payment.* (Sec. 321.11(c))

(a) *Signature.* (Sec. 321.11(c)) Except where an agent qualified under Circular No. 888 elects to use the special endorsement procedure, each security redeemed by an agent must bear the signature of the presenter. The name must be signed exactly as it is inscribed on the security, unless the provisions of the Circular and this Appendix provide for an exception, such as in cases involving change of name by marriage or requests by parents on behalf of minors. An agent may incur a liability if the request for payment is not properly executed and the security subsequently becomes the subject of a claim the Treasury is obliged to recognize.

(b) *Address and social security number.* (Sec. 321.11(c)) The presenter must also enter a current home or business address in the space provided in the request for payment area on the back of the security. If the presenter's social security number is shown in the inscription, it should be underlined; if it is not shown in the inscription, it must be recorded in ink in any clear area on the lower left side of the face of the security. If a single transaction includes a group of securities, the address and social security number need be shown on only one security. If both definitive paper and punch card securities are presented in a single transaction, the address and number should be entered on at least one security of each type.

13. *Redemption value of securities.* (Sec. 321.12)

(a) *Redemption value tables.* (Sec. 321.12) While the official redemption values of savings bonds and notes are published in tables appended to the offering circulars, the agents are not expected to use these tables to price bonds and notes. The Bureau of the Public Debt provides agents with booklets that contain tables of redemption values for (1) Series E bonds, (2) Series EE bonds and (3) savings notes. Additional tables may be obtained on request from the Federal Reserve Bank. The public may purchase the booklets for Series E and EE bonds from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402.

(b) *Use of tables.* (Sec. 321.12) A separate monthly table is provided for each of the three securities (E bonds, EE bonds, and notes). Care should be exercised to use the correct table for the month in which the security is paid, as well as the correct table for the specific security being paid. Incorrect payments can lead to costly and time-consuming adjustments for the agent, as well as the Treasury and Federal Reserve Bank.

(c) *Presentation immediately prior to date of increase in value.* (Sec. 321.12) If an owner presents a security for payment just prior to a month in which it increases in value, or the month in which it reaches final maturity, the agent should advise the presenter of the fact so that the owner may decide whether to have the payment delayed until the following month.

(d) *Cash redemption.* (Sec. 321.12) The correct redemption value of securities redeemed by an agent should be paid to the presenter in currency or, upon request, by check payable to the presenter or by credit to the presenter's checking, savings or share account.

(e) *Redemption-exchange.* (Sec. 321.12) The redemption values of securities submitted in exchange for Series HH bonds shall be those payable in the month the agent receives and accepts a correctly completed and signed exchange subscription, Form PD 3253, with the securities. If the redemption value of the securities is $500 or an even multiple thereof, Series HH bonds must be requested in that exact amount. If the redemption value exceeds $500, but is not an even multiple of that amount, the presenter may elect to add cash to equal the next higher $500 multiple, or to receive payment of the amount in excess of the next lower $500 multiple. For example, if the total redemption value of the surrendered securities is $4,253.33, the agent must remit no less than $4,000 and no more than $4,500 to the Federal Reserve Bank in payment for the Series HH bonds. In the first instance, the agent will pay the presenter $253.33; in the second, it will collect $246.67 when it accepts the exchange subscription.

14. *Cancellation of redeemed securities.* (Sec. 321.13)

(a) *Paying agent stamp.* (Sec. 321.13) Each paid bond must be cancelled by the imprint of a payment stamp. The stamp may not exceed 1⅛ inches in any dimension and should include the following information in the arrangement shown:

PAID $——— (for recording amount paid)
Name, location, and paying agent code number assigned by Federal Reserve Bank (subject to abbreviation and arrangement by the Bank).
Date ——— (for recording actual date of payment).
By ——— (for use by agent in recording initials, or signature, codes, symbols, etc., of the officer or employee who approved or made the payment).

(b) *Procurement of stamps.* (Sec. 321.13) Hand stamps may be requisitioned by agents from the Federal Reserve Bank, or agents may purchase their own stamps, provided the stamps conform exactly in size and design to that prescribed or approved by the Federal Reserve Bank. To insure legible impressions, stamps should be replaced when worn.

(c) *Imprinting payment stamp and recording payment date.* (Sec. 321.13) After determining that a security is eligible for payment, the agent should carefully imprint the payment stamp on its face, in the open space immediately to the left of, and as close as possible to, the issue date and issuing agent's validating stamp. It is important not to overprint any data on the security, particularly the serial number, since the security will subsequently be microfilmed. No other stamps shall be placed on the face of the security. Care should be taken to record legibly, in the spaces provided, the correct amount and date (month, day and year) of payment, and the signature, initials, or other identification of the agent's employee who approved or made the payment. A black or dark-colored ink (not green) should be used, and care should be taken not to smear the stamp impression or the writing.

(d) *redemption-exchange.* (Sec. 321.13) Securities presented for redemption-exchange shall be stamped "PAID" in the same manner as securities redeemed for cash, but only when all elements of the transaction have been completed, including receipt of the cash difference, if any. In completing the transaction, the agent shall also imprint the "PAID" stamp, showing the exact date of redemption, in the space provided on the Form PD 3253. The date recorded on the form will establish the issue date of the Series HH bonds to be issued by the Federal Reserve Bank.

15. *Transmittal of securities to Federal Reserve Bank. (Sec. 321.14)*

(a) *Form to be used.* (Sec. 321.14) A standard transmittal letter or batch card, Form PD 2639 must be used to submit redeemed securities to the Federal Reserve Bank. The Bank will supply the forms to each agent and each branch or facility authorized to remit directly for its own account. The forms will be preprinted to show the agent's name, location and assigned code number, and, if so prearranged, the name and address of a correspondent member bank through which settlement is to be made. To insure proper settlement and correct fee payments, it is essential that each agent, branch or facility accounting directly use only the forms that contain its name and agent code.

(b) *Batching paid securities.* (Sec. 321.14) A separate Form PD 2639 must be prepared to cover each of the following:

(1) Series A, B, C, D, and E bonds printed on distinctive paper (which may be combined) paid in the same month for cash;

(2) Series E and EE card bonds and savings notes (which may be combined) paid in the same month for cash;

(3) Series E paper bonds redeemed in the same month in exchange for Series HH bonds; and

(4) Series E and EE card bonds and savings notes (which may be combined) redeemed in the same month in exchange for Series HH bonds.

Even if paper and card securities are received together in a single redemption or redemption-exchange transaction, they must be batched separately. Failure to separate and batch the securities in the above manner, or to properly identify the transaction as a "Redemption" or "Exchange" on Form PD 2639, creates costly processing problems and delays for the Bureau of the Public Debt and could result in the incorrect calculation of the fees due the agent.

(c) *Transmittal of Securities.* (Sec. 321.14) Each Form PD 2639 shall be completed and, with the related securities, transmitted to the Federal Reserve Bank in accordance with instructions from the Bank.

(d) *Special instructions for transmittal of securities redeemed in exchange for Series HH bonds.* (Sec. 321.8(c) and 321.14) Securities paid by an agent on redemption-exchange must be accompanied by the completed exchange subscription, Form PD 3253, and by a remittance of the full purchase price of the Series HH bonds. These items, including both paper and card bonds and their covering transmittal letters, should be banded together (not clipped, stapled or pinned) so they will be received as a unit at the Federal Reserve Bank.

(e) *Timing of transmittals.* (Sec. 321.14) Paid securities and related Forms PD 2639 may be sent to the Federal Reserve Bank each day or less frequently. However, all paid securities on hand on the last business day of the month must be forwarded no later than the next business day. Securities paid in different months should never be combined in the same batch.

(f) *Record of securities paid.* (Sec. 321.14 and 321.24) A record of the serial number of and amount paid for each security should be retained by the agent so that settlement can be made if the security is lost in transit. For that purpose, agents are authorized to microfilm the face and back of each security they pay. Such film records must be kept confidential and prints therefrom may be made only with the permission of the Bureau of the Public Debt.

16. *Settlement for and audit of paid securities.* (Sec. 321.14)

(a) *Settlement.* (Sec. 321.14) The Federal Reserve Bank will make immediate settlement for the total redemption value of the paid securities in each batch, as recorded on the Form PD 2639. The batch will then be sent to the Bureau of the Public Debt for audit. Settlement may be made by credit to the reserve account of the agent or a designated correspondent member bank, or by check drawn on the Treasury. The amount will be subject to adjustment if discrepancies are discovered after settlement has been made with the agent.

(b) *Audit and adjustment.* (Sec. 321.14) The Bureau of the Public Debt will audit all paid securities and related Forms PD 2639 as promptly as possible. It will, in due course, notify each agent, through the Federal Reserve Bank, of any adjustments required. Each notice will include information that will enable the agent to adjust the difference with the payee, if necessary. The Federal Reserve Bank will adjust any amounts previously credited to the agent. If an agent discovers an error before the audit is completed, it should notify the Federal Reserve Bank immediately.

Subpart E—Losses Resulting from Erroneous Payments

17. *Report of Erroneous Payment. (Sec. 321.16)* Any erroneous payment that comes to the attention of the agent should be reported immediately to the Bureau of the Public Debt, 200 Third Street, Parkersburg, West Virginia 26101. The nearest office of the Secret Service should also be notified if the agent believes that a security presented for payment may be a counterfeit, if it appears that stolen securities have been presented, or if the circumstances of the presentation are suspicious in any other respect.

18. *Notice to agent.* (Sec. 321.17(a)) The paying agent will be notified promptly if it appears that an erroneous payment has ocurred. The notice will generally be in writing from the Bureau of the Public Debt. It is intended primarily to enable the agent to (a) notify its bonding company, (b) assemble pertinent information covering the transaction for presentation during the Department's investigation, and (c) take any other action it deems appropriate to protect its interest.

19. *Determination of liability.* (Sec. 321.18) Upon completion of the investigation, the Bureau will examine the information it has developed for the purpose of determining whether or not the agent may be relieved of liability for any loss that may have resulted. If it cannot be relieved of liability, the agent will be asked to reimburse the Treasury promptly for any loss. After prior notice to the agent, the claim for reimbursement may be deferred if restitution from the party obtaining payment appears probable. Reconsideration of a determination will be made in any case where the agent so requests and presents additional evidence and information regarding the transaction.

20. *Relief for lack of timely notice.* (Sec. 321.18) A paying agent will be relieved of liability to the United States for any loss resulting from the erroneous payment of savings bonds or notes where the Secretary of the Treasury or his delegate, the Commissioner of the Public Debt, determines that written notice of either liability or potential liability has not been given to the agent within 10 years of the date of the erroneous payment.

Subpart F—Forwarding Items

21. *Securities sent to the Federal Reserve Bank as forwarding items for processing and payment.* (Sec. 321.22)

(a) *General.* (Sec. 321.22) Securities presented for cash payment or redemption-exchange which an agent is not authorized to redeem should be forwarded to the Federal Reserve Bank. Each transaction should be submitted separately, with all necessary supporting documentation and with any payment instructions that are necessary.

(b) *Signature to and certification of request for payment.* (Sec. 321.22) Agents qualified under Circular No. 888 may elect to specially endorse the securities for customers in lieu of requiring completion of the requests for payment. Unless this procedure is used, the presenter must sign the request on each security and the signature must be certified. Before executing the certification, the agent should establish the identity of the presenter. The Treasury's identification guidelines should be followed, in view of the potential liability that attaches to such certification.

(c) *Address and social security number.* (Sec. 321.22) In every case, a current address must be furnished and the social security number of an individual presenter or the employer identification number of a trust, estate, etc., must be recorded on the face of at least one security, if it is not included in the inscription.

(d) *Redemption-exchange.* (Sec. 321.22) For redemption-exchange cases processed as forwarding items, the issue date of the Series HH bonds will be the first day of the month in which the correctly completed exchange subscription and full payment are received by the Federal Reserve Bank.

(e) *Partial redemptions.* (Sec. 321.9(m) and 321.22) Partial redemption of a savings bond or savings note, in denominations other than the lowest denomination authorized for the specific security, may be made by a Federal Reserve Bank. The amount of the partial redemption must be that of an authorized denomination. If a security is received by an agent for partial redemption, the words "to the extent of $———(face amount) and reissue of the remainder" should be added to the first sentence of the request for payment. The request should then be completed in the regular manner and the signature of the presenter certified. The security should be forwarded to the Federal Reserve Bank.

Subpart G—Miscellaneous Provisions

22. *Fees.* (Sec. 321.23) Fees will be paid by the Treasury only for securities an agent redeems for cash or on exchange. Securities processed as forwarding items under the provisions of Sec. 321.22 of the Circular and paragraph 22 of this Appendix are not eligible for such fees.

23. *Claims on account of lost securities.* (Sec. 321.24) If securities paid by an agent are lost, stolen or destroyed while in the custody of the agent or in transit to a Federal Reserve Bank, relief cannot be considered unless the securities can be identified by serial number. (See paragraph 16(f) of this Appendix regarding the maintenance of a record of paid securities.) If redeemed securities are lost, stolen or destroyed, a claim should be submitted on Form PD 2517 to the Bureau of the Public Debt, 200 Third Street, Parkersburg, West Virginia 26101. The form can be obtained from the Federal Reserve Bank. The Bureau will investigate and adjudicate the claim and advise the agent of its findings and conclusions.

24. *Additional information.* (Sec. 321.25) Requests for additional advice, clarification of the payment regulations or this Appendix, and other matters relating to the actions of a financial institution as paying agent should generally be made to the Federal Reserve Bank.

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Part XI

Department of the Treasury

Fiscal Service, Bureau of the Public Debt

Regulations Governing Payment Under Special Endorsement of United States Savings Bonds and United States Savings Notes

Dept. Circular No. 888, 4th Revision

DEPARTMENT OF THE TREASURY

Bureau of the Public Debt

31 CFR Part 330

Regulations Governing Payment Under Special Endorsement of United States Savings Bonds and United States Savings Notes (Freedom Shares)

AGENCY: Fiscal Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: Department of the Treasury Circular No. 888 (31 CFR, Part 330) contains the regulations governing the payment of United States Savings Bonds and United States Savings Notes (Freedom Shares) under special endorsement. The Fourth Revision of this Circular is necessary because of changes in the Savings Bond Program involving (1) the introduction of Series EE bonds; (2) the introduction of a redemption-exchange offer for Series HH bonds; and (3) the withdrawal from sale of Series H bonds and the termination of the Series H exchange offer. The Fourth Revision also rescinds the authority of qualified agents to specially endorse and pay Series F, G, J, and K savings bonds under the provisions of the Third Revision.

EFFECTIVE DATE: July 1, 1980.

FOR FURTHER INFORMATION CONTACT: Calvin Ninomiya, Chief Counsel, Bureau of the Public Debt, Washington, D.C. 20226 (202–376–0244).

SUPPLEMENTARY INFORMATION: Department of the Treasury Circular No. 888, Third Revision, authorized qualified agents to use a special endorsement, in lieu of obtaining the owner's signature to the request for payment, for certain series of savings bonds and for savings notes. The special endorsement authority applied to savings bonds of Series A, B, C, D, E, F, G, J, and K, as well as notes. Qualified agents were also authorized to redeem for cash or in exchange for Series H bonds certain classes of specially endorsed securities.

The Fourth Revision of this Circular continues the authority of qualified agents to use the special endorsement procedures, but revises the various series of savings bonds that can be processed under the procedure. Securities now eligible for special endorsement are Series A, B, C, D, E, and EE savings bonds, as well as savings notes.

Specially endorsed securities which a qualified agent may redeem for cash or in exchange for Series HH bonds are restricted to those securities an agent is otherwise authorized to redeem under the provisions of Department of the Treasury Circular No. 750, Third Revision. These include (1) Series A, B, C, D, E, and EE savings bonds and notes presented for cash redemption by an individual named as owner or coowner, and (2) eligible Series E and EE bonds and savings notes presented for redemption-exchange by an individual named as owner or coowner.

All agents currently qualified to exercise the special endorsement authority are automatically requalified under the provisions of the Fourth Revision.

The Memorandum of Instructions Issued in Conjunction with Department Circular No. 888, Third Revision, is no longer considered necessary and is not being republished. Significant material in the Memorandum has been incorporated in the Fourth Revision.

Apart from the changes cited, the Fourth Revision does not differ substantially from the Third Revision. There have been some changes in organization and language for clarification. Differences between the two revisions are discussed in the paragraphs that follow.

The Purpose of the Circular, as stated in Sec. 330.0, has been revised. The restrictions relating to pledge, hypothecation, etc., previously contained in this section have been moved to Sec. 330.3(d).

A set of definitions of terms used in the Circular has been added as Sec. 330.1.

Sec. 330.2 contains instructions regarding the qualification procedures, formerly in Sec. 330.1. The instructions have been expanded and rearranged.

Sec. 330.3 covers instructions formerly in Secs. 330.5 and 330.6, augmented by material formerly in paragraphs 6 and 7 of the Memorandum of Instructions. As indicated, paragraph (d) contains the restrictions previously in Sec. 330.0.

Sec. 330.4 was formerly Sec. 330.3.

Sec. 330.5 replaces previous Sec. 330.4. Paragraph (a) contains new material regarding the signature on the exchange subscription, Form PD 3253. Paragraphs (b) and (c) were formerly in paragraph 5 of the Memorandum.

Sec. 330.6(a) contains the general authority of agents to specially endorse securities and replaces Sec. 330.2. Paragraph (b) has material previously in Sec. 330.2 and paragraph 4 of the Memorandum. Paragraph (c) has material formerly in paragraph 8 of the Memorandum.

The material in Sec. 330.7 was formerly in Sec. 330.7(a) (1) and (3) and paragraph 8 of the Memorandum. It has been restated.

Sec. 330.8 contains material formerly in Sec. 330.7(b), also restated.

Secs. 330.9, 330.10 and 330.11 replace Secs. 330.8, 330.9 and 330.11, without substantial change. Old Sec. 330.10 has been dropped as unnecessary.

Accordingly, Department of the Treasury Circular No. 888, Third Revision, dated December 10, 1968 (31 CFR, Part 330) is hereby revised and reissued as Department Circular No. 888, Fourth Revision, effective July 1, 1980.

Since this revision involves the fiscal policy of the United States and does not meet the Department's criteria for significant regulations, it has been determined that notice and public procedures are unnecessary.

Dated: June 20, 1980.

Paul H. Taylor,

Fiscal Assistant Secretary.

Part 330 of title 31 CFR is revised to read as follows:

PART 330—REGULATIONS GOVERNING PAYMENT UNDER SPECIAL ENDORSEMENT OF UNITED STATES SAVINGS BONDS AND UNITED STATES SAVINGS NOTES (FREEDOM SHARES)

Sec.

Authority: Sec. 22, 49 Stat. 21, as amended; 31 U.S.C. 757c.

Source: Department of the Treasury Circular No. 888, Fourth Revision.

§ 330.0 Purpose.

The regulations in this Part establish a procedure under which qualified paying agents may specially endorse United States Savings Bonds of certain series and United States Savings Notes (Freedom Shares), and either redeem the securities so endorsed, or forward them to a Federal Reserve Bank for redemption, with or without the owner's signature to the requests for payment.

§ 330.1 Definition of terms.

As used in this Circular:

(a) "Federal Reserve Bank" or "Bank" refers to the Federal Reserve Bank of the district in which a paying agent is located, and includes the Branch(es) of the Bank, where appropriate.

(b) "Owner(s)" means the person named as registered owner or coowner on a bond or note and applies generally to individuals. For the purposes of special endorsement, but not payment, by a qualified agent, it may also include fiduciaries, corporations, partnerships, associations, and other entities named on a security, where such registration is authorized.

(c) "Paying agent(s)" or "agent(s)" refers to an eligible financial institution qualified under the provisions of this Circular to specially endorse securities and qualified under the provisions of Department of the Treasury Circular No. 750, current revision, to redeem eligible savings bonds and notes. The term includes branches of a qualified agent that redeem bonds and notes and account directly to a Federal Reserve Bank.

(d) "Redemption" and "payment" are used interchangeably for payment of a bond or note in accordance with the terms of its offering and the regulations governing it, and include "redemption-exchange".

(e) "Redemption-exchange" means any authorized redemption of eligible securities for the purpose of applying the proceeds in payment for other securities offered in exchange by the Treasury.

(f) "Savings bond(s)" or "bond(s)" means a United States Savings Bond of Series A, B, C, D, E, or EE.

(g) "Savings note(s)" or "note(s)" means a United States Savings Note (Freedom Share).

(h) "Security" or "securities" means a savings bond or note as defined in (f) and (g) of this section.

(i) "Special endorsement" means a procedure under which a security is redeemed by an agent, qualified under the provisions of this Circular, for cash or on redemption-exchange utilizing a special stamp placed on the security in lieu of a request for payment signed by the owner or coowner.

§ 330.2 Qualification for use of special endorsement.

(a) *Application for authority.* Any financial institution qualified as a paying agent of savings bonds and notes under the provisions of Department of the Treasury Circular No. 750, current revision, may establish its eligibility to employ the special endorsement procedure by executing and submitting the appropriate application-agreement form to the Federal Reserve Bank. In executing the form, the agent certifies that, by duly executed resolution of its governing board or committee, it has been authorized to apply for the privilege of paying and processing securities in accordance with the provisions and conditions of Circular No. 888, including all supplements, amendments, and revisions, and any related instructions. If the application is approved, the Federal Reserve Bank will issue a certificate of qualification.

(b) *Agents previously qualified.* Institutions qualified under previous revisions of this Circular are authorized to continue to act without requalification. By so acting, they shall be subject to the terms and conditions of the previously executed application and these regulations in the same manner and to the same extent as though they had requalified hereunder.

(c) *Termination of qualification.* The Secretary of the Treasury reserves the right to withdraw the special endorsement authority from any institution at any time. Such authority will also be terminated at any time at the request of the institution. In either event, formal notice of the termination shall be given to the agent in writing by the Federal Reserve Bank.

§ 330.3 Special endorsement of securities.

(a) *Form of endorsement.* Each security processed under the provisions of this circular shall bear the following endorsement:

> Request by owner and validity of transaction guaranteed in accordance with T.D. Circular No. 888, as revised.
> (Name, location, and paying agent code number assigned by Federal Reserve Bank)

This endorsement must be legibly impressed in black or other dark-colored ink on the back of the security in the space provided for the owner to request payment.

(b) *Endorsement stamps.* Endorsement stamps may be obtained from the Federal Reserve Bank or, with its approval, purchased by the agent. Requests for stamps to be furnished or approved by the Bank must be made in writing by an officer of the institution. Stamps procured by an agent may not exceed a space bounded by 1¾ inches vertically and 3 inches horizontally. They must follow exactly the wording prescribed. They may also include space for the transaction date and the initials or signature of the officer or employee authorized to approve the transaction.

(c) *Coownership securities.* In the case of securities registered in coownership form, the agent shall indicate which coowner requested payment or exchange by encircling in black or other dark-colored ink the name of the coowner (or both coowners, if the request is joint) in the inscription on the face of the security.

(d) *Restrictions.* Under no circumstances shall the special endorsement procedure be used to give effect to a transfer, hypothecation or pledge of a security, or to permit payment to any person other than the owner or coowner. Violation of these provisions will be cause for withdrawal of an agent's authority to process securities under the special endorsement procedure, and may involve additional penalties if the circumstances warrant such action.

§ 330.4 Guaranty given to the United States.

By the act of paying or presenting to a Federal Reserve Bank for payment or exchange a security on which it has affixed the special endorsement, a paying agent shall be deemed to have (a) unconditionally guaranteed to the United States the validity of the transaction, including the identification of the owner and the disposition of the proceeds or the new bonds, as the case may be, in accordance with the presenter's instructions; (b) assumed complete and unconditional liability to the United States for any loss which may be incurred by the United States as a result of the transaction; and (c) unconditionally agreed to make prompt reimbursement for the amount of any loss, upon request of the Department of the Treasury.

§ 330.5 Evidence of owner's authorization to affix special endorsement.

(a) *Form of authorization.* The Treasury does not prescribe the form or type of instructions an agent must obtain from each owner in order to use the special endorsement procedure. In the case of a redemption-exchange, the owner or coowner authorized to request the exchange (as specified in Circular No. 750, Section 321.8(b)), must sign the exchange subscription even though the securities are specially endorsed.

(b) *Securities in coownership or beneficiary form.* Securities registered in coownership or beneficiary form should be accepted for special endorsement only for immediate payment or exchange. Acceptance of bonds and notes for processing at some future date should be avoided as authority to utilize endorsement generally expires upon the death of the owner or coowner on whose behalf securities were to be paid.

(c) *Record of authorization.* Agents should maintain such records as may be necessary to establish the receipt of, and compliance with, instructions supporting the special endorsement. If the agent elects to make notations on

the back of the securities to serve as a record, the Bureau of the Public Debt will undertake to produce, on request, a photocopy of such security at any time up to 10 years after the redemption date. However, the Bureau does not assume responsibility for the adequacy of such notations, for the legibility of any photocopy, or for failure to produce a photocopy from its records.

§ 330.6 Securities eligible for special endorsement.

(a) *General authority.* A qualified agent is authorized to affix the special endorsement to: (1) savings bonds of Series A, B, C, D, E, and EE and savings notes to be redeemed for cash, and (2) eligible savings bonds of Series E and EE and savings notes to be redeemed in exchange for Series HH bonds under the provisions of Circular No. 2–80.

(b) *Securities which may not be specially endorsed.* The special endorsement procedure may not be used in any case in which payment or exchange (1) is requested by a parent on behalf of a minor child named on the security, or by a surviving beneficiary; or (2) requires documentary evidence, under regulations contained in Circulars Nos. 530 and 3–80.

(c) *Securities owned by nonresident aliens.* As securities owned by a nonresident alien individual, or a nonresident foreign corporation, partnership, or association may be subject to the nonresident alien withholding tax, bonds and notes held or received by an agent for the account of such owners must be forwarded to the Federal Reserve Bank for redemption, even though the agent may specially endorse the securities.

§ 330.7 Payment or redemption-exchange by agent.

Specially endorsed securities may be paid in cash or redeemed in exchange for Series HH bonds pursuant to the authority and subject, in all other respects, to the provisions of Circular No. 750, current revision, its Appendix, and any other instructions issued under its authority. Each specially endorsed bond or note paid by an agent must have the agent's payment stamp imprinted on its face and show the date and amount paid. Securities so paid should be combined with other securities paid under that Circular and forwarded to the Federal Reserve Bank for settlement. Securities redeemed on exchange must be accompanied by an exchange subscription and a remittance covering the issue price of the Series HH bonds.

§ 330.8 Payment or redemption-exchange by Federal Reserve Bank.

Specially endorsed securities which an agent is not authorized to redeem for cash or on exchange should be forwarded to the Federal Reserve Bank. The transmittals must be accompanied by appropriate instructions governing the transaction and the disposition of the redemption checks or new bonds, as the case may be. The securities must be kept separate from others the agent has paid and must be submitted in accordance with instructions issued by the Bank.

§ 330.9 Fiscal agents.

The Federal Reserve Banks, as fiscal agents of the United States, are authorized to perform such services as may be requested by the Secretary of the Treasury or by his delegate, the Commissioner of the Public Debt, in connection with this Circular.

§ 330.10 Modifications of other Circulars.

The provisions of this Circular shall be considered as amending and supplementing: Department of the Treasury Circulars Nos. 530, 653, and 750, and Department of the Treasury Circulars, Public Debt Series Nos. 1–80, 2–80, 3–80, and 3–67, and any revisions thereof, and those Circulars are hereby modified to the extent necessary to accord with the provisions of this Circular.

§ 330.11 Supplements, amendments, or revisions.

The Secretary of the Treasury may, at any time, or from time to time, revise, supplement, amend or withdraw, in whole or in part, the provisions of this Circular.

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Presidential Documents:

523-5233	Executive Orders and Proclamations
523-5235	Public Papers of the Presidents, and Weekly Compilation of Presidential Documents

Public Laws:

523-5266	Public Law Numbers and Dates, Slip Laws, U.S.
-5282	Statutes at Large, and Index
275-3030	Slip Law Orders (GPO)

Other Publications and Services:

523-5239	TTY for the Deaf
523-5230	U.S. Government Manual
523-3408	Automation
523-4534	Special Projects
523-3517	Privacy Act Compilation

FEDERAL REGISTER PAGES AND DATES, JULY

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday).

This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/FHWA	USDA/FSQS		DOT/FHWA	USDA/FSQS
DOT/FRA	USDA/REA		DOT/FRA	USDA/REA
DOT/NHTSA	MSPB/OPM		DOT/NHTSA	MSPB/OPM
DOT/RSPA	LABOR		DOT/RSPA	LABOR
DOT/SLSDC	HHS/FDA		DOT/SLSDC	HHS/FDA
DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator. Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

TABLE OF EFFECTIVE DATES AND TIME PERIODS—JULY 1980

This table is for use in computing dates certain in connection with documents which are published in the Federal Register subject to advance notice requirements or which impose time limits on public response.

Federal Agencies using this table in calculating time requirements for submissions must allow sufficient extra time for Federal Register scheduling procedures.

In computing dates certain, the day after publication counts as one. All succeeding days are counted except that when a date certain falls on a weekend or holiday, it is moved forward to the next Federal business day. (See 1 CFR 18.17)

A new table will be published in the first issue of each month.

Dates of FR publication	15 days after publication	30 days after publication	45 days after publication	60 days after publication	90 days after publication
July 1	July 16	July 31	August 15	September 2	September 29
July 2	July 17	August 1	August 18	September 2	September 30
July 3	July 18	August 4	August 18	September 2	October 1
July 7	July 22	August 6	August 21	September 5	October 6
July 8	July 23	August 7	August 22	September 8	October 6
July 9	July 24	August 8	August 25	September 8	October 7
July 10	July 25	August 11	August 25	September 8	October 8
July 11	July 28	August 11	August 25	September 9	October 9
July 14	July 29	August 13	August 28	September 12	October 14
July 15	July 30	August 14	August 29	September 15	October 14
July 16	July 31	August 15	September 2	September 15	October 14
July 17	August 1	August 18	September 2	September 15	October 15
July 18	August 4	August 18	September 2	September 16	October 16
July 21	August 5	August 20	September 4	September 19	October 20
July 22	August 6	August 21	September 5	September 22	October 20
July 23	August 7	August 22	September 8	September 22	October 21
July 24	August 8	August 25	September 8	September 22	October 22
July 25	August 11	August 25	September 8	September 23	October 23
July 28	August 12	August 27	September 11	September 26	October 27
July 29	August 13	August 28	September 12	September 29	October 27
July 30	August 14	August 29	September 15	September 29	October 28
July 31	August 15	September 2	September 15	September 29	October 29

CFR CHECKLIST; 1979/1980 ISSUANCES

This checklist, prepared by the Office of the Federal Register, is published in the first issue of each month. It is arranged in the order of CFR titles, and shows the revision date and price of the volumes of the Code of Federal Regulations issued to date for 1979/1980. New units issued during the month are announced on the back cover of the daily **Federal Register** as they become available.

For a checklist of current CFR volumes comprising a complete CFR set, see the latest issue of the LSA (List of CFR Sections Affected), which is revised monthly.

The annual rate for subscription service to all revised volumes is $450 domestic, $115 additional for foreign mailing.

Order from Superintendent of Documents, Government Printing Office, Washington, D.C. 20402.

CFR Unit (Rev. as of Jan. 1, 1980):

Title	Price
1	$4.50
2 [Reserved]	
4	6.50
5	8.00
6	3.75
7 Parts:	
0-52	8.50
53-209	7.00
300-399	5.50
700-899	7.00
900-944	7.00
945-980	5.50
981-999	5.50
1000-1059	7.00
1060-1119	7.00
1120-1199	6.00
1200-1499	7.00
1500-1899	6.50
2853-end	6.00
8	5.50
9 Parts:	
1-199	7.00
200-end	6.50
10 Parts:	
0-199	7.50
200-499	8.50
500-end	7.50
11 (Rev. 4/1/80)	4.75
12 Parts:	
1-199	6.00
200-299	9.00
300-end	11.00
13	7.00
14 Parts:	
1-59	8.50
60-199	8.50
1200-end	6.00
16 Parts:	
0-149	7.00
150-999	6.00
1000-end	6.50
CFR Index	8.50

CFR Unit (Rev. as of Apr. 1, 1980):

20 Parts:	
01-399	5.50
21 Parts:	
100-169	7.00
170-199	6.00
200-299	5.50
500-599	7.50
600-799	5.00
800-1299	5.50
1300-end	4.50
24 Parts:	
1700-end	6.00

CFR Unit (Rev. as of July 1, 1979):

28	6.50
29 Parts:	
0-499	8.00
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1900-1919	11.00
1920-end	7.50
30	13.00
31	8.50
32 Parts:	
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1-39 (Vol. III)	8.50
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400-699	8.50
700-799	7.50
800-999	7.50
1000-end	6.00
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200-end	7.00
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37	5.50
38	9.00
39	6.00
40 Parts:	
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50-59	12.00
60-80	6.50
81-99	7.00
100-399	8.00
400-end	12.00
41 Chapters:	
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3-6	7.50
7	4.00
8	4.00
9	7.00
10-17	6.50
18 (Pts. 1-52 SUPP.)	3.00
19-100	6.00
101-end	12.00

CFR Unit (Rev. as of Oct. 1, 1979):

42 Parts:	
1-399	8.00
400-end	8.00
43 Parts:	
1-999	5.50
1000-end	9.00
44	5.50
45 Parts:	
1-99	6.50
100-149	7.00
150-199	7.00
200-499	5.00
500-1199	7.00
1200-end	6.50
46 Parts:	
1-29	4.25
30-40	4.50
41-69	6.50
70-89	4.75
90-109	4.75
110-139	4.25
140-155	5.50
156-165	5.50
166-199	5.25
200-end	8.50
47 Parts:	
0-19	6.50
20-69	8.00
70-79	7.00
80-end	8.00
48 [Reserved]	
49 Parts:	
1-99	4.75
100-177	7.00
178-199	7.00
200-399	7.00
400-999	7.00
1000-1199	7.00
1200-1299	9.00
1300-end	6.00
50	8.00

PROJECTED 1980 CFR ISSUANCES
First, Second and Third Quarters

On April 1, 1980, the Office of the **Federal Register** introduced this list as a new reader aid. The list was developed in response to numerous requests from CFR subscribers and other members of the public for a pre-publication schedule that would indicate the planned content and revision date for each CFR volume being issued by the OFR. The April 1 publication projected plans for issuing CFR volumes during the first two quarters of 1980 (January 1 and April 1).

This list restates the publication plans for the first two quarters and projects the publication plans for the third quarter (July 1). A projected schedule that will include the fourth quarter (October—Titles 42 through 50) will appear in the October 1, 1980 **Federal Register** immediately after the CFR checklist.

Normally, CFR volumes are revised according to the following schedule:

Titles 1–16—January 1
Titles 17–27—April 1
Titles 28–41—July 1
Titles 42–50—October 1

All volumes listed below will adhere to these scheduled revision dates unless a notation in the listing indicates a different revision date for a particular volume. With a few exceptions, all volumes are completely revised and supersede any previous edition. The exceptions are:

A. Title 7 (Parts 2800 to 2851). There were no amendments published during the revision period and, therefore, a cover only was issued indicating that the last revised edition published January 1, 1978, should be retained.

B. Title 21 (Part 1300 to End—1308 Table). There were no amendments published during the revision period and, therefore, a cover only was issued indicating that the last revised edition published April 1, 1979, should be retained.

C. Title 32 (Parts 1 to 39, Volumes I, II, and III). A supplement to the three-volume July 1, 1979, edition will be issued containing the amendments published elsewhere in today's **Federal Register.**

D. Title 41 (Chapter 9). A supplement to the July 1, 1979, edition will be issued which will contain the changes published during the period July 2, 1979 through July 1, 1980.

E. Title 32A. This volume is abolished.

F. Title 34. Title 34—Government Management was vacated and reserved at 44 FR 60286, Oct. 19, 1979. Regulations previously appearing in Title 34 were transferred to Title 5, Chapter III. Title 34—Education was established at 45 FR 30802, May 9, 1980. This volume will reflect the regulations published during the period May 9, 1980 through July 1, 1980.

Pricing information is not available at this time on all volumes. Individual announcements of the actual release of CFR volumes will continue to be printed in the **Federal Register** and will provide the price and ordering information. The monthly CFR Checklist and the Annual Cumulative LSA will continue to provide a cumulative list of CFR volumes actually printed.

Titles revised as of January 1, 1980, unless otherwise noted:

Title
1–2
3 Compilation
4
5
6
7 Parts
0–52
53–209
210–299
300–399
400–699
700–899
900–944
945–980
981–999
1000–1059
1060–1119
1120–1499
1500–1899
1900–2799
2800–2851 (Cover only)
2852
2853–end
8
9 Parts:
1–99
200–end
10 Parts:
0–199
200–499
500–end
11 (Revised as of April 1, 1980)

Titles revised as of January 1, 1980, unless otherwise noted:—CONTINUED

Title
12 Parts:
1–199
200–299
300–end
13
14 Parts:
1–59
60–199
200–1199
1200–end
15
16 Parts:
0–149
150–999
1000–end
CFR Index

Titles revised as of April 1, 1980, unless otherwise noted:

Title
17 Parts:
0–239
240–end
18 Parts:
1–149
150–end
19
20 Parts:
1–399
400–499
500–end
21 Parts:
1–99
100–169
170–199
200–299
300–499
500–599
600–799
800–1299
1300–end
1308 Table (Cover only)
22
23
24 Parts:
0–499
500–1699
1700–end
25
26 Parts:
1(§§ 1.0–1–1.169)
1(§§ 1.170–1.300)
1(§§ 1.301–1.400)
1(§§ 1.401–1.500)
1(§§ 1.501–1.640)
1(§§ 1.641–1.850)
1(§§ 1.851–1.1200)
2–29
30–39
40–299
300–499
500–599
600–end
27 Parts:
1–199
200–end

Titles to be revised as of July 1, 1980, unless otherwise noted:

Title
CFR Index
28
29 Parts:
0–499
500–1899
1900–1910
1911–1919
1920–end
30 Parts:
0–199
200–end
31 Parts:
0–199
200–end
32 Parts:
1–39, Vol. I–III (supplement)
40–399
400–699
700–799
800–999
1000–end
33 Parts:
1–199
200–end
34
35 (Revised as of October 1, 1980)
36
37
38
39
40 Parts:
0–51
53–80
81–99
100–399
400–424
425–end
41 Chapters:
1–2
3–6
7
8
9 (Supplement)
10–17
18 Vol. I
18 Vol. II
18 Vol. III
19–100
101
102–end

AGENCY ABBREVIATIONS
Used in Highlights and Reminders

(This List Will Be Published Monthly in First Issue of Month.)

USDA Agriculture Department

AMS Agricultural Marketing Service
APHIS Animal and Plant Health Inspection Service
ASCS Agricultural Stabilization and Conservation Service
CCC Commodity Credit Corporation
CEA Commodity Exchange Authority
EMS Export Marketing Service
EOA Energy Office, Agriculture Department
EQOA Environmental Quality Office, Agriculture Department
ESCS Economics, Statistics, and Cooperatives Service
FmHA Farmers Home Administration
FAS Foreign Agricultural Service
FCIC Federal Crop Insurance Corporation
FGIS Federal Grain Inspection Service
FNS Food and Nutrition Service
FS Forest Service
FSQS Food Safety and Quality Service
RDS Rural Development Service
REA Rural Electrification Administration
RTB Rural Telephone Bank
SCS Soil Conservation Service
SEA Science and Education Administration
TOA Transportation Office, Agriculture Department

COMMERCE Commerce Department

BEA Bureau of Economic Analysis
Census Census Bureau
EDA Economic Development Administration
FSPSO Federal Statistical Policy and Standards Office
FTZB Foreign-Trade Zones Board
ITA International Trade Administration
MA Maritime Administration
MBDA Minority Business Development Agency
NBS National Bureau of Standards
NOAA National Oceanic and Atmospheric Administration
NSA National Shipping Authority
NTIA National Telecommunications and Information Administration
NTIS National Technical Information Service
PTO Patent and Trademark Office
USTS United States Travel Service

DOD Defense Department

AF Air Force Department
Army Army Department
DCAA Defense Contract Audit Agency
DCPA Defense Civil Preparedness Agency
DIA Defense Intelligence Agency
DIS Defense Investigative Service
DLA Defense Logistics Agency
DMA Defense Mapping Agency
DNA Defense Nuclear Agency
EC Engineers Corps
Navy Navy Department

ED Education Department

NIE National Institute of Education

DOE Energy Department

APA Alaska Power Administration
BPA Bonneville Power Administration
EIA Energy Information Administration
ERA Economic Regulatory Administration
ERO Energy Research Office
ETO Energy Technology Office
FERC Federal Energy Regulatory Commission
OHADOE Hearings and Appeals Office, Energy Department
SEPA Southeastern Power Administration
SOLAR Conservation and Solar Energy Office
SWPA Southwestern Power Administration
WAPA Western Area Power Administration

HHS—Health and Human Services Department

ADAMHA Alcohol, Drug Abuse, and Mental Health Administration
CDC Center for Disease Control
ESNC Educational Statistics National Center
FDA Food and Drug Administration
HCFA Health Care Financing Administration
HDSO Human Development Services Office
HRA Health Resources Administration
HSA Health Services Administration
MSI Museum Services Institute
NIH National Institutes of Health
NIOSH National Institute of Occupational Safety and Health
PHS Public Health Service
RSA Rehabilitation Services Administration
SSA Social Security Administration

HUD Housing and Urban Development Department

CARF Consumer Affairs and Regulatory Functions, Office of Assistant Secretary
CPD Community Planning and Development, Office of Assistant Secretary
EQO/HUD Environmental Quality Office, Housing and Urban Development Department
FHC Federal Housing Commissioner, Office of Assistant Secretary for Housing
FHEO Fair Housing and Equal Opportunity, Office of Assistant Secretary
GNMA Government National Mortgage Association
ILSRO Interstate Land Sales Registration Office
NCA New Communities Administration
NCDC New Community Development Corporation
NVACP Neighborhoods Voluntary Associations and Consumer Protection, Office of Assistant Secretary

INTERIOR Interior Department

BIA Bureau of Indian Affairs
BLM Bureau of Land Management
FWS Fish and Wildlife Service
GS Geological Survey
HCRS Heritage Conservation and Recreation Service
Mines Mines Bureau
NPS National Park Service
OHA Office of Hearings and Appeals, Interior Department
SMO Surface Mining Office
WPRS Water and Power Resource Service

JUSTICE Justice Department

DEA Drug Enforcement Administration
BJS Bureau of Justice Statistics
INS Immigration and Naturalization Service
LEAA Law Enforcement Assistance Administration
NIC National Institute of Corrections
NIJ National Institute of Justice
OJARS Justice Assistance, Research and Statistics Office
PARCOM Parole Commission

LABOR Labor Department

BLS Bureau of Labor Statistics
BRB Benefits Review Board
ESA Employment Standards Administration
ETA Employment and Training Administration
FCCPO Federal Contract Compliance Programs Office
LMSEO Labor Management Standards Enforcement Office

MSHA Mine Safety and Health Administration
OSHA Occupational Safety and Health Administration
P&WBP Pension and Welfare Benefit Programs
W&H Wage and Hour Division

STATE State Department

FSGB Foreign Service Grievance Board

DOT Transportation Department

CG Coast Guard
FAA Federal Aviation Administration
FHWA Federal Highway Administration
FRA Federal Railroad Administration
MTB Materials Transportation Bureau
NHTSA National Highway Traffic Safety Administration
OHMR Office of Hazardous Materials Regulations
OPSR Office of Pipeline Safety Regulations
RSPA Research and Special Programs Administration
SLSDC Saint Lawrence Seaway Development Corporation
UMTA Urban Mass Transportation Administration

TREASURY Treasury Department

ATF Alcohol, Tobacco and Firearms Bureau
Customs Customs Service
Comptroller Comptroller of the Currency
ESO Economic Stabilization Office (temporary)
FS Fiscal Service
IRS Internal Revenue Service
Mint Mint Bureau
PDB Public Debt Bureau
RSO Revenue Sharing Office
SS Secret Service

Independent Agencies

AC Aging, Federal Council
ANGTS Alaska Natural Gas Transportation System, Office of Federal Inspector
ATBCB Architectural and Transportation Barriers Compliance Board
CAB Civil Aeronautics Board
CASB Cost Accounting Standards Board
CEQ Council on Environmental Quality
CFTC Commodity Futures Trading Commission
CITA Textile Agreements Implementation Committee
CPSC Consumer Product Safety Commission
CRC Civil Rights Commission
CSA Community Services Administration
CWPS Wage and Price Stability Council
EEOC Equal Employment Opportunity Commission
EPA Environmental Protection Agency
ESC Endangered Species Committee
ESSA Endangered Species Scientific Authority
EXIMBANK Export-Import Bank of the U.S.
FCA Farm Credit Administration
FCC Federal Communications Commission
FCSC Foreign Claims Settlement Commission
FDIC Federal Deposit Insurance Corporation
FEC Federal Election Commission
FEMA Federal Emergency Management Agency
FEMA/USFA United States Fire Administration
FFIEC Federal Financial Institutions Examination Council
FHLBB Federal Home Loan Bank Board
FHLMC Federal Home Loan Mortgage Corporation
FLRA Federal Labor Relations Authority
FMC Federal Maritime Commission
FRS Federal Reserve System
FTC Federal Trade Commission
GAO General Accounting Office
GPO Government Printing Office
GSA General Services Administration
GSA/ADTS Automated Data and Telecommunications Service
GSA/FPA Federal Preparedness Agency
GSA/FPRS Federal Property Resources Service
GSA/FSS Federal Supply Service
GSA/NARS National Archives and Records Services
GSA/OFR Office of the Federal Register
GSA/PBS Public Buildings Service
ICA International Communication Agency
ICC Interstate Commerce Commission
ICP Interim Compliance Panel (Coal Mine Health and Safety)
IDCA International Development Cooperation Agency
IDCA/AID—Agency for International Development
ITC International Trade Commission
IRLG Interagency Regulatory Liaison Group
LSC Legal Services Corporation
MB Metric Board
MBDA Minority Business Development Agency
MSPB Merit System Protection Board
MWSC Minimum Wage Study Commission
NACEO National Advisory Council on Economic Opportunity
NASA National Aeronautics and Space Administration
NCCB National Consumer Cooperative Bank
NCUA National Credit Union Administration
NFAH National Foundation for the Arts and the Humanities
NLRB National Labor Relations Board
NRC Nuclear Regulatory Commission
NSF National Science Foundation
NTSB National Transportation Safety Board
OMB Office of Management and Budget
OMB/FPPO Federal Procurement Policy Office
OPIC Overseas Private Investment Corporation
OPM Office of Personnel Management
OPM/FPRAC Federal Prevailing Rate Advisory Committee
OSTP Office of Science and Technology Policy
PADC Pennsylvania Avenue Development Corporation
PBGC Pension Benefit Guaranty Corporation
PRC Postal Rate Commission
PS Postal Service
ROAP Reorganization Office of Assistant to President
RRB Railroad Retirement Board
SBA Small Business Administration
SEC Securities and Exchange Commission
Trade Trade Representative, Office of United States
TVA Tennessee Valley Authority
USIA United States Information Agency
VA Veterans Administration
WRC Water Resources Council

REMINDERS

The "reminders" below identify documents that appeared in issues of the **Federal Register** 15 days or more ago. Inclusion or exclusion from this list has no legal significance.

Rules Going Into Effect Today

AGRICULTURE DEPARTMENT

Agricultural Marketing Service—

36354 5–30–80 / Milk in Eastern Ohio-Western Pennsylvania Marketing area

Food and Nutrition Service—

40093 6–13–80 / Food Stamp Program; various standards

32502 5–16–80 / National School Lunch Program; nutritional requirements

Food Safety and Quality Service—

19214 3–25–80 / Uniforms as required for Federal meat graders

ENERGY DEPARTMENT

Federal Energy Regulatory Commission—

31980 5–15–80 / Permanent rule defining small existing industrial boiler fuel users exempt from incremental pricing surcharges

HEALTH, AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration—

39247 6–10–80 / Diluted fruit or vegetable juice beverages; common or usual names for nonstandardized foods

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

Food and Drug Administration—

60894 12–24–78 / Foods for special dietary use; label statements

Health Care Financing Administration—

15550 3–11–80 / Medicare reimbursement of services furnished by hospital-based physicians

[Corrected at 45 FR 18927, 3–24–80]

Social Security Administration—

54083 11–20–78 / Federal Old-Age, Survivors and Disability Insurance (1950——); Coverage of Employees of State and Local Governments

JUSTICE DEPARTMENT

Parole Commission—

12237 2–25–80 / Parole, release, supervision and recommitment of prisoners, youth offenders, and juvenile delinquents

LABOR DEPARTMENT

Employment Standards Administration—

39486 6–10–80 / Farm Labor Coordinated Enforcement

Wage and Hour Division, Employment Standards Administration—

40601 6–16–80 / Industries in American Samoa; new minimum wage rates

SECURITIES AND EXCHANGE COMMISSION

36075 5–29–80 / Applications for extension, suspension, or termination of unlisted trading privileges

Transportation Department

Coast Guard—

38384 6–9–80 / Designation of Anchorage, Alaska as a Port of Documentation

Research and Special Programs Administration—

9931 2–14–80 / Changes in test requirements for joining of plastic pipe used to transport natural and other gas

32690 5–19–80 / Shipment of hazardous materials by air

57100 10–4–79 / Transportation of natural and other gas by pipeline; joining of plastic pipe

[Originally published at 44 FR 42968, 7–23–79]

TREASURY DEPARTMENT

Bureau of Alcohol, Tobacco and Firearms—

41838 6–20–80 / Fuel use of distilled spirits; Crude Oil Windfall Profit Tax Act of 1980

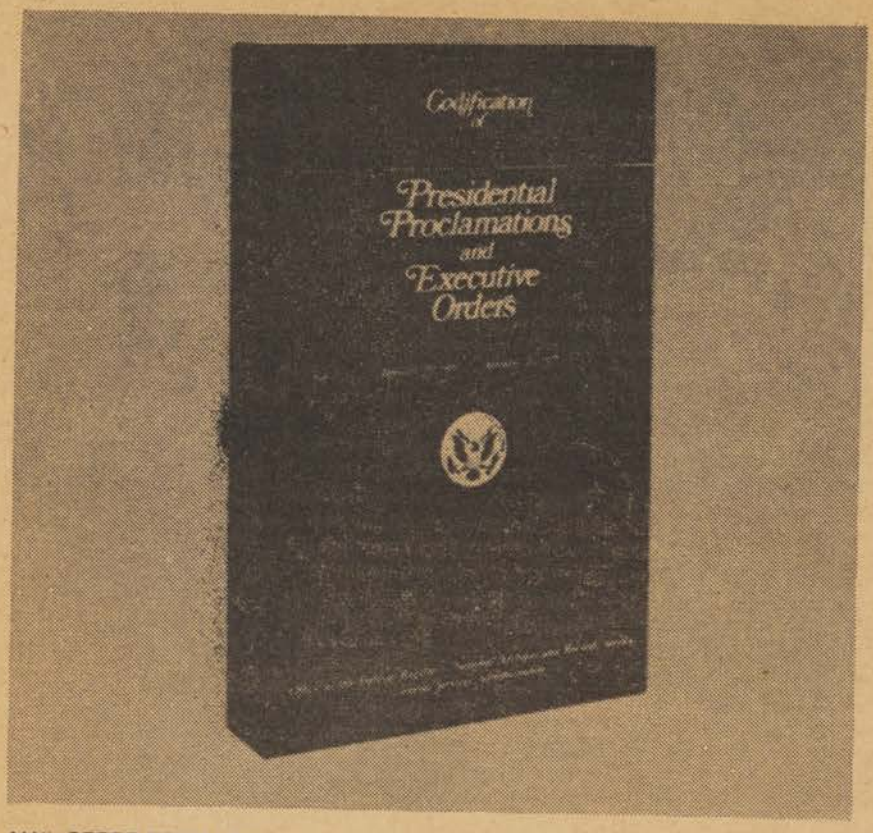
List of Public Laws

Last Listing June 23, 1980

This is a continuing listing of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (telephone 202–275–3030).

H.J. Res. 521 / Pub. L. 96–282 Making additional funds available by transfer for the fiscal year ending September 30, 1980, for the Selective Service System. (June 27, 1980; 94 Stat. 552) Price $1

NEW PUBLICATION NOW AVAILABLE



For those of you who must keep informed about Presidential proclamations and Executive orders, there is now a convenient reference source that will make researching certain of these documents much easier.

Arranged by subject matter, this first edition of the *Codification* contains proclamations and Executive orders that were issued or amended during the period January 20, 1961, through January 20, 1977, and which have a continuing effect on the public. For those documents that have been affected by other proclamations or Executive orders, the codified text presents the amended version. Therefore, a reader can use the *Codification* to determine the latest text of a document without having to "reconstruct" it through extensive research.

Special features include a comprehensive index and a table listing each proclamation and Executive order issued during the 1961–1977 period, along with any amendments, an indication of its current status, and, where applicable, its location in this volume.

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federal register

Book 2 of 2 Books
Tuesday, July 1, 1980

Part VIII

Department of Defense

Office of the Secretary

Defense Acquisition Regulations

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Parts 1-39

[DAC 76-20]

Defense Acquisition Regulation

AGENCY: Department of Defense.

ACTION: Final Rule.

SUMMARY: This document publishes changes to the Defense Acquisition Regulation contained in the Code of Federal Regulations. The changes are the same as those in Defense Acquisition Circular 76-20. Some of the changes include: Wage and price standards for Federal contractors; equal opportunity certification; multiyear contracting; and use of ocean-going vessels for construction.

EFFECTIVE DATE: September 17, 1979.

FOR FURTHER INFORMATION CONTACT: J. Brannan, Director, Defense Acquisition Regulatory Council, Room 3D1080, Pentagon, Washington, D.C. 20301, Telephone 202-697-6710.

SUPPLEMENTARY INFORMATION:

Background

The Defense Acquisition Regulation (DAR) is codified in Title 32, Parts 1-39, Volumes I, II, and III, of the Code of Federal Regulations. The July 1, 1979, revision is the most recent edition of that title. It reflects amendments to the 1976 edition made by Circulars 76-1 through 76-19.

The Department of Defense announced the promulgation of the 19 CFR edition in the **Federal Register** of December 31, 1979 (44 FR 77158). At that time, the Department also announced that any amendments made to the Regulation after Circular 76-19 would be published in the **Federal Register**. This is the first document published under this new procedure.

Defense Acquisition Circular 76-20

This document contains amendments to the Defense Acquisition Regulation in the form of replacement pages which were included in DAC 76-20, issued September 17, 1979. The following is a summary of the amendments:

Multiyear Contracting. The coverage in DAR 1-322 is revised to incorporate concepts considered appropriate to conform to current practices. The coverage also is restructured for purposes of clarity. New concepts include the evaluation of proposed multiyear contracts on factors other than the lowest price; permission to use multiyear contracting when supplies can be obtained only from one source; authority to use multiyear requirements contracts; and provisions for economic price adjustments in multiyear contracts.

Service Contract Act. Coverage is included in the DAC to implement the current requirements of the Service Contract Act and the implementing regulations of the Department of Labor. Section XII, Part 10, is extensively revised. Related changes appear in the applicable clauses and provisions in Section VII. Standard Form 98a is incorporated in Appendix F. Changes are made to other portions of the DAR required by the revisions to Section XII, Part 10.

Wage and Price Standards for Federal Contractors. On 27 December 1978, OFPP issued Policy Letter 78-6 establishing contracting rules and regulations for conformance with the program of voluntary wage and price standards announced by the President. The Policy Letter was disseminated to DoD contracting activities on 5 January 1979 for implementation. DAR coverage developed as a result of the OFPP Policy letter is included in this DAC in 1-341, 7-104.101, and 7-2003.83.

Recovery of Nonrecurring Costs. A new Part 24 is added to Section I of the DAR to reflect current procedures established by DoD Directive 2140.2 for the recovery of nonrecurring costs on commercial sales by contractors of products, components, or technology developed with DoD appropriations or, in special cases, with FMS funds. Related changes to 4-109, 6-1306, the clauses in 7-104.64, and 13-406 are included.

Revised Standard Form 33 and Uniform Contract Format. The DoD-approved revision of the latest issue of the Standard Form 33, overprinted to incorporate provisions for the use of the revised Uniform Contract Format, is included in this DAC. Related changes appear in 2-201, 3-501, and Section XVI.

Equal Opportunity Certification. DAR 7-2003.14(b)(2) is revised to clarify the contents and use of the provision regarding affirmative action programs.

Use of Priority Designators as Justification for Negotiation. By letter dated 13 April 1979 (B-192574), the General Accounting Office notified the Department of Defense that priority designators without further facts would be considered invalid after 1 October 1979. Accordingly, DAR 3-202.2 and 3-202.3 are revised to delete the authority to merely cite priority designators as negotiation authority under the Public Exigency exception.

Utilization Screening of Nonexcess Personal Property. DAR 4-205.2(iii) is revised to conform to DoD Instruction 4160.1 by deleting the urgency authority.

Fixed Price, Into-Plane, Fuel Contracts at Overseas Locations. A new foreign tax clause, 7-103.10(d)(2), has been developed for fixed price, into-plane, fuel contracts at overseas locations and was authorized on January 11, 1979. DAR 11-403.2(a) has been revised to reference the new clause.

The Renegotiation Act and Inclusion of the Implementing Clause in Defense Contracts.

1. Since the Renegotiation Act of 1951 (50 U.S.C. App. 1211, et seq.) expired on 30 September 1976, the implementing contract clause has been included in defense contracts executed thereafter with applicability "to the extent required by law." In effect, the clause has been self-deleting since that time; the Act has not been extended.

2. Since there is no longer any reason to believe that the Act will be extended, the implementing clauses in 7-103.13 shall no longer be inserted in contracts. The corresponding regulatory coverage will remain in 1-319 until such time as appropriate action has been taken with respect to all contracts subject to the Act.

Use of Short Form Government Property Clause. As a part of the President's Small Business program, it has been determined that the rules regarding the use of Government

property could be simplified by raising the threshold for the use of the subject clause. Accordingly, 7–104.24(f) is revised to increase the dollar threshold for the use of the clause to $50,000.

Use of Ocean-Going Vessels for Construction. The clause in DAR 7–603.41 is revised to incorporate the requirement for construction contractors to furnish copies of ocean shipping documents to the U.S. Maritime Administration. This conforms the clause to changes made previously to the clauses in 7–104.19.

Equal Employment Opportunity Program. Revised coverage on this subject is incorporated in Section XII, Part 8. The coverage conforms to the latest policies in this area contained in Executive Order 11246, as amended by Executive Order 12086, and the related rules and regulations of the Department of Labor.

Adjustment and Allocation of Pension Costs.

1. This item addressed the adjustment and allocation of pension costs. It provides for the prospective application of a revised 15–205.6(f) dealing with deferred compensation. The provisions of the cost accounting principle at 15–205.6(f) are hereby revised to incorporate and conform to the provisions of Cost Accounting Standard (CAS) 413. CAS 413 requires that actuarial gains and losses in pension funds be calculated annually and assigned to that cost accounting period and, in certain instances consistent with CAS 413, to subsequent periods. In this regard, it is also important to note that the introductory comments to CAS 412 state that actuarial gains and losses should be accounted for in accordance with pertinent laws and regulations and should be consistently applied. This is particularly significant in connection with the requirements of the Employment Retirement Income Security Act (ERISA).

2. To avoid undue confusion, note that the revised 15–205.6(f)(2)(ii)(A)*e.* is an additional DAR requirement not contained in CAS 413. This requirement will be effective on all new contracts awarded after the effective date of this DAC. For CAS-covered contracts, the implementation date of the remainder of this revision is the date prescribed in CAS 413.80. Otherwise, new provisions will apply to contracts awarded after the effective date of this DAC.

Cost Principles for Educational Institutions. Section XV, Part 3, is extensively revised to conform to OMB Circular A–21, dated 6 March 1979. The revised cost principles are effective 1 October 1979 and will apply to an educational institution's first fiscal year after that date.

Air Force Disbursements for NATO AEW Contracts. Another disbursing office is added to 20–706 to cover the subject contracts because of the unique requirement of the funds involved.

Editorial Changes. Editorial changes are included in this DAC to correct ambiguities, typographical and printing errors, and inconsistencies in previously published material.

Because the Defense Acquisition Regulation concerns agency management, public property, and contracts, it is not necessary to issue proposed rules for public comment. Neither is it necessary to delay the effective date until 30 days after the date of publication of these rules, 5 U.S.C. 553(a) and (d). The amendments became effective on September 17, 1979.

How to Use Replacement Pages

Reproduced at the end of this document are replacement pages from DAC 76–20. The number at the top of each page (for example, 1:38) identifies the page from the Regulation which is being replaced.

The number at the bottom of the page is a reference to the last appearing numbered paragraph on that page or, if none shows, on a preceding page. The vertical line in the right margin indicates where the amendment is located.

Adoption of Amendments

Therefore, the July 1, 1979, edition of the Defense Acquisition Regulation contained in 32 CFR Parts 1–39, Volumes I, II, and III, is amended in the DAR paragraphs indicated by the substitution of the replacement pages listed in the table:

DAR paragraph	Replacement pages
Volume I	
1–322	1:38 thru 1:53.
1–341	1:77–A thru 1:77–D.
1–706.6	1:142–E.
1–1003.4	1:168–A.
1–1005.2	1:176.
1–2005	1:222.
1–2400	1:232 thru 1:232–B.
2–200	2:3.
2–201	2:3 thru 2:12.
2–201	2:17.
3–202.2	3:6.
3–202.3	3:6.
3–206.2	3:8.
3–302	3:19.
3–500	3:58.
3–501	3:58 thru 3:67.
3–505	3:72.
3–605.3	3:80.
3–608.2	3:90.
3–1210	3:187, 3:188.
4–109	4:9.
4–205.2	4:27.
6–1106.3	6:55.
6–1109	6:56.
6–1306	6:63, 6:63–A.
Volume II	
7–103.10	7:10.
7–103.10	7:12 thru 7:12–B.
7–103.13	7:15 thru 7:17.
7–104.9	7:36.
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7–104.24	7:66.
7–104.45	7:105.
7–104.64	7:116 thru 7:117.
7–104.83	7:128–D.
7–104.87	7:132.
7–104.101	7:140–B, 7:140–C.
7–203.4	7:175.
7–203.13	7:186.
7–204.33	7:203.
7–204.67	7:205.
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7–608.24	7:342–A.
7–705.35	7:369.
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7–1102.2	7:406 thru 7:407.
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7–1902.10	7:445.
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7–2003.14	7:502, 7:502–A.
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7–2003.83	7:526–D, 7:536–E.
7–2102.23	7:538.
10–102.2	10:2.
11–403.2	11:16.
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J-502	J:21.

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(x) list of capital funds and facilities employed by contractor, with particular reference to their source, *e.g.*, contractor's equity capital, borrowed or rented, Government-financed, or Government-furnished;

(xi) extent to which contractor has complied with Government policies such as the small business program, labor surplus area program, competition in subcontracting, and make or buy program;

(xii) full information as to any terminations for default or for the convenience of the Government to include the status of appeals or claims, if any, and the extent to which payments were made during the period concerned;

(xiii) status of price revision actions and the basis for any revision completed in the period concerned;

(xiv) such pertinent information on defense subcontracts, as is available;

(xv) appraisal of contractor's contribution to the defense effort, with particular emphasis on work done by him in development of new materiel, invention of new devices, management of large weapon system contracts as prime or associate contractor, effective use of value engineering, and the like;

(xvi) a current appraisal of contractor's performance and recommendation as to reasonableness of contractor's profits for the period under consideration under the listed contracts; and

(xvii) such other information as may be particularly requested by the Renegotiation Board.

While all the contracts concerned will be listed at the beginning of a performance report (see (vi) above), individual contracts need not thereafter be identified except where information as to unusual performance is set forth, especially in cases of incentive contracts.

(e) *Departmental Distribution of Performance Reports.* A copy of each performance report on a contractor who is on the list of the 100 contractors awarded the largest dollar amount of defense contracts (which list is published annually in a Defense Procurement Circular) shall be sent to the Assistant Secretary of Defense (Installations and Logistics).

1–320 Industry Security. Procedures required to safeguard classified defense information which U.S. contractors, subcontractors, vendors, or suppliers will possess or have access to, are set forth in the Department of Defense Industrial Security Regulation (DoD 5220.22–R), hereinafter referred to as the ISR, and its companion publication, the Department of Defense Industrial Security Manual for Safeguarding Classified Information (DoD 5220.22–M), hereinafter referred to as the ISM, together with supplements and revisions thereto. Procedures for the protection of information covered by foreign classified contracts awarded to U.S. industry and instructions for the protection of U.S. classified information in connection with classified contracts awarded to foreign firms are explained in Section VIII, ISR (also see 9–106).

1–321 Procurements Involving Work To Be Performed in Foreign Countries by United States Contractors.

(a) When a contract which requires work to be performed in a foreign country by personnel of a United States or third country national contractor, is contemplated by a purchasing activity not within the command jurisdiction of the

unified or specified commander involved, coordination shall be effected with the appropriate senior component commander in the country involved. In the event there is no such component command in the country, or the procurement does not pertain to a component command, this action shall be effected through either the unified commander, the unified command representative, or the designated commanding officer of the unified command for that country. Such coordination shall be effected as early as possible, preferably prior to the issuance of the solicitation, but in any event prior to award of a contract. When such coordination is initiated prior to, or at the time of solicitation, the notification should include a copy of the solicitation, and as much of the information listed in (c) as is then available.

(b) The contracting officer shall request the following information from the overseas Commander:

(i) the applicability of any international agreements to the requirement being procured;

(ii) security requirements applicable to the area concerned;

(iii) standards of conduct required to be observed by the prospective contractor and his employees, and any action that may be taken against them in the event required standards are not maintained; and

(iv) requirements pertaining to the use of foreign currencies, including applicability of United States holdings of excess foreign currencies.

(c) The contracting officer shall furnish the overseas Commander the following information prior to any contract performance:

(i) any contractor logistical support desired,

(ii) contract performance period and estimated contract value,

(iii) number and nationality of contractor employees and date of planned arrival of contractor personnel,

(iv) contract security requirements, and

(v) other pertinent information to effect complete coordination and cooperation.

(d) The contract file shall be documented as indicated in 6–903.

(e) In accordance with 11–403.1(b), the contracting officer shall, at the time of negotiation of a contract that is to be performed in a country or area listed in Q–301 (*Appendix Q*), obtain from the appropriate Designated Commanding Officer detailed information concerning the taxes and duties from which the Government of the United States is exempt under the provisions of applicable international agreements or foreign law.

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1-322 Multiyear Contracting.

1-322.1 General.

(a) Description of Procedure: Multiyear contracting is a method of acquiring for DoD planned requirements for up to a 5-year period (4 years in the case of maintenance and operation of family housing), without having total funds available at time of award. Multiyear contract quantities are budgeted for and financed in accordance with the applicable program year as reflected in the DoD Five-Year Defense Program. This method may be used for either competitive or noncompetitive contracting. With respect to competitive contracting, award may be based on price only or price and other factors considered. (See 1-322.4(a)(2)). The contractor is protected against loss resulting from cancellation by contract provisions allowing reimbursement of unrecovered nonrecurring costs included in prices for canceled items. However, the cancellation ceiling for any contract may not be in excess of $5 million unless the Congress, in advance, approves such a cancellation ceiling.

(b) Policy. Contracts awarded under this multiyear procedure shall be firm fixed price or fixed price with provisions for economic price adjustment. Use of multiyear contracting is encouraged to take advantage of one or more of the following:

(i) lower costs;
(ii) enhancement of standardization;
(iii) reduction of administrative burden in the placement and administration of contracts;
(iv) substantial continuity of production or performance, thus avoiding annual startup costs, prereduction testing costs, make-ready expenses, and phaseout costs;
(v) stabilization of work forces;
(vi) avoidance of the need for establishing and "proving out" quality control techniques and procedures for a new contract each year;
(vii) broadening the competitive base with opportunity for participation by firms not otherwise willing or able to compete for lesser quantities, particularly in cases involving high startup costs; and
(viii) implementation of the Industrial Preparedness Program for planned items with planned producers.

(c) Use.

(1) The multiyear contracting method should be used

when it is determined that:

(i) the Government need for the supplies or services being acquired over the period of the contract is reasonably firm and continuing; and
(ii) such a contract will serve the best interests of the Government by encouraging effective competition or promoting economics in performance and operation.

(2) Prior to use of the multiyear method in the case of noncompetitive contracting, the head of the contracting activity or his designee must determine that (i) changes to an extent that would have a major impact on contract price, e.g., design and specification changes or changes in production methods, are not expected to occur, and (ii) the item is expected to be obtainable only from a sole source during the entire multiyear period.

(3) Prior to the use of the multiyear contracting method in the case of items regularly manufactured and offered for sale in substantial quantities in the commercial market, the head of the contracting activity or his designee must determine that the criteria in (c)(1) are met, significant benefits or cost savings would result, and either (A) the quantities to be acquired by the Government represent a substantial portion of the total market and would require special manufacturing runs for all or substantially all of the Government's requirements, or (B) the items to be acquired require repair parts support and are not susceptible to significant changes on a periodic basis.

(d) Limitations. Multiyear contracts for supplies and services shall not be used:

(1) When funds covering the acquisition are limited by statute for obligation during the fiscal year in which the contract is executed (but see 1-322.6, Multiyear Contracting of Services under Public Law 90-378, for multiyear contracting of specified service outside the 48 contiguous States and District of Columbia; and 1-322.7, for multiyear contracting of supplies and services for the maintenance and operation of familty housing under Public Law 91-142).

(2) To obtain requirements which are in excess of the Five-Year Defense Program.

(3) In the case of services, until a written determination has been made that (i) there will be a continuing requirement for the services and incidental supplies, consonant with current plans for the proposed contract period; (ii) the furnishing of such services and incidental supplies will

require a substantial initial investment in plant or equipment and the incurrence of substantial contingent liabilities for the assembly, training, or transportation of a specialized work force, or other substantial startup costs; and (iii) the use of such a contract will promote the best interests of the United States by encouraging effective competition and promoting economics of operation.

(4) In the case of services, until the determination required by (3) above has been executed by—

(i) the chief of the contracting office when the contract period will not exceed 2 years and the estimated annual expenditures thereunder do not exceed $350,000;

(ii) the head of the contracting activity or his designee (not below the chief of the contracting office) when the contract period will exceed 2 years, including any options (except see (iii) below for multiyear contracting of services under Public Law 90-387) or when the contract period will not exceed 2 years, but the estimated annual contract expenditure will exceed $350,000;

(iii) the Assistant Secretary responsible for acquisition in the respective Department, or the Directors of Defense Agencies for multiyear contracting of services performed outside the 48 contiguous States and the District of Columbia under Public Law 90-387 when the contract period will exceed 3 years, including any option, regardless of dollar value.

(e) Set-Asides. Total small business set-asides are compatible with the multiyear method of contracting. Partial set-aside procedures (both small business and labor surplus area) are generally not compatible with the multiyear procedure when high startup costs are involved (potential duplication of such costs by the set-aside contractor and the non-set-aside contractor is not offset by broader and more realistic competition). Partial set-asides are compatible when the opportunity for cost savings is based on assurance of continuity of production over longer periods of time. When considering use of this procedure, the contracting officer shall request the activity's small business specialist and the SBA representative, if one is assigned to that activity, to review all pertinent facts and make recommendations thereon.

(f) Multiyear Subcontracts. The same benefits and advantages that are derived from multiyear prime contracts may frequently be increased by multiyear subcontracts thereunder. The prime contractor in the exercise of his management responsibilities must freely choose the subcontract types that best satisfy his needs. However, multiyear prime contractors should be encouraged to employ multiyear subcontracts selectively when—

(i) the subcontract item or service is of stable design and specification;

(ii) the quantity required is reasonably firm and continuing;

(iii) effective competition is assured; and

(iv) the use of multiyear subcontracts can reasonably be expected to result in reduced prices.

In such cases, the prime contractor is adequately protected against cancellation since appropriate cancellation charges for such multiyear subcontracts are included within the cancellation charge of the multiyear prime contract. Multiyear subcontracts may be particularly desirable under a sole source multiyear prime contract since effective competition at the subcontract level may thereby be enhanced and the attendant cost reductions realized by the prime contractor and the Government.

(g) Use of Options.

(1) Options may be used when some future requirements are definite and additional quantities of supplies or services are likely, though not definitive as to amount.

(2) Options to increase quantities or options to renew the contract for a reasonable period shall be priced not to include (i) charges for plant and equipment already amortized or (ii) any other nonrecurring charges that were included in and already recovered under the basic contract price. Any such option provision shall not exceed the period described in 1-1502(d).

1-322.2 Procedures for Supply and Service Contracts.

(a) Where competition is anticipated, solicitations shall include:

(1) A statement of the requirements, separately identified for—

(i) the first program year; and

(ii) the multiyear contract including the requirements for each program year thereunder.

(2) When a first program year "buy-in" is not anticipated—

(i) provisions that (A) a price must be submitted

for the total requirements of the first program year, (B) a price may be submitted for the total multiyear requirements, and (C) a bid or offer on the multiyear requirements only will be considered nonresponsive; and

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

(3) When competition in future acquisitions would be impractical after award of a contract covering the first program year requirements only, and it is determined that, in order to eliminate the possibility of a first program year "buy-in", the following provisions will be in the best interest of the Government—

(i) provisions that a price may be submitted only for the total multiyear requirements and that prices on a single year basis will not be considered for the purpose; and

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

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

(5) Criteria for comparing the lowest evaluated submission on the first program year's requirement against the lowest evaluated submission on the multiyear requirements.

(6) Criteria for evaluation factors other than price where the acquisition is on the basis of price and other factors.

(7) When the solicitation requires offers on the first program year requirements and permits offers on the multiyear requirements, a provision that in the event the Government determines prior to award that only the first program year quantities are actually required, the Government may evaluate offers and make award solely on the basis of

price offered on the first program year requirements. In such an event, prices offered on a multiyear basis shall not be considered.

(8) A provision setting forth a separate cancellation ceiling (on a percentage basis) and dates applicable to each program year subject to cancellation (see (c) below).

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

(i) the applicable Limitation of Price and Contractor Obligations clause (see 7-104.47(a) or 7-1903.33(c)), which limits the payment obligation of the Government to the requirements of the first program year and to those of such succeeding program years as may be funded by the Government;

(ii) the applicable Cancellation of Items Clause (see 7-104.47(b), 7-1903.33(b), or 7-1903.33(d)), which allows the Government to cancel, by a specified date or within a specified period, all remaining program years; and

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

(10) A statement in the solicitation schedule that award will not be made on less than the stated first program year requirements.

(b) Where a noncompetitive acquisition is involved, solicitations shall include:

(1) A statement of the requirements for the multiyear contracting, including the requirements for each program year thereunder.

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

(3) A provision setting forth a separate cancellation ceiling (on a percentage basis) and dates applicable to each program year subject to cancellation (see (C) below).

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

(i) the applicable Limitation of Price and Contractor Obligations clause (see 7-104.47(a) or 7-1903.33(c)), which limits the payment obligation of the Government to the requirements of the first program year and to those of such succeeding program

years as may be funded by the Government;

(ii) the applicable Cancellation of Items clause (see 7-104.47(b), 7-1903.33(b), or 7-1903.33(d)), which allows the Government to cancel by a specified date or within a specified period, all remaining program years; and

(iii) the Cancellation ceiling set forth in the schedule.

(c) The term "cancellation" as used in multiyear contracting, except as otherwise provided for modified requirements contracts in 1-322.8(c)(9)(iv), refers only to the cancellation of the total requirements of all remaining program years. Such cancellation results from:

(1) Notification from the contracting officer to the contractor of nonavailability of funds for contract performance for any subsequent program year; or

(2) Failure of the contracting officer to notify the contractor that funds have been made available for performance of the succeeding program year requirement. For each program year except the first, the contracting officer shall establish a cancellation ceiling applicable to the requirements of the remaining program years which are subject to cancellation. Such ceilings shall be expressed in the schedule and shall apply alike to all bidders or offerors. The cancellation ceiling percentage for each program year shall be in direct proportion to the total requirements at the beginning of that year and all remaining years subject to cancellation. For example, consider that the total nonrecurring costs are estimated at 10 percent of the total multiyear price and the total multiyear requirements for 5 years are 30 percent in the first year, 30 percent in the second, 20 percent in the third, 10 percent in the fourth, and 10 percent in the fifth. Cancellation percentages would be 7, 4, 2, and 1 percent of the total multiyear price applicable at the beginning of the second, third, fourth, and fifth program years, respectively. In determining cancellation ceilings, the contracting officer must estimate reasonable preproduction or startup, labor learning, and other nonrecurring costs to be incurred by an "average" prime or subcontractor, which would be applicable to, and which normally would be amortized over, all items or services to be furnished under the multiyear requirements. They include such costs as the following, where applicable: plant or equipment relocation or rearrangement; special tooling and special test equipment; preproduction engineering; initial rework; initial spoilage;

pilot runs; allocable portions of the costs of facilities to be acquired or established for the conduct of the work; costs incurred for the assembly training and transportation of a specialized work force to and from the job site; and unrealized labor learning. They shall not include any costs of labor or materials, or other expenses (except as indicated above), which might be incurred for performance of subsequent program year requirements. The total estimate of the above costs must then be compared with the best estimate of the contract cost to arrive at a reasonable percentage figure. Cancellation dates for each program year's requirements shall be established as appropriate.

(d) Original cancellation ceilings and dates may be revised after issuance of a solicitation if it is found that such ceilings and dates are not realistic. In the case of formal advertising, such changes shall be by amendment of the invitation for bids prior to bid opening. In two-step formal advertising, discussion conducted during the first step may indicate the need for revised ceilings and dates (which may be incorporated) in step two. In a negotiated acquisition, negotiations may provide information which requires a change in cancellation ceilings and dates (see 3-805.4).

(e) In order to assure that all interested sources of supply are thoroughly aware of how multiyear contracting is accomplished, use of pre-solicited or pre-bid conferences may be advisable.

(f) Price Adjustment/Economic Price Adjustment Clauses. In the case of supplies, the contracting officer should ascertain whether economic price adjustment provisions are appropriate in light of 3-404.3. When the Service Contract Act of 1965 clause is included in a contract (see 7-1903.41(a)), the appropriate price adjustment clause in 7-1905 shall be used. The latter clause may be modified in overseas contracts to allow for economic price adjustment when laws, regulations, or international agreements require contractors to pay higher wage rates. In cases when potential fluctuations in labor or material costs are such that contingencies therefor are not provided for in 7-1905 and are likely otherwise to be included in the multiyear contract price, the contracting officer may use a provision for economic price adjustment authorized by 3-404.3(c).

(g) For each program year requirement, funds shall be obligated to cover the full quantities to be delivered thereunder. There is presently no requirement to fund cancellation charges.

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(h) In the event of a cancellation, the contractor is entitled to payment as consideration therefor in accordance with the terms of the applicable Cancellation of Items clause (see 1-322.5) in an amount not to exceed the cancellation ceiling.

(i) The schedule shall contain a provision limiting the payment obligation of the Government to a monetary amount, there described as being available for contract performance. Such amount for the first program year requirements shall be inserted by the contracting officer upon award of the contract and shall be modified for successive program years upon availability of funds for those years.

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

1-322.3 Evaluation.

(a) Evaluation of offers in a multiyear acquisition involves not only determination of the lowest overall evaluated cost to the Government for both alternatives, the multiyear acquisition and the first program year acquisition; it also involves the comparison of the cost of buying the total requirement in successive independent acquisitions. All the factors to be considered for the various evaluations involved shall be set forth in the solicitation.

(b) In the event the Government determines prior to award that only the first program year quantities are actually required, only the offers on the first program year requirements will be evaluated. When the solicitation does not permit the submission of prices on a single year basis, the single year requirement will be resolicited.

(c) The cancellation ceiling shall not be a factor for evaluation. Unless Government administrative costs incident to annual contracting methods and contract administration can be reasonably established and supported, they shall not be used as a factor for evaluation. When administrative costs are to be used in evaluation, the dollar amount to be used shall be stated in the solicitation.

(d) In the case of supplies, delivery destinations may be unknown for certain quantities due to the extended duration of contract performance. Such cases shall be handled in accordance with 19-208.4.

(e) When Government production and research property is provided pursuant to Section XIII, Part 3, the use of such

property may be on a rent-free basis under the policies contained in Section XIII, Part 5. In this event, the solicitation shall set forth a detailed description of the procedure to be followed and the factors to be considered, in accordance with Section XIII, Part 5, for the elimination of comeptitive advantage. The amount added for evaluation to each offeror's unit price for the first program year requirement shall also be added to his unit price for the multiyear requirements.

(f) When the solicitation requires the submission of prices on the first program year requirements in accordance with 1-322.2(a)(2)(i), bids or offers which submit prices on the multiyear requirements only shall be rejected as nonresponsive.

(g) When the solicitation provides for submission of prices only for the total multiyear quantity in accordance with 1-322.2(a)(3)(i), submission of prices for a single year quantity will be disregarded for any purpose but will not render the bid or offer nonresponsive as to any alternate multiyear submission by the same bidder or offeror.

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

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

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

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

(i) Where the multiyear acquisition is being competed on a basis other than price alone, the solicitation shall advise of the relative importance of the evaluation factors.

1-322.4 Award.

(a) Except as provided in (b) and (c) below, award shall be made:

(1) On the basis of the lowest evaluated unit price determined in accordance with 1-322.3, whether that price is on a single year basis or a multiyear basis; or

(2) To that offeror submitting the proposal most advantageous to the Government, price and other evaluation factors considered where the acquisition is on the basis of price and other factors.

(b) If, when competition was anticipated, only one

responsive bid or offer is received on the multiyear requirements from a responsible bidder or offeror, award shall be made only with the advance approval of the chief of the contracting office.

(c) In no event shall award be made at an unreasonable price (see 2-401.4 and 3-801).

(d) In the case of noncompetitive acquisitions, awards shall be made only if a detailed review of the cost and technical proposals supports the determination made under 1-322.1(c)(ii), and significant benefits or cost savings will result from multiyear acquisition.

1-322.5 Clauses. The clauses in 7-104.7(a) and (b) shall be included in all supply contracts under the multiyear contracting method and the clauses in 7-1903.33(a) and (b) shall be included in all contracts for the contracting of services under the multiyear contracting method, except as provided in 1-322.6 and 1-322.7.

1-322.6 Multiyear Contracting of Services Under Public Law 90-378.

(a) Under Public Law 90-378 (10 U.S.C. 2306(g)), the Department of Defense is authorized to enter into multiyear acquisitions for the following listed services, to be performed outside the 48 contiguous States and the District of Columbia, to obtain requirements which are not in excess of the Five-Year Defense Program and for which funds are limited by statute for obligation during the fiscal year in which the contract is executed:

(i) operation, maintenance, and support of facilities and installations;

(ii) maintenance or modification of aircraft, ships, vehicles, and other highly complex military equipment;

(iii) specialized training necessitating high quality instructor skills (for example, pilot and other aircrew members; foreign language training); and

(iv) base services (for example, ground maintenance; in-plane refueling; bus transportation; refuse collection and disposal).

However, such acquisitions shall be entered into for no more than a 5-year period and only when such acquisitions are consistant with the policies of and satisfy the requirements set forth in 1-322.1 through 1-322.5 (except as provided in (b) and (c) below). The performance years specified in the schedule shall not extend beyond the end of any fiscal year (1 October - 30 September).

(b) Since acquisitions under this authority are limited for execution on a fiscal year basis, references to "program year" throughout 1-322.6 shall be considered to mean "fiscal year."

(c) Clauses. The clauses in 7-1903.33(c) and (d) shall be included in all service contracts for the acquisition of services under this paragraph 1-322.6 on a multiyear basis.

1-322.7 Multiyear Acquisition of Supplies and Services Under Public Law 91-142.

(a) General. Under Section 512 of Public Law 91-142, the Department of Defense is authorized to enter into contracts for periods of no more than 4 years for supplies and services required for the maintenance and operation of family housing for which funds would otherwise be available only within the fiscal year for which appropriated. Such acquisitions shall be entered into only when they are consistent with the policies and satisfy the requirements set forth in 1-322.1 through 1-322.5 (except as provided in (b) and (c) below). The performance years specified in the schedule shall not extend beyond the end of any fiscal year (1 October - 30 September).

(b) Limitations. Since acquisitions under this authority are limited for execution on a fiscal year basis, references to "program year" throughout 1-322.6 shall be considered to mean "fiscal year."

(c) Clauses. The clauses in 7-1903.33(c) and (d) shall be included in all contracts for the acquisition of supplies or services under this paragraph 1-322.7 on a multiyear basis.

1-322.8 Multiyear Acquisition Using Modified Requirements-Type Contracts.

(a) Description of Procedure. Competitive multiyear acquisition of supplies and/or services may be conducted using a requirements-type contract, modified from the 3-409.2 type as described below. This type of contract will only be used when anticipated annual requirements, expressed as the Best Estimated Quantity (BEQ), can be projected with reasonable certainty. Under this method, a firm fixed price or fixed price with provisions for economic price adjustment contract is awarded for specified supplies and/or services up to a designated maximum quantity with orders places on an as-required basis during the multiyear period. Contracts awarded on the first program year requirements only will not include provision for cancellation charges. The modified requirements-type contract differs from the 3-409.2 requirements-type contract in the following respects:

(1) Contract quantities anticipated to be acquired

are set forth in the contract as the BEQ.

(2) Nonrecurring costs are to be amortized on the BEQ.

(3) The contractor is entitled to reimbursement for preproduction and other nonrecurring costs in accordance with the contract schedule cancellation ceiling in the event that the Government orders lesser quantities than the aggregate BEQ, or cancels program year requirements by cancellation notice.

(4) Quantities in excess of the aggregate BEQ and up to the maximum quantity set forth in the schedule will be priced exclusive of the nonrecurring costs amortized on the BEQ.

(b) Use. Multiyear acquisition using modified requirements-type contracts shall not be used unless (i) the requirement can be projected with reasonable certainty; and (ii) the requirements meet the general criteria for multiyear acquisition. (See 1-322.1(b) and (c).)

(c) Solicitation Procedures. Solicitation procedures shall be in conformance with 1-322.3 except that the term "requirements" as used in 1-322.2 will be deemed to mean BEQ. The solicitation shall include:

(1) A BEQ and a maximum quantity for each item for both the first program year and for each subsequent program year. The maximum quantity for individual program years is not separately priced.

(2) A line item, essentially as follows, to apply to quantities exceeding the aggregate multiyear BEQ:

"The price established for this line item is applicable to all units ordered in excess of the aggregate BEQ of . . . and up to the total multiyear contract maximum quantity of . . . ."

(3) Solicitation schedule notes, essentially as follows:

(i) "NOTE 1: Offeror will submit a single unit price for the single year requirement, which shall apply to all quantities up to the single year maximum in the event that a 1-year requirements contract is awarded for the single year requirement only. If a contract is awarded on the first program year requirements only, such a contract will not provide for any cancellation charges."

(ii) "NOTE 2: Offeror will submit a single unit price, inclusive of nonrecurring costs, to be entered on the schedule as the BEQ price for each program year, applicable to quantities within and up to the aggregate BEQ, under multiyear procedures."

(iii) "NOTE 3: Offerors will also submit a single unit price, exclusive of nonrecurring costs amotrized over the BEQ, applicable only to quantities ordered in excess of the aggregate BEQ and up to the total multiyear contract maximum quantity."

(4) A provision that quantities ordered in excess of the program year BEQ but which do not exceed the aggregate BEQ will be priced inclusive of nonrecurring costs.

(5) A provision that evaluation will be on the basis of the lowest unit price offered for the first program year BEQ against the lowest unit price offered for the aggregate BEQ.

(6) A provision setting forth a single cancellation ceiling, applicable only in the event of contract award on the multiyear basis.

(7) A notification that the amount of cancellation charges payable shall be determined on the basis of the ratio between the total quantity ordered at the time of cancellation and the aggregate contract BEQ.

(8) A date or specific time period for Government notification to the contractor as to the availability or nonavailability of funds and any anticipated significant changes in the BEQ for the succeeding program year.

(9) The following clauses shall be included under the multiyear requirements method:

(i) Ordering. Insert the clause at 7-1101.

(ii) Delivery Order Limitations. Insert the clause at 7-1102.2(a).

(iii) Requirements. Insert the clause at 7-1102.2(b)(5).

(iv) Cancellation of Items. Insert the clause at 7-104.47(b), 7-1903.33(b), or 7-1903.33(d), but the solicitation shall provide that in the event the contract is awarded on the alternative multiyear basis, paragraph (c) of the clause will be deleted and the following will be substituted for paragraph (b) of the clause:

"(b) As used herein, the term 'cancellation' means that the Government is cancelling, pursuant to this clause, its anticipated requirements for items as set forth in the schedule for all program years subsequent to that in which notice of cancellation is provided. Such cancellation shall occur if, by the date or within the time period specified in the schedule or such further time as may be agreed to, the contracting officer (i) notifies the Contractor that funds will not be available for contract performance for any subsequent program year or (ii) fails to notify the Contractor that funds will be available for performance of a requirement for the succeeding program year. 'Cancellation' shall also be deemed to have occurred if, upon expiration of the final program year, the Government has failed to order the specified items in quantities up to the aggregate Best Estimated Quantity set forth in the schedule. Following cancellation under this clause of any program year(s), the Government shall not be obligated to issue nor the contractor to accept any further orders under this contract."

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perty. The rule stated in 1-336.3 also applies to the use of underlying air carriers by international air freight forwarders engaged in such foreign air transportation.

(b) In order that bills submitted by international air freight forwarders engaged in international air transportation may be paid upon presentation, such carriers shall submit with their bills a copy of the airway bill or manifest showing the underlying air carriers utilized with such justification certifications as they may have for the use of underlying non-certificated air carriers. Use of the prescribed certification satisfies the justification requirement.

1-337 Should Cost. Should cost is a concept of contract pricing that employs an integrated team of Government procurement, contract administration, audit and engineering representatives to conduct a coordinated, indepth cost analysis at the contractor's plant. The purpose is (i) to identify uneconomical or inefficient practices in the contractor's management and operations and to quantify the findings in terms of their impact on cost, and (ii) to develop a realistic price objective which reflects reasonably achievable economies and efficiencies. A should cost review will be made in connection with the procurement of a system or item which will require a DSARC approval, unless the contracting officer makes written determination that the potential savings to be realized do not justify the expense of such a should cost review. Such determination shall be included in the Procurement Plan (see 1-2100). Should cost reviews should also be considered in procurements when: there are future year production requirements for substantial quantities of like items; there has already been some initial production; the competitive forces are insufficient to ensure economical and efficient performance (*e.g.*, sole source); the specification is comparatively definitive and not likely to be changed; and the present and potential value of the work to be performed is substantial.

1-338 Design to Cost.

(a) Cost is a contract parameter equal in importance with technical, delivery and performance requirements throughout the design, development, production and operation of defense systems, subsystems, components and equipments. Design to cost is a concept which recognizes this principle by requiring the establishment of cost elements as management goals to achieve the best balance between life cycle cost, acceptable performance, and schedule. Cost, under this concept, is a design parameter during design and development, and a management discipline throughout the acquisition and operation of the system or equipment. Policies and procedures for the application of design to cost are contained in DODD 5000.28.

(b) The principles of design to cost shall be applied in all procurements for Major Defense Systems (DODD 5000.1) unless exempted by the Secretary of Defense. Design to cost principles shall also be applied to the acquisition of systems, subsystems, and components below the thresholds for Major Defense Systems, to the extent prescribed in DODD 5000.28, and in accordance with Departmental procedures.

(c) Design to cost considerations are essential elements of sound procurement planning under 1-2100. Such planning shall include the establishment of design to cost objectives and goals and determinations of how they are to be applied, tracked, and enforced. To be effective, the design to cost approach should

be planned at the inception of the program, should encompass all phases of the program, and should be kept current by regular reviews both at appropriate intervals and at program milestones.

(d) In solicitations and contracts including design to cost principles, consideration should be given to prescribing and tailoring the required cost, technical and schedule parameters to the particular program, and to providing the contractor with flexibility to identify unnecessary or marginally cost effective technical and schedule features susceptible to trade-offs (see DODD 4105.62). This is to facilitate product development at the lowest life cycle cost consistent with mandatory schedule and performance requirements.

(e) For the relationship of design to cost to value engineering, see 1-1704.5.

1-339 Energy Conservation.

(a) The Energy Policy and Conservation Act requires that Federal procurement policies governing requirements determinations and source selection decisions provide for consideration of (i) conservation of energy and (ii) the relative energy efficiency of alternative goods or services capable of satisfying the Government's needs.

(b) The energy conservation and energy efficiency criteria shall be applied in the determination of requirements and source selection decisions whenever the application of such criteria would be meaningful, practical, and consistent with agency programs and operational needs. Under this policy, energy conservation and efficiency criteria shall be considered for application along with price and other relevant factors in the preparation of solicitations, the evaluation of offers, and the selection of bids and proposals for award.

(c) With respect to the procurement of consumer products, executive agencies shall take cognizance of energy use / efficiency labels and prescribed energy efficiency standards as they become available.

1-340 Geographic Distribution of Department of Defense Subcontract Dollars. Section 836 of the 1978 DoD Appropriation Act requires DoD to render an annual report to Congress on the geographical distribution of DoD subcontract dollars. To implement this requirement, the clause in 7-104.78 shall be inserted in any contract to be awarded which is expected to exceed $500,000, or when any modification increases the aggregate amount of a contract to $500,000 or more. In the latter case, the reporting requirement will not be retroactive so as to require the reporting of subcontracts awarded prior to such a modification.

1-341 Prohibition Against Inflationary Acquisition Practices.

(a) *Authority.* Executive Order 12092, November 1, 1978 (43 F.R. 51375, November 3, 1978), requires that acquisition of personal property and services by executive agencies and military departments be accomplished at prices and wage rates which are noninflationary.

(b) *Acquisition Policy.* The Government will purchase goods and services, to the extent provided in (d) below, only from companies, as companies are defined by the published standards of the Council on Wage and Price Stability (CWPS), in compliance with wage and price standards reflected in Executive Order 12092 of November 1, 1978, and the Wage and

Price Standards issued by CWPS (6 CFR Part 705 and Appendix). The company which signs the contract or solicitation is considered to be certifying compliance for all units contained within the business structure of that company. Companies determined by CWPS, after notice and opportunity to be heard, to be in noncompliance with the standards will be considered noncompliant companies.

(c) *Compliance Monitoring by CWPS.* The CWPS will monitor overall compliance with the wage and price standards (6 CFR Part 705 and Appendix). The CWPS will publish in accordance with procedures designed to ensure fairness and due process the names of companies which are not in compliance with the standards. The names of those determined to be in noncompliance with the standards will be republished by the DAR Council for the convenience of contracting officers. Contracting officers, auditors, and other acquisition officials are cautioned that it is not their responsibility to determine if an offeror or contractor is or is not in compliance with the wage and price standards.

(d) *Noncompliant Companies.*

(1) Companies determined by CWPS to be in noncompliance shall be ineligible for contract awards anticipated to exceed $5 million resulting from solicitations or other actions issued on or after February 15, 1979, unless the certification provision(s) is waived as provided in paragraph (i).

(2) Companies listed by CWPS as not being in compliance shall not be considered to be in compliance until CWPS removes them from the list of noncompliant companies or otherwise determines that they are in compliance.

(e) *Sales Contracts and Foreign Contracts and Subcontracts.* This paragraph does not apply to sales contracts awarded by the Government, or to contracts or subcontracts that are to be performed wholly outside the United States and its territories and possessions, as these terms are defined in 10 U.S.C. Sec. 101 (1970), with labor recruited and material purchased outside thereof.

(f) *Certification Requirements.*

(1) *Solicitation Provision.* All solicitations issued on or after February 15, 1979, where it is expected that the award will exceed $5 million or where cumulative orders expected to be placed under indefinite delivery-type contracts exceed $5 million, shall include the certification provision in 7-2003.83. The certification shall be accepted unless the company has been determined by CWPS to be noncompliant. Any CWPS determination is not subject to protest to the General Accounting Office.

(2) *Contract Clause.* All contracts, including indefinite delivery-type contracts, that exceed or are expected to exceed $5 million, resulting from solicitations issued on or after February 15, 1979, shall contain the clause in 7-104.101. Where it is expected that individual orders exceeding $5 million will be issued against a basic ordering agreement on or after February 15, 1979, the clause in 7-104.101 shall be included in the basic ordering agreement to apply to such orders. In addition, the clause shall be included in any supplemental agreement adding new work exceeding $5 million issued after February 15, 1979. The certification shall be accepted unless the company has been determined by CWPS to be noncompliant.

(g) *Enforcement.*

(1) A contractor who has certified to be in compliance with the wage and price standards and who has been determined, after notice and opportunity to be heard, to have been willfully not in compliance as of the date of the certification, may be terminated for default in accordance with the contract clause in 7-104.101. If the contractor has been determined by CWPS to be in violation of the Certification - Wage and Price Standards, the contractor shall be notified of such determination and given 10 days to apply for waiver of default termination and the application of some lesser penalty. The contracting officer shall inform the contractor whether the application for waiver has been granted or denied and, if denied, the reasons therefor within 10 days after receipt of the application.

(2) Any contractor determined to be in noncompliance will be ineligible for any further Federal contracts and subcontracts in excess of $5 million unless such ineligibility is waived by the Secretary in accordance with paragraph (h) below.

(h) *Waiver of Termination for Default and of Ineligibility for Federal Contracts and Subcontracts.* Termination for default or a determination of ineligibility for Federal contracts and subcontracts may be waived by the Secretary if he determines in writing that:

(i) the agency's need for the product or service is essential to national security or public safety, and there are no alternative sources of supply, or that seeking alternative sources is not feasible because of urgency of requirements or disruption of essential program functions; or

(ii) such action would result in severe financial hardship and threaten the contractor's or subcontractor's ability to survive; or

(iii) the contractor or subcontractor agrees to come into compliance with the wage and price standards and to make any reduction of the contract price that is equitable in the circumstances.

(i) *Waiver of Certification.*

(1) Waiver of the contract certification should be considered only when the Government cannot forego or postpone the acquisition because of an urgent national security or public safety requirement and (i) there are no alternative sources or (ii) seeking alternative sources is not feasible because of urgency of requirements or disruption of essential program functions.

(2) Such waivers may be granted only by the Secretary after thoroughly exhausting all reasonable alternatives.

(3) Waivers shall be in writing, and a copy of the waiver shall be forwarded within 10 days to the Administrator for Federal Procurement Policy.

(4) Prime contractors will submit requests for subcontract award waivers to the contracting officer.

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GENERAL PROVISIONS

Part 4—Procurement Responsibility and Authority

1–400 Scope of Part. This Part deals with the procurement responsibility and authority of (i) the Head of a Procuring Activity, (ii) purchasing offices, (iii) contract administration offices, and (iv) contracting officers, and with the appointment of contracting officers. This Part also imposes limitations upon the authority to enter into and administer contracts. For the purpose of this Part, the term "contracting officer" does not include authorized representatives of the contracting officer.

1–401 Responsibility of Each Procuring Activity. Except as otherwise prescribed by procedures of each respective Department, the Head of a Procuring Activity is responsible for the procurement of supplies and services under or assigned to the procurement cognizance of his activity.

1–402 Authority of Contracting Officers. Contracting officers at purchasing offices (see 1–201.24) are authorized to enter into contracts for supplies or services on behalf of the Government, and in the name of the United States of America, by formal advertising, by negotiation, or by coordinated or interdepartmental procurement; and when authorized by 20–703 to administer such contracts, in accordance with this Regulation. This authority is subject to the requirements prescribed in 1–403 and 1–404 and any further limitations, consistent with this Regulation, imposed by the appointing authority. Contracting officers at contract administration offices (see 1–201.25) are, except as provided in 20–703.3, authorized to perform the applicable contract administration functions (see 1–406) and to perform additional procurement functions when delegated by the purchasing office.

1–403 Requirements To Be Met Before Entering Into Contracts. No contract shall be entered into unless all applicable requirements of law and of this Regulation, and all other applicable procedures, including business clearance and approval, have been met.

1–404 Special Requirements To Be Met Before Entering Into Negotiated Contracts. In addition to the requirements in 1–403, no negotiated contract shall be entered into until the determinations and findings required by Section III, Parts 3 and 4, with respect to the circumstances justifying negotiation and with respect to any use of a special method of contracting have been made.

1–405 Selection, Appointment, and Termination of Appointment of Contracting Officers. The selection, appointment, and termination of appointment of contracting officers shall be made only by the Secretary of the Department, the Head of a Procuring Activity, or their designees.

1–405.1 *Selection.*

(a) *Considerations.* In selecting contracting officers, the appointing authority shall consider experience, training, education, business acumen, judgment, character, reputation, and ethics.

(b) *Evaluation of Experience, Training, and Education.* In considering experience, training, and education, the following shall be evaluated:

(i) experience in a Government procurement office, commercial procurement, or related fields,

(ii) formal education or special training in business administration, law, accounting, or related fields.

GENERAL PROVISIONS

1-706.6 Partial Set-Asides.

(a) Subject to the order of precedence established in 1-706.1(a), a portion of an acquisition, not including construction, shall be set aside for exclusive small business participation when:

(i) the acquisition exceeds $10,000; and

(ii) the acquisition is severable into two or more economic production runs or reasonable lots (see 1-804.1(a)(2)(i)-(v)); and

(iii) one or more small business concerns are expected to have the capability to furnish a severable portion of the acquisition at a reasonable price, except that a partial set-aside shall not be made if there is a reasonable expectation that only two concerns (one large and one small) with capability will respond with offers unless authorized by the Head of the Contracting Activity on a case-by-case basis. Before reaching this conclusion the contracting officer shall consult with the Small and Disadvantaged Business Utilization Specialist and may make advanced inquiries to determine the number of interested concerns. Similarly, a class of acquisitions, not including construction, may be partially set aside in accordance with 1-706.1(d). Under certain specified conditions, partial set-asides may be used in conjunction with multiyear contracting procedures (see 1-322.1(d)).

(b) When a portion of an acquisition is to be set aside for small business pursuant to (a) above, the acquisition shall be divided into a set-aside portion and a non-set-aside portion, each of which shall be not less than an economic production run or reasonable lot. Insofar as practical, the set-aside portion will be such as to make the maximum use of small business capacity. Delivery and other terms applicable to the set-aside portion of an item and those applicable to the non-set-aside portion of that item shall be comparable.

(c)(1) In acquisitions involving partial set-asides for small business, each solicitation shall contain the clause in 7-2003.3(a)(except see (c)(2) below). The applicable size standards shall be set forth in Section C of the solicitation.

(2) When experience indicates that token bidding, block bidding, tie-in bidding, or similar devices may occur, the alternate clause in 7-2003.3(b) may be used.

(d)(1) After the award price for the non-set-aside portion has been determined, negotiations may be conducted for the set-aside portion. Acquisition on the set-aside portion shall in all instances be effected by negotiation. Negotiations shall

aside provision which is later canceled (*e.g.*, because of a lack of small business response) then, the procurement shall be synopsized the second time at the time the solicitation is issued.

1-1003.4 *Special Synopsis Situations.*

(a) Research and Development. Advance notices of an agency's interest in a given field of research and development shall be published in the Commerce Business Daily in accordance with 1-1003.9(e) whenever the contracting officer considers that existing bidders mailing lists do not include a sufficient number of concerns to obtain adequate competition. Advance notices shall not be used where security considerations prohibit such publication. Advance notices will enable potential sources to learn of research and development programs and provide these sources with an opportunity to submit information which will permit evaluation of their research and development capabilities. Potential sources which respond to advance notices shall be added to the appropriate bidders mailing list for the subsequent solicitation. Those sources which do not appear on the agency bidders mailing lists established in accordance with 2-205.1 shall be requested to submit Standard Form 129, Bidder's Mailing List Application. In those situations where responding sources are on established lists they may be requested to submit amended applications in order to reflect their current capabilities. Each specific procurement of research and development shall be publicized in the Commerce Business Daily unless one of the exceptions in 1-1003.1 is applicable.

(b) *Services.*

(1) *Personal and Professional Services.* Notwithstanding the exception in 1-1003.1(c)(vii), contracting officers shall synopsize personal and professional

tion, shall be referred to the Secretary of the Department concerned, and the appropriate legislative liaison office shall be informed. When a proposed reply is to be so referred to a Secretary, an interim reply shall be made to the congressional request indicating the action being taken.

(b) *Inclusion on Bidders Mailing Lists.* Any member of any Committee or Subcommittee of the Congress which is interested in procurement matters shall, upon request of the Committee or Subcommittee Chairman, be placed on applicable bidders mailing lists to receive automatic distribution of bid and proposal information in the specified area of interest.

1-1005 Publicizing Award Information.

1-1005.1 *Synopsis of Contract Awards.*

(a) *General.* With the exception of awards to SBA using the authority of section 8(a) of the Small Business Act, and awards for perishable subsistence and brand name items for commissary resale, awards of all unclassified contracts to be performed in whole or in part within the United States, exceeding $100,000 in amount, shall be published in the *Commerce Business Daily* "Synopsis of U.S. Government Proposed Procurement, Sales and Contract Awards"

(b) *Preparation and Transmittal.*

(1) Purchasing offices shall prepare and forward single copies of synopses of contract awards daily, using the same format as prescribed in 1-1003.9, to the address below, via first class mail.

U.S. Department of Commerce
Commerce Business Daily
P.O. Box 5999
Chicago, Illinois 60680

(2) The synopsis of contract awards shall contain the following information:

(i) the name and address of purchasing office;
(ii) the classification code (4-digit) applicable to the procurement action;
(iii) a clear and concise description of the supplies or services being procured, including a national stock number or a service stock number when assigned, such description to be followed by the contract number and date and, in parentheses, by the applicable number of the invitation for bids or requests for proposals;
(iv) the quantity of each item;
(v) the dollar amount of the award;
(vi) the name, size status ((S) for small business and (L) for large business), and the full address of the contractor;
(vii) for FOB destination procurement when total shipments from a point of origin to a point of destination will exceed 200,000 pounds and destinations are firm—
(A) origin point of shipment when different from (vi) above;
(B) CONUS destination of shipment (see 1-1003.9(b)(6)); and
(C) scheduled delivery period (beginning and ending dates); and

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(viii) when requested by the prime contractor, a statement of the industries, crafts, processes or component items in or for which subcontracts are available and subcontractors are desired, together with the general area, if any, indicated by the prime contractor, such as Southeast States, West Coast, New England.

1-1005.2 *Announcement of Awards.*

(a) *Public Announcement.* Information on proposed contractual actions over $3 million shall be submitted in writing in accordance with Departmental/Agency procedures. Report Control Symbol DD-LA(AR) 1279 applies. Departments will submit reports to the Office of the Assistant Secretary of Defense (Public Affairs) by the close of business the day before contract award is proposed, so that this data may be announced to the press at 1600 hours Washington, D.C. time on the day of award. Contracts excluded from this reporting requirement include (i) those placed with the Small Business Administration under Section 8(a) of the Small Business Act, and (ii) those placed with foreign firms when the place of delivery or performance is outside the United States or its possessions. Awards or release of information on proposed contracts shall not be made prior to the public release time of 1600 hours Washington, D.C. time.

(b) *Congressional Notification.* In accordance with Departmental procedures, Departments shall notify the appropriate Members of Congress (Senators and Representatives in whose state and district the proposed contractor is located and, if different, in whose state and district the work is to be performed) of contract awards of over $3 million concurrent with the public announcement described in (a) above.

1-1005.3 *Local Announcements of Awards Over $10,000.* Contract awards may also be the subject of local press release or other public announcements. When such press releases or public announcements are made, for procurements of $10,000 or more, they shall include the following information:

(i) for awards after formal advertising, state that the contract was awarded after competition by formal advertising and include the number of bids solicited and the number received, and state in general terms the basis for selection, *e.g.*, the lowest responsible bidder;

(ii) for awards after procurement by negotiation, include the information contained in the notice prescribed by 3-508.3 and where the award was made after competitive negotiation (either price or design competition), include a statement to this effect and state in general terms the basis for selection.

1-1006 Reserved.

1-1007 Public Release of Long-Range Procurement Estimates.

1-1007.1 *General.* To assist industry in planning its efforts, and to locate additional sources, it may be desirable to announce to the public long-range procurement estimates on certain items, groups or types of items, materials, or research and development projects and tasks procured by the Department of Defense. Procurement estimates with respect to proposed purchases may be provided to industry as far in advance as possible under the conditions contained in 1-1007.3, 1-1007.4 and 1-1007.5.

Part 22—Industrial Preparedness Production Planning

1-2200 Scope of Part. This Part establishes uniform procurement policy guidance and procedures for the Department of Defense in planning with industry for the establishment and retention of industrial base capability essential to national defense for production during periods of national emergencies.

1-2201 Definitions.

(a) *Industrial Preparedness Planning* - Plans designed to maintain an adequate industrial base to support DoD requirements for selected essential military items in a national emergency.

(b) *Industrial Base* - That part of the total privately-owned and Government-owned industrial production and maintenance capacity of the United States, its territories and possessions, as well as capacity located in Canada, expected to be available during emergencies to manufacture and repair items required by the military services.

(c) *Emergency (National)* - A condition declared by the President or Congress by virtue of powers previously vested in them which authorizes certain emergency actions to be undertaken in the national interest. Actions to be taken may include partial or total mobilization of national resources.

(d) *Planned Producer* - An industrial firm which has indicated its willingness to produce specified military items in a national emergency by completing an Industrial Preparedness Program Production Planning Schedule (DD Form 1519).

(e) *Planned (or Planning) Item* - Any item selected for industrial preparedness planning under the criteria of DoD Instruction 4005.3, "Industrial Preparedness Production Planning Procedures."

1-2202 General. The Industrial Preparedness Production Planning (IPPP) program is conducted jointly among DoD components and industry to provide a means for correlating industrial capabilities and military requirements for the orderly retention, improvement, and rapid application of industrial capability to military production during an emergency.

1-2203 Policy.

(a) The Department of Defense will conduct Industrial Preparedness Production Planning to assure capability for the sustained production of essential military items to meet the needs of the U.S. and Allied Forces during an emergency.

(b) In planning for the production of selected items, preference shall be given to the use of privately-owned facilities, so as to minimize the need for Government investment. Government-owned production facilities will be included in the industrial base only when:

(i) private industry is unable or unwilling to provide the facilities necessary to support DoD requirements; or

(ii) they are determined to be necessary for reasons of national security or to assure a quick response capability to meet fluctuating or job lot demands.

(c) Current procurements will be integrated, when applicable, with Industrial Preparedness Production Planning requirements.

1-2204 Limitations.

(a) Industrial Preparedness Production Planning will be limited to those weapon systems and items selected by the Military Departments and DSA in accordance with policy established in DoDI 4005.3, "Industrial Preparedness Production Planning Procedures."

(b) Industrial Preparedness Production Planning with foreign sources, except Canada, is prohibited.

1-2205 Existing Authority Affecting the Industrial Base.

Specific authority under current contracting procedures to accomplish industrial planning actions includes the following:

(i) leasing of Government-owned property to planned emergency producers under the authority of the Military Leasing Act of 1947 as codified in 10 U.S.C. 2667;

(ii) purchases in the interest of national defense or industrial preparedness (see 3-216);

(iii) obtaining Jewel Bearings, Miniature and Instrument Ball Bearings, and Precision Components for Mechanical Time Devices (see 1-2207);

(iv) use of multiyear contracts (see 1-322.1(b)(1)(viii) and 3-216);

(v) providing Government production and research property to contractors (see 13-301);

and

(vi) preservation of domestic industrial base (see Sec. VI).

1-2206 Applicable Procedures. To assure the most effective planning approach, each DoD component will determine the specific type and depth of Industrial Preparedness Production Planning for each planning item. One or more of the authorities listed in 1-2205 above may be appropriate to accomplish a particular planning action. Specific procedures as applicable to a current procurement action include:

(a) solicitation of Planned Producers in all procurements over $10,000 - of items for which they have signed industrial preparedness agreements (but see 1-706 and 1-804.1 as pertain to partial set-asides for small business and labor surplus);

(b) use negotiation procedures under 3-216 to effect an industrial planning requirement; and

(c) when determined necessary by the applicable DoD component, award of individual service contracts may be awarded for accomplishing industrial planning efforts for selected essential military items. These efforts may include but are not limited to the maintenance of Government- owned industrial facilities (real and personal property), including production data packages; and

(d) when it is determined necessary to contract for an Industrial Preparedness Production Planning effort, and an item selected for such planning is being procured, a line item for the planning services and data will be included in the contract schedule. The schedule shall describe in detail the required end items of supply, the specific services, and data by separate line items (see Sec. XX, Part 2).

1-2302.4 *Exemptions.* Except as provided in (c) below, contracts and subcontracts are exempt from the requirements of this Part and 40 CFR Part 15, as follows.

(a) Contracts and subcontracts not exceeding $100,000 are exempt.

(b) Contracts and subcontracts for indefinite quantities are exempt if the contracting officer determines that the amount to be ordered in any year under such contract will not exceed $100,000.

(c) Except for small purchases, the foregoing exemptions shall not apply to a proposed contract under which the facility to be used is listed on the EPA List of Violating Facilities on the basis of a conviction either under the Air Act (40 U.S.C. 1857-8(c)(1)) or the Water Act (33 U.S.C. 1319(c)).

(d) This Part and 40 CFR Part 15 do not apply to the use of facilities located outside the United States. The term "United States," as used herein, includes the States, District of Columbia, Commonwealth of Puerto Rico, Virgin Islands, Guam and American Samoa, and Trust Territories of the Pacific Islands.

(e) Upon a determination that the paramount interest of the United States so requires, the Secretary concerned may exempt from the provisions of this Part any individual or class of contracts or subcontracts, for a period of one year. Prior to granting a class exemption, the Secretary shall consult with the Director, Office of Federal Activities, United States Environmental Protection Agency. The Secretary granting either an individual contract or class exemption shall notify the Director of such exemption as soon after granting the exemption as practicable. Such notification shall describe the purpose of the contract, and indicate the manner in which the paramount interest of the United States required that the exemption be made.

1-2302.5 *Withholding Award.* If, pursuant to the certification in 7-2003.71, the otherwise successful offeror informs the contracting officer that the EPA is considering listing a facility proposed to be used for contract performance, the contracting officer shall promptly notify the Director, Office of Federal Activities, EPA, according to Departmental procedures, that subject firm is under consideration for award. The Director, Office of Federal Activities, EPA, after consultation with the Department involved, may request the contracting officer to delay award for a period not to exceed 15 working days. The 15 working days shall begin on the date the Director is notified by the Department that such award is under consideration. Awards shall be withheld except when such delay is likely to prejudice the Department's programs or otherwise seriously disadvantage the Government. Prompt notice shall be given to the Director in any case where such determination to award has been made.

Part 24 - Recovery of Nonrecurring Costs on Commercial Sales of Defense Products and Technology

1-2400 Scope. This part sets forth policy and procedures established in DOD Directive 2140.2 for the recovery of nonrecurring costs on commercial sales by contractors of products, components, and related technology developed with DOD appropriations or, in special cases, with foreign military sales (FMS) funds. The objective of recovery is to ensure that a customer pays a fair share of the nonrecurring investment cost incurred by the Department of Defense or a foreign government.

1-2401 Policy.

(a) It is the policy of the Department of Defense to recover a fair share of its investment in nonrecurring costs related to products, and/or a fair price for its contribution to the development of related technology, when the products are sold, and when technology relating to the manufacture of the products is sold or licensed, to a foreign government, international organization, foreign commercial firm, or domestic organization (here referred to as "customers").

(b) Furthermore, in selected cases, it is DOD policy to recover, on behalf of a foreign government or international organization, a fair share of the nonrecurring costs for a special feature or product paid by the foreign government or international organization under an FMS case when subsequent customers purchase the same specialized feature(s). However, the U.S. Government will not collect this recoupment on behalf of a foreign government beyond 8 years from the date of the acceptance of the original DOD Offer and Acceptance (DD Form 1513) that included the nonrecurring investment.

1-2402 Applicability.

(a) This policy applies to those products and technologies for which investment costs equal or exceed $5 million for any of the following:

(1) Nonrecurring research, development, test, and evaluation (RDT&E) costs to develop defense products and related technology. The determination of RDT&E costs shall be based upon the current and predecessor models of an item or equipment.

(2) Nonrecurring production cost.

(3) RDT&E and nonrecurring production costs for special features under a foreign military sale when requested by the FMS customer and agreed to by the U.S. Government.

(b) In the event an end item contains one or more components that individually meet the above thresholds, recoupment will be made on a component when it is sold separately.

(c) In the case of product sales, if the dollar threshold is met for either nonrecurring RDT&E or production costs, recoupment for both categories of investment costs will be charged.

1-2403 Procedures.

(a) To assure the recovery of investment in nonrecurring costs and related technology, the clause in 7-104.64 shall be included in all RDT&E and production contracts and subcontracts of $1 million or more. This clause requires the contractor and qualifying subcontractors to pay to the U.S. Government the amounts established by the U.S. Government in the event of the contractor's commercial sale of products, or sale or license of related technology, that meet the thresholds of 1-2402.

(b) If the recoupment charge has been previously established, the contracting office, at the time of each commercial sale, shall determine if there have been significant changes in factors or assumptions used to compute the original charge (for example, changes in identifiable RDT&E cost or the anticipated production run). When significant changes are identified, the contracting office shall submit a request in accordance with departmental procedures to the Office of the Secretary of Defense (see (c) below) for authority to make appropriate changes in nonrecurring cost recoupment charges. Such revised charges shall not be retroactively applied to past sales or to sales that have been consummated by a written contract between the parties.

(c) If the recoupment charge has not been previously established, the contracting office shall expeditiously obtain a charge determination from the office in each DOD component that is responsible for establishing the charge. The Office of the Secretary of Defense must approve certain charges, as follows:

(1) The Director, Defense Security Assistance Agency (DSAA)—nonrecurring cost unit recoupment charges for the sale of major defense equipment (as defined in 7-104.64).

(2) The Under Secretary of Defense for Research and Engineering (USDR&E)—all technology charge determinations.

(d) The amount to be reimbursed to the U.S. Government for the commercial sale of products and components and for the sale or license of technology is set forth in 7-104.64 and in DOD Directive 2140.2

1-2404 Deviations.

(a) A DOD component, a foreign government, or a Defense contractor (vice president or higher) may request deviation, in whole or in part, from assessing the charges prescribed here for a commercial sale when it is considered to be in the best interest of the United States (i) to satisfy a demonstrable right of the manufacturer or the purchaser or (ii) to obtain advantage to the Department of Defense. Consideration may also be given to

nonmonetary returns that are advantageous to national security, foreign policy, and the public interest.

(b) Requests for deviation associated with product sales under foreign sales shall be submitted through channels to the Director of the Defense Security Assistance Agency. Requests for deviation for product sale charges to domestic organizations and requests for deviation for technology sales shall be submitted to the Under Secretary of Defense for Research and Engineering. A request for deviation from the otherwise appropriate charges shall contain:

(i) a summary statement of the facts;
(ii) the benefits expected, with justification;
(iii) the specific areas to which the deviation would apply; and
(iv) calculations necessary to ascertain the extent of any monetary involvement and how the calculations are to be handled by either the DOD component or the contractor, as appropriate.

Part 2—Solicitation of Bids

2-200 Scope of Part. This Part sets forth procedures for the solicitation of bids. Forms used in inviting bids are prescribed in Section XVI, Parts 1 and 4. Invitations for bids shall contain the applicable information described in 2-201 below and any other information required for a particular acquisition. All such information shall be set forth in full in the solicitation rather than incorporated by reference, except that:

(i) Standard Forms consisting of general provisions (contract clauses) may be incorporated by reference to the form number, form name, and edition date; *provided*, the instructions for use of the form do not prohibit incorporation of the form by reference; and
(ii) other contract clauses set forth in Section VII may be incorporated by reference if authorized by 7-001.

No other contract clauses shall be incorporated by reference. Pen and ink entries, deletions, or alterations shall not be made in an invitation for bids after it has been reproduced for issue to prospective bidders. If a change is necessary after reproduction of the invitation for bids, the Standard Form 30 (Amendment of Solicitation/Modification of Contract) shall be used (see 16-101) except that its use for construction contracts is optional (see 16-401.1(ix)).

2-201 Preparation of Invitation for Bids.

(a) *Supply and Services Contracts.* For supply and services contracts, invitations for bids (Standard Form 33) shall contain the following information if applicable to the acquisition involved. For construction contracts, see 2-201(b).

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Acquisition of (i) ship construction, including shipbuilding, conversion, and repair; (ii) supplies or services for which special forms or formats are prescribed by this Regulation, e.g., those prescribed by Part 5 of Section XVI; and (iii) subsistence must contain all applicable items, but such items need not be set forth in the Uniform Contract Format. The following subparagraphs are grouped to conform to the Uniform Contract Format. All items of information shall be set forth in the appropriate sections.

Part I—The Schedule

SECTION A - Contract Form.
(i) Standard Form 33, Part 1 (Solicitation, Offer, and Award and Acknowledgement of Amendments). Instructions for filling out this form are in 16-104.1 and 16-104.2;

SECTION B - Supplies/Services and Prices.
(i) a brief description of the contract line items being purchased (i.e., item numbers, NSN/part numbers, nouns, and quantities);
(ii) any provision for extent of quantity variation (see 1-325);
(iii) except under the circumstances set forth in 9-505; DD Form 1423 (Contract Data Requirements List); one or more line items or subline items of data in this Section B referring to DD Form 1423 (see 16-815);
(iv) information normally contained in Sections C, D, E, and F relating to specific line items may be included in Section B with the appropriate line item.

SECTION C - Description/Specifications.
(i) when the NSN/part number and noun or brief description is not in sufficient detail to permit full and free competition, a sufficient description (including any necessary specifications) of the supplies and services to be furnished shall be provided in this Section C. Reference to specifications shall include identification of all amendments or revisions thereof applicable to the acquisition and dates of both the specifications and the revisions (see Section 1, Part 12); and
(ii) in accordance with 1-1206.3, the statement in 1-1206.3(a) for a "brand name or equal" item.

SECTION D - Packaging and Marking.
(i) packaging and marking requirements, if any (see 1-1204).

SECTION E - Inspection and Acceptance.
(i) place of inspection and place of acceptance, and any other instructions required to supplement the requirements of Section XIV, Part 3.

SECTION F - Deliveries or Performance.
(i) the time of delivery or performance (see 1-305);
(ii) place and method of delivery (see Section XIX); and
(iii) when MILSTAMP procedures apply to shipments of supplies, a provision setting forth the obligations of the contractor under such procedures (see 19-101).

SECTION G - Contract Administration Data.
(i) accounting and appropriation data not included on Standard Form 33; and
(ii) instructions to paying offices and administrative contracting offices, including name, organization code, and telephone area code, number, and extension of contracting office representative.

SECTION H - Special Provisions.
(i) if the contract is to include option provisions, a clear statement of such provisions (see 1-1506);
(ii) if 1-1503(d) applies, a conspicuous notice cautioning offerors that an offer containing an option price higher than the base price may be accepted only if the acceptance does not prejudice any other offeror. (This may be placed elsewhere as long as the notice is adjacent to the limitation as to option price.)
(iii) if the contract is to be conditioned on the availability of funds, include one of the clauses in 7-104.91;
(iv) if the contract will involve multiyear acquisition, the provisions required by 1-322.2(a) or (f);
(v) any applicable Service Contract Act wage determinations of the Secretary of Labor (see Section XII, Part 10);
(vi) in accordance with 1-1208, the Government Surplus Clause in 7-104.49;

(vii) in accordance with 1-1208, the New Material Clause in 7-103.48;
(viii) any special provisions relating to the Government's providing Government production and research property for the performance of the contract (see Section XIII, Part 3);
(ix) if the contract is to contain the Safety Precautions for Ammunition and Explosives clause prescribed by 7-104.79, a specific list of any of the mandatory requirements of DOD Manual 4145.26-M that are being waived;
(x) when the contract is expected to contain requirements for provisioned items, include the information prescribed in 4-302.1;
(xi) when clause 7-104.62 is included in the contract and Appendix I, Table 2, does not list addresses of the required special distribution recipients, the applicable names and addresses shall be included in this Section H. The contracting office issuing the contract shall include, referencing the line item as necessary, the addresses of the status control activity/inventory manager and, if applicable, the processing contracting office cited in the Military Interdepartmental Purchase Request (MIPR).
(xii) for acquisitions involving Foreign Military Sales (FMS) or Military Assistance Program (MAP) (Grant Aid), enter the special markings, the applicable FMS country and case identifier or MAP Record Control/Program/Directive number identifier to permit the contractor to comply with Appendix I-301, Block 16 (12);
(xiii) if the contract is for supplies purchased for resale, include the clause in 7-104.88;
(xiv) if international air transportation of personnel and cargo is possible during the performance of the contract, include the clause in 7-104.95;
(xv) if the contract is for goods or services for MAPIMET, or FMS, include the clause in 7-104.97;
(xvi) if the contract is to involve materials of a hazardous nature, include the clause in 7-104.98 as prescribed by 1-323.2;
(xvii) when the proposed contract is to require the contractor to prepare production progress reporting in accordance with the clause in 7-104.51, the contract schedule shall contain instructions as prescribed in 25-202; and

(xviii) if the contract is expected to be $500,000 or more, include the clause in 7-104.78 (Geographic Distribution of Defense Subcontract Dollars).

Part II—General Provisions

SECTION I - General Provisions.
(i) such general contract provisions (contract clauses) as required by law and by this Regulation;
(ii) such additional general provisions as may be applicable to the acquisition; and
(iii) such alterations to contract provisions as are appropriate.

Part III—List of Documents, Exhibits, and Other Attachments

SECTION J - List of Documents, Exhibits, and Other Attachments.
(i) Here list all of the documents, exhibits, and other attachments that make up the invitation-for-bids package; give form number, name, date, and number of pages for each document; give type and identifier (for example, "Exhibit A"), name, and number of pages for each exhibit, appendix, or other attachment (for example, work frequency schedules, work statements, specifications, special requirements, or other documents too lengthy to be conveniently written into the invitation proper).

Part IV—General Instructions

SECTION K - Representations, Certifications, and Other Statements of Bidder.
(i) Standard Form 33, Part 2 (Representations and Certifications);
(ii) when considered necessary by the contracting officer to prevent practices prejudicial to fair and open competition, such as improper kinds of multiple bidding, a requirement that each bidder submit with his bid the provision in 7-2003.12 concerning his affiliation with other concerns shall be included in this Section K. Failure to furnish the affidavit with the bid shall be treated as a minor informality or irregularity (see 2-405);
(iii) the clause in 7-2003.13 that provides for a preference for labor surplus area concerns shall be

included in invitations for bids that do not involve set-asides for labor surplus area concerns;

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

(v) if the contract is for the Military Assistance Program, include the certificate in 7-2003.50;

(vi) if the contract is pursuant to the Balance of Payments Program, include the certificate in 7-2003.52;

(vii) unless exempted by 12-805 from inclusion of the Equal Opportunity clause, include the provisions in 7-2003. 7-2003.14(b)(1), (2), and (3);

(viii) any requirement for prior testing and qualification of a product, when the item to be acquired is on a qualified products list (see Section 1, Part 11);

(ix) when the contract is for the acquisition of a patented item for which the Government is a licensee (1-304.3), include the provision in 7-2003.15;

(x) when shipping weights and dimensions are required to evaluate offers as to transportation costs (see 19-210), a provision substantially as in 7-2003.16 shall be included in the solicitation, except that the paragraph relating to the Government's estimated weights and dimensions may be omitted when such estimates cannot reasonably be developed and the file is documented accordingly, prior to the issuance of the solicitation. Solicitations omitting the paragraph relating to the Government's estimated weights and dimensions shall state that the failure to furnish guaranteed shipping weights and dimensions will render offers nonresponsive, unless the contracting offer determines that the shipping weights and dimensions would clearly not affect the standing of the bids. To aid in computing a reduction when the contractor exceeds the guaranteed maximum(s), the award document will show the weight(s) and dimensions used in the evaluation;

(xi) when a solicitation may result in an f.o.b. origin contract and the item to be purchased is new to the supply system, nonstandard, or such a modification of a previously shipped item that a different freight classification may apply (e.g., contains new materials, ingredients, changed weight, cube, configuration, etc.,) (see 19-202(b)), insert the provision in 7-2003.17;

(xii) when bids are to be solicited f.o.b. origin only and when it is desired that a bidder be permitted to offer commercial transit credits (see 19-206(b)), insert the provision in 7-2003.18;

(xiii) when the contract is to include the clause in 7-104.70 and when it is believed that a prospective contractor is likely to include in his f.o.b. origin price a contingent amount to compensate for what may be for him an extremely unfavorable routing condition, which the Government has the option to specify at the time of shipment (see 19-208.2(b)), insert a provision substantially as in 7-2003.19;

(xiv) when supplies are to be delivered outside the United States and more than one U.S. port of loading meets the eligibility criteria applicable to the nature and quantity of the supplies for movement to the overseas destination (see 19-208.1(b) and 19-213.1(d)), insert the provision in 7-2003.20;

(xv) when the proposed acquisition consists of a partial set-aside for LSA firms (1-706.7 or 1-804.1) or a partial set-aside for small business firms (1-706.6), insert the clause in 7-2003.21;

(xvi) the Clean Air and Water Certification in 7-2003.71;

(xvii) insert the Small Disadvantaged Business Concern representation in 7-2003.74;

(xviii) insert the Woman-Owned Business representation in 7-2003.80;

(xix) insert the Percent Foreign Content representation in 7-2003.81; and

(xx) when Government specifications are incorporated requiring utilization of recovered materials, insert the certification in 7-2003.82.

SECTION L - Instructions and Conditions, and Notices to Bidders.

(i) Standard Form 33A, Solicitation Instructions and Conditions; alternatively, SF 33A may be incorporated by reference to the form name, number, and edition date;

(ii) the Late Bids provision in 7-2002.2 (this replaces paragraphs 7 and 8 of SF 33A);
(iii) the Order of Precedence provision in 7-2003.41 (this replaces paragraph 19 of SF 33A);
(iv) permission, if any, to submit telegraphic bids (see 2-202.2);
(v) permission, if any, to submit alternate bids, including alternate materials or designs (see 1-1207);
(vi) if no award will be made for less than the full quantities advertised, a statement to that effect;
(vii) if award is to be made by specified groups of items or in the aggregate, a statement to that effect;
(viii) bid guarantee, performance bond, and payment bond requirements, if any (see Section X, Part 1); if a bid bond or other form of bid guarantee is required, the solicitation shall include the provisions required by 10-102.4;
(ix) directions for obtaining copies of any documents, such as plans, drawings, and specifications, which have been incorporated by reference (see 1-1203);
(x) any applicable requirements for samples or descriptive literature (see 2-2-2.4 and 2-202.5);
(xi) in accordance with 7-2003.14(a), the notice of Preaward On Site Equal Opportunity Review set forth therein;
(xii) if the contract involves performance of services on a Government installation, the provision in 7-2003.39;
(xiii) in accordance with 6-1104, the U.S.-owned foreign currency provision set forth in 7-2003.62;
(xiv) when provision for progress payments is to be included in the invitation for bids, the notice in E-504.4 and, if appropriate, the notice in E-504.3;
(xv) description of the procedures to be followed in obtaining permission to use Government production and research property (see Section XIII, Parts 4 and 5);
(xvi) invitations for bid that will result in the placement of rated orders or Authorized Controlled Material Orders (see 1-307) shall contain the clause in 7-2003.22;
(xvii) when considered necessary to stipulate a minimum acceptance period:
(A) insert the stipulated number of calendar days in the "Offer" portion of the SF 33, strike the phrase "(60 calendar days unless a different period is inserted by the offeror)" and add the following at the end of the statement: "(See Section L (insert paragraph number))."

(B) include in Section L of the solicitation a provision substantially as follows:

MINIMUM ACCEPTANCE PERIOD (1975 MAR)

Offerors allowing less than the number of calendar days specified in the "Offer" portion of SF 33 for acceptance by the Government will be rejected as nonresponsive.

(End of provision)

(xviii) when the contract is to contain a first article approval clause, the statement required by 1-1903;
(xix) any applicable notices of small business or labor surplus area set-asides (see 1-706.6 and 1-804.2);
(xx) the applicable small business size standard and product classification (see 1-701 and 1-703);
(xxi) any offer by the Government to provide Government production and research property for the performance of the contract (see Section XIII, Part 3) (see, for example, 13-202(b));
(xxii) the provision in 7-2003.10 when a "brand name or equal" item is being acquired;
(xxiii) in unusual cases, where bidders are required to have special technical qualifications due to the complexity of the equipment being acquired, or for some other special reason, a statement of such qualifications;
(xxiv) if the solicitation is to include an Industrial Preparedness Production Planning line item, the provision in 7-2003.69 will be included (see 1-2206);
(xxv) in accordance with 3-213.4, insert the Notice of Possible Standardization provision in 7-2003.38;
(xxvi) when the statement of work requires the design, development, or operation of a system of records on individuals for an agency function, insert the provision in 7-2003.72.

SECTION M - Evaluation Factors for Award.
(i) a statement of the exact basis upon which bids will be evaluated and award made, to include any Government costs or expenditures (other than bid prices) to be added or deducted, or any provisions for economic price adjustment as factors for evaluation.

(The amount of any royalty payable under the royalty-sharing provisions of a previously accepted value engineering change proposal incorporated in the solicitation will be considered in evaluating offers when the value engineering change is one of two or more acceptable alternatives under the solicitation.) See also 1-304.3.

(ii) if the solicitation contains an economic price adjustment clause, the provision in 7-2003.23(a);

(iii) when the contracting officer determines that it is necessary to consider the advantages or disadvantages to the Government that might result from making more than one award (multiple awards) (see 2-407.5(iii)), the provision in 7-2003.23(b);

(iv) discount provision (see 2-407.3);

(v) when bids (or proposals) are to be solicited f.o.b. origin only and when requirement exists for transit arrangements at transit point(s) in the United States (excluding Alaska and Hawaii) (see 19-206(a)), the provision in 7-2003.23(c);

(vi) to establish the means the Government will use in f.o.b. origin solicitations in applying transportation costs for evaluation (see 19-208.2(c)), the provision in 7-2003.23(d) (which may be modified to accommodate other methods of transportation);

(vii) when the exact destination is not known (see 19-208.4(a)), the provision in 7-2003.24(a);

(viii) when the exact destination is not known (see 19-208.4(a)), or when f.o.b. origin contracts may result (see 19-209), the provision in 7-2003.24(b);

(ix) when the supplies may be purchased f.o.b. origin (see 19-212), the provision in 7-2003.24(c);

(x) when both f.o.b. origin and f.o.b. destination bids are desired (see 19-104.2(b)), the provision in 7-2003.24(d);

(xi) any provision concerning evaluation or award peculiar to the kind of contract.(for example, the provision required by 22-702.1 for laundry and drycleaning services, that required by 22-502 for mortuary services, that required by 22-600.3 and 22-600.4 for the preparation of personal property for shipment or storage and the performance of intra-area movement);

(xii) if, pursuant to 1-1504, options are to be evaluated for award, the applicable Evaluation of Options provision shall be inserted;

(xiii) a statement explaining the evaluation procedure to eliminate the competitive advantage from the rent-free use of Government production and research property (see Section XIII, Part 5, particularly 13-502);

(xiv) any applicable information pertaining to evaluation and award where first article approval is involved (see 1-1903);

(xv) if the invitation is for supplies of which wool is a component, the Domestic Wool Preference provision in 7-2003.48; and

(xvi) when it is determined that transportation costs are not to be evaluated because it is impracticable to do so, the provision in 7-2003.70.

(b) *Construction Contracts.* For construction contracts, the invitation for bids shall contain the following information if applicable to the procurement involved (see also 16-401.2).

(i) invitation number;

(ii) name and address of issuing activity;

(iii) date of issuance;

(iv) date, hour, and place of opening. See 2-202.1 concerning bidding time. Prevailing local time shall be used. Timing by the 24-hour clock shall not be used except where customary in the industry. The exact location of the bid depository, including the room and building numbers, and a statement that handcarried bids must be deposited therein;

(v) number of pages;

(vi) requisition or other purchase authority and appropriation and accounting data;

(vii) a brief description of the work to be performed. Reference to specifications shall include identification of all amendments or revisions thereof, applicable to the procurement and dates of both the specifications and the revisions (see 1-1201). Such description shall comply with Section I, Part 12, relating to specifications;

(viii) the time of performance (see 18-105);

(ix) permission, if any, to submit telegraphic bids (see 2-202.2);

(x) permission, if any, to submit alternate bids, including alternate materials or designs (see 1-1207);

(xi) bid guarantee, performance bond, and payment bond requirements, if any (see Section X, Part 1; 16-401.2(c)(iii)(1); and 18-801). If a bid bond or other form of bid guarantee is required, follow the instructions in 10-102.4;

(xii) when considered necessary to stipulate a minimum acceptance period:

(A) Insert the stipulated number of calendar days* in the blank provided in the 'Bid' portion of SF 19, strike the phrase '(30 days unless a different period is inserted); and add the following at the end of the statement: '(See paragraph .....**..... of the invitation for bids)'. When SF 21 is used, insert the stipulated number of calendar days* in the blank provided on the reverse of the form, strike the phrase '(..... calendar days unless a different period be inserted by the bidder)' and add the following

(lvii) if the contract is expected to be $500,000 or more, include the clause in 7-104.78 (*"Geographic Distribution of Defense Subcontract Dollars"*);

(lviii) insert the Woman-Owned Business representation in 7-2003.80;

(lix) insert the Percent Foreign Content representation in 7-2003.81;

(lx) when Government specifications are incorporated requiring utilization of recovered materials, insert the certification in 7-2003.82.

(c) Master Solicitation. A master solicitation is a document containing the text of special provisions which have been identified as being essential for carrying out the peculiar needs of a specific commodity assignment to a single contracting activity within DOD. The document is pre-positioned with potential sources who are requested to retain them for continued and repetitive use. The purpose of this technique is to simplify solicitation and award documents, to reduce the size of solicitations and awards, and concurrently to achieve time and dollar savings for both the Government and industry. The master solicitation technique involves two separate phases, the issuance of the master solicitation and the issuance of the individual solicitation/award. In addition, use of this technique to meet such peculiar requirements shall be subject to the following criteria:

(1) The master solicitation shall not be used unless repetitive purchases are anticipated.

(2) The master solicitation shall not include non-essential or infrequently used provisions.

(3) The master solicitation shall consist primarily of those locally developed provisions relating to instructions and procedures requiring repetitive use that cannot otherwise be avoided through use of DAR clauses. The master solicitation shall not include Section VII clauses; however, where the acquisition requires performance outside the U.S., Section VII clauses may be included in the master solicitation.

(4) Copies of a master solicitation shall be made available upon request.

(5) There shall be no interim changes, revisions nor amendments to the master solicitation itself. The only approved method of revising the master solicitation shall be by reissuing the entire master solicitation.

(6) Copies of contracts furnished to the contract administration activity must be complete and shall include a copy of the master solicitation unless prior arrangements have been made.

(7) The use of this technique shall be limited to those situations where it is clearly demonstrable that a substantial reduction of paperwork and simplification of the contracting process will result. Approval by the Head of the Contracting Activity is required.

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2-202 Miscellaneous Rules for Solicitation of Bids.

2-202.1 Bidding Time. Consistent with the needs of the Government for obtaining the supplies or services, all invitations for bids shall allow sufficient bidding time (i.e., the period of time between the date of distribution of an invitation for bids and the date set for opening of bids) to allow bidders an adequate opportunity to prepare and submit their bids. As a general rule, bidding time shall be not less than 30 calendar days. This rule need not be observed in special circumstances, for example, where the contracting officer has valid reason to determine that bidders in the second step of two-step formal advertising can prepare and submit their bids in less than 30 calendar days, or where the urgency for the supplies or services does not permit such delay. When the purchasing office is located in the United States and a prospective bidder is located at a foreign address, the mailing time associated with international air mail (see 2-203.1) shall be considered when establishing the bid opening date. For items on Qualified Products Lists, see 1-1107.1; for construction contracts, see 18-202(b); and for brand name or equal items, see 1-1206.2.

2-202.2 *Telegraphic Bids.* As a general rule, telegraphic bids will not be authorized. However, when in the judgment of the contracting officer, the date for the opening of bids will not allow bidders sufficient time to prepare and submit bids on the prescribed forms or when prices are subject to frequent changes, telegraphic bids may be authorized. When such bids are authorized, the schedule of the invitation for bids will contain the provision in 7-2003.29.

2-202.3 *Bid Envelopes.* Postage or envelopes bearing "Postage and Fees Paid" indicia shall not be distributed with the invitation for bids or otherwise supplied to prospective bidders. To provide for ready identification and proper handling of bids, Optional Form 17, "Sealed Bid Label", obtainable from the General Services Administration, may be furnished with each bid set to provide the bidder with a means of specifically identifying his bid.

2-202.4 *Bid Samples.*

(a) *Definition.* The term "*bid sample*" means a sample required by the invitation for bids to be furnished by a bidder as a part of his bid to show the characteristics of a product offered in his bid. Such samples will be used only for the purpose of determining the responsiveness of the bid and will not be considered on the issue of a bidder's ability to produce the required items.

(b) *Policy.* Bidders shall not be required to furnish a bid sample of a product they propose to furnish unless there are certain characteristics of the product which cannot be described adequately in the applicable specification or purchase description, thus necessitating the submission of a sample to assure procurement of an acceptable product. It may be appropriate to require bid samples, for example, where the procurement is of products that must be suitable from the standpoint of balance, facility of use, general "feel," color, or pattern, or that have certain other characteristics which cannot be described adequately in the applicable

Part 2—Circumstances Permitting Negotiation

3-200 General. Subject to the limitations set forth in Part 1 of this Section III and pursuant to the authority of 10 U.S.C. 2304(a), procurement may be effected by negotiation under any one of the exceptions ((1) through (17) of 10 U.S.C. 2304(a)) set forth in this Part 2, subject, in the case of construction contracts, to the further restrictions of 10 U.S.C. 2304(c) as set forth in 18-301. Each negotiated contract shall contain a reference to the authority under which it was negotiated.

3-201 National Emergency.

3-201.1 *Authority.* Pursuant to 10 U.S.C. 2304(a)(1), purchases and contracts may be negotiated if—

"it is determined that such action is necessary in the public interest during a national emergency declared by Congress or the President."

3-201.2 *Application.*

(a) The authority of this paragraph 3-201 shall be used only to the extent determined by the Assistant Secretary of Defense (Installations and Logistics) to be necessary in the public interest, and then only in accordance with Departmental procedures consistent with this paragraph 3-201.

(b) For the duration of the national emergency declared pursuant to Presidential Proclamation 2914, dated December 16, 1950, the Assistant Secretary of Defense (Installations and Logistics) has determined that only the following procurements may be made pursuant to the authority of 10 U.S.C. 2304(a)(1):

(i) procurements made in keeping with (A) labor surplus set-aside programs (including, when no other negotiating authority is appropriate and the use of formal advertising is not feasible and practicable under the existing conditions and circumstances, the placement of contracts for the total or any part of the requirements set-aside which are not filled by awards made in accordance with the provisions of the Notice of Labor Surplus Area Set-Aside (see 1-804); or (B) disaster area programs;

(ii) procurements made in keeping with the small business programs
(A) after unilateral determinations for set-asides, or
(B) to place the total or any part of the requirements set aside (unilateral or joint) which are not filled by awards to small business concerns, when no other negotiating authority is appropriate and the use of formal advertising is not feasible and practicable (see 1-706.7); and

(iii) procurements entered into pursuant to the Balance of Payments Restricted Advertising method of procurement (see 6-806.2).

3-201.3 *Limitation.* The authority of this paragraph 3-201 shall not be used when negotiation is authorized by the provisions of 3-206 except that, in the event of a labor surplus or small business set-aside, this authority shall be used in preference to any other authority in this Part 2 (see 1-706.2 and 1-804.4). The authority of this paragraph shall not be to negotiate a reasonable price with a low responsible small business bidder whose bid has been determined by the contracting officer to be an unreasonable bid under Small Business Restricted Advertising procedures. When such an unreasonable bid is received, the set-aside shall be dis-

solved and the requirement procured on an unrestricted basis by the use of formal advertising or where appropriate by other negotiation authority in accordance with existing regulations.

3–202 Public Exigency.

3–202.1 *Authority.* Pursuant to the authority of 10 U.S.C. 2304(a)(2) purchases and contracts may be negotiated if—

"the public exigency will not permit the delay incident to advertising."

3–202.2 *Application.* In order for the authority of this paragraph 3–202 to be used, the need must be compelling and of unusual urgency, as when the Government would be seriously injured, financially or otherwise, if the supplies or services were not furnished by a certain date, and when they could not be procured by that date by means of formal advertising. When negotiating under this authority, competition to the maximum extent practicable, within the time allowed, shall be obtained. The following are illustrative of circumstances with respect to which this authority may be used:

(i) supplies, services, or construction needed at once because of fire, flood, explosion, or other disaster;

(ii) essential equipment for, or repair to, a ship when such equipment repair is needed at once for compliance with the orders of the ship;

(iii) essential equipment for, or repair to, aircraft grounded or about to be grounded, when such equipment or repair is needed at once for the performance of the operational mission of such aircraft;

(iv) construction needed at once to preserve a structure or its contents from damage;

(v) essential equipment for, or repair to, missiles or missile support equipment, when such equipment or repair is needed at once to preclude impairment of launch capabilities or mission performance;

(vi) purchase requests citing an issue priority designator under the Uniform Material Movement and Issue Priority System (UMMIPS), which may justify negotiation under this or other negotiation authority, but in such cases the specific circumstances must be set forth in the determination and findings; or

(vii) purchase requests citing "Electronic Warfare QRC Priority" as the priority designator.

3–202.3 *Limitation.* Every contract negotiated under the authority of this paragraph 3–202 shall be accompanied with a determination and findings justifying its use, signed by the contracting officer and prepared in accordance with the requirements of Part 3 of this Section III. The authority of this paragraph 3–202 shall not be used when negotiation is authorized by the provisions of 3–203 or 3–206.

3–203 Purchases Not More Than $10,000.

3–203.1 *Authority.* Pursuant to 10 U.S.C. 2304(a)(3), purchases and contracts may be negotiated if—

"the aggregate amount involved is not more than $10,000."

3–203.2 *Application.* Purchases or contracts aggregating not more than $10,000 shall be made in accordance with Part 6 of this Section, and 18–302 in the case of certain construction contracts.

3–203.3 *Limitation.* The authority of this paragraph 3–203 shall not be used when negotiation is authorized by the provisions of 3–206. However, where small business set asides are made, the appropriate paragraph 3–201.2 (for unilateral set-asides) or 3–217 (for joint class set-asides) shall be cited. When negotiations have been initiated under another provision of this Section, that provision shall be cited as the negotiation authority for any resulting contract, even though one or more contracts of not more than $10,000 in amount may result.

3–204 Personal or Professional Services.

3–204.1 *Authority.* Pursuant to 10 U.S.C. 2304(a)(4), purchases and contracts may be negotiated if—

"for personal or professional services."

3–204.2 *Application.* The authority of this paragraph 3–204 shall be used only when all of the following conditions have been satisfied:

(i) if personal services, they are required to be performed by an individual contractor in person (not by a firm), or if professional services, they may be performed either by an individual contractor in person or a firm or organization;

(ii) the services (A) are of a professional nature, or (B) are to be performed under Government supervision and paid for on a time basis; and

(iii) procurement of the services is authorized by law, and is effected in accordance with the requirements of any such law and in accordance with Departmental procedures.

3–204.3 *Limitations.* The authority of this paragraph 3–204, and the above conditions imposed upon its use, shall not apply to the procurement by negotiation of any type of service authorized under any other provision of this Section III.

3–205 Services of Educational Institutions.

3–205.1 *Authority.* Pursuant to the authority of 10 U.S.C. 2304(a)(5), purchases and contracts may be negotiated if—

"for any service by a university, college, or other educational institution".

3–205.2 *Application.* The following are illustrative of circumstances with respect to which the authority of this paragraph 3–205 may be used:

(i) educational or vocational training services to be rendered by any university, college, or other educational institution in connection with the training and education of personnel, and for necessary material, services, and supplies furnished by any such institution in connection therewith;

(ii) experimental, developmental, or research work (including services, tests, and reports necessary or incidental thereto) to be conducted by any university, college, or other educational institution, and reports furnished in connection therewith; or

(iii) analyses, studies, or reports (statistical or otherwise) to be conducted by any university, college, or other educational institution.

3-205.3 *Limitation.* Except as authorized in 22-902(b), the authority of this paragraph 3-205 shall not be used when negotiation is authorized by the provision of 3-203 or 3-206.

3-206 Purchases Outside the United States.

3-206.1 *Authority.* Pursuant to 10 U.S.C. 2304(a)(6), purchases and contracts may be negotiated if—

"for property or services to be procured and used outside the United States, and its Territories, possessions and Puerto Rico."

3-206.2 *Application.* The authority of this paragraph 3-206 shall be used only for the procurement of supplies to be shipped from, delivered, and used, or services to be performed, outside of the United States, its possessions and Puerto Rico, irrespective of the place of negotiation or execution of the contract. When the authority of this paragraph is available for the negotiation of a contract, no other negotiating authority shall be used, nor shall formal advertising be used.

3-207 Medicines or Medical Supplies.

3-207.1 *Authority.* Pursuant to 10 U.S.C. 2304(a)(7), purchases and contracts may be negotiated if—

"for medicine or medical supplies".

3-207.2 *Application.* The authority of this paragraph 3-207 shall be used only when the following two requirements have been satisfied:

(i) such supplies are peculiar to the field of medicine, including technical equipment such as surgical instruments, surgical and orthopedic appliances, X-ray supplies and equipment, and the like, but not including prosthetic equipment; and

(ii) whenever it is determined to be practicable, such advance publicity as is considered suitable with regard to the supplies involved and other relevant considerations shall be given for a period of at least 15 days before making a purchase of or contract for supplies or services, under this authority of this paragraph 3-207, for more than $10,000.

3-207.3 *Limitation.* Every contract negotiated under the authority of this paragraph 3-207 shall be accompanied with the determination and findings justifying its use, signed by the contracting officer and prepared in accordance with the requirements of Part 3 of this Section III. The authority of this paragraph 3-207 shall not be used when negotiation is authorized by the provisions of 3-203 or 3-206.

3-208 Supplies Purchased for Authorized Resale.

3-208.1 *Authority.* Pursuant to 10 U.S.C. 2304(a)(8), purchases and contracts may be negotiated if—

"for property for authorized resale".

3-208.2 *Application.*

(a) The authority of this paragraph 3-208 shall be used only for purchases for resale, where appropriated funds are involved, and ordinarily only for purchases of articles with brand names or of a proprietary nature which a selling activity believes or finds to be desired or preferred by its patrons.

(e) When an option provision in the contract is contemplated, the D&F shall set forth the approximate quantity to be awarded initially and the extent of the increase to be permitted by the option.

(f) D&Fs shall be dated at the time of signature.

(g) The authority to act under a D&F expires when the authority granted thereunder is exercised or on a specified expiration date, whichever first occurs. When the request for proposals or for quotations has been furnished to the prospective contractor prior to the expiration of the authority under the D&Fs, such authority will continue until award of the contract(s) resulting from that solicitation.

3-302 Determinations and Findings by the Secretary of a Department. The following determinations, and written findings in support thereof, may be made only by the Secretary of a Department and not delegated hereunder except to the extent provided in (i), (vii), and (viii) below:

(i) the determination required by 3-211 with respect to any negotiated contract for experimental, developmental, or research work, or for the manufacture or furnishing of supplies for experimentation, development, research, or test (but see 3-303(a)(ii) when the amount does not exceed $100,000);

(ii) the determination required by 3-212 with respect to any negotiated contract that should not be publicly disclosed;

(iii) the determination required by 3-213 with respect to any negotiated contract for technical equipment requiring standardization and interchangeability of parts;

(iv) the determination required by 3-214 with respect to any negotiated contract for technical or specialized supplies requiring a substantial initial investment or an extended period of preparation for manufacture;

(v) the determination required by 3-215 with respect to any negotiated contract entered into after advertising has proved unsatisfactory;

(vi) the determination required by 3-216 with respect to any negotiated contract entered into in the interest of national defense or industrial mobilization;

(vii) the determination required with respect to advance payments under any negotiated contract (but see Defense Contract Financing Regulations, Part 4, Appendix E); and

(viii) the determinations required with respect to waiving a requirement for submission of cost or pricing data and certification thereof (see 3-807.3(b)) and for inclusion of the clauses required by 7-104.29 and 7-104.42 (but see 3-303(a)(i) for contracts with foreign governments or agencies thereof).

In addition to the foregoing determinations, the Secretary of any Department may also make any of the determinations, and written findings in support thereof, that may be made by the Head of any Procuring Activity signing as a chief officer responsible for procurement or by a contracting officer.

3–303 Determinations and Findings Below the Secretarial Level.

(a) Determinations, and findings in support thereof, not required to be made by higher authority including those in (i) through (iv) below may be made with respect to individual purchases or contracts by the Head of a Procuring Activity signing as a chief officer responsible for procurement. The contracting officer may make the determinations and findings in (ii) through (iv) with respect to individual purchases and contracts:

(i) the determination required with respect to waiving the requirements for submission of cost or pricing data and certification thereof and for the inclusion of the clauses required by 7–104.29 and 7–104.42 for contracts with foreign governments or agencies thereof;

(ii) determinations and findings with respect to authority to enter into contracts by negotiation required by 3–202.3, 3–207.3, 3–208.3, 3–210.3 and 3–211.3; *provided*, that under 3–211.3 the basic contract or any single modification thereto does not obligate the Government to pay more than $100,000 (in a procurement under 3–211, where it is known in advance that the scope of the contract will be expanded to include additional phases or where it is incrementally funded, the total estimated cost of all increments will be used as the basis for determining whether a determinations and finding will be made at the Secretarial level or by the contracting officer);

(iii) determinations and findings with respect to the use of a cost or a cost-plus-a-fixed-fee or an incentive-type contract required by 3–404.4, 3–405, 3–405.4, and 3–405.6; and

(iv) any other determinations and findings not required to be made by higher authority.

(b) The authority to make class determinations and findings with respect to authority to enter into contracts by negotiation pursuant to 3–202, 3–207, 3–208, and 3–210 may be delegated by the Secretary of any Department.

3–304 Reserved.

3–305 Formats for Determinations and Findings. A D&F with respect to (i) negotiation of an individual contract or a class of contracts, (ii) the type of contract to be used, or (iii) waiving a requirement for submission of cost or pricing data and certification thereof, should conform generally to the appropriate format set forth in Appendix J. A D&F for advance payments should be prepared in accordance with the format in E–410. A D&F for any other purpose shall be prepared in accordance with Departmental procedures. Each determination and findings shall set out enough facts and circumstances to justify clearly the specific determination made. Each determination and findings for authority to negotiate either an individual contract or a class of contracts shall clearly and convincingly establish that the use of formal advertising would not be feasible and practicable.

3–306 Procedure With Respect to Determinations and Findings.

(a) Determinations and findings for authority to negotiate required by 3–202, 3–207, 3–208, and 3–210 through 3–216 shall be signed by the appropriate official prior to issuance of a request for proposals or quotations. Any modifications of such Determinations and Findings subsequently found to be necessary will not require cancellation of the request for proposals or quotations, provided the

(3) The Government shall neither make any final commitment nor authorize any work by the contractor pursuant to an order under a basic ordering agreement until prices have been established, unless the order establishes a monetary limitation on the obligation of the Government and either:

(i) the order is subject to provisions contained in the basic ordering agreement which set forth adequate procedures for arriving at prices as early in contract performance as practical, but in no event shall such procedures permit the price of the entire order to be established on a retroactive basis (however, incentive provisions consistent with this part are permitted); or

(ii) the need for the supplies or services is compelling and of unusual urgency, as when the Government would be seriously injured, financially or otherwise, if the supplies or services were not furnished by a certain date and when they could not be furnished by that date if the contractor is not allowed to proceed with work until prices have been established. The circumstances listed in 3–202.2 are indicative of instances in which the contractor may be permitted to proceed with work prior to establishment of prices.

As a general rule, prices should be established prior to authorizing the contractor to begin work. However, where the contractor is allowed to begin work prior to pricing in accordance with this paragraph, the contractor and the contracting officer shall proceed with pricing as soon as practicable. The basic ordering agreement shall provide that failure to reach agreement on price in such circumstances will constitute a dispute subject to the procedures of the Disputes clause.

(4) Each order issued under a basic ordering agreement shall cite the applicable negotiation authority and shall be subject to such reviews, approvals, determinations and findings (including those pertaining to types of contracts), and other requirements (including those pertaining to synopsis of the proposed procurement and contract awards) specified in this Regulation as would be applicable if the order were a contract entered into apart from the basic ordering agreement.

(5) A basic ordering agreement shall be modified only by a revision of the basic ordering agreement itself and shall not be modified or superseded by individual orders issued thereunder. To minimize modifications, revisions to ASPR involving changes in authorized contract clauses, utilized in basic ordering agreements shall provide appropriate direction with respect to any required modifications of basic ordering agreements; and, to the extent possible, modifications shall be required only in matters resulting from changes in statutes, or Executive Orders. Basic ordering agreements shall be reviewed at least annually, before the anniversary of their effective dates, and revised to conform with the current requirements of this Regulation. Modifications shall not have retroactive effect.

(6) The contracting officer issuing an order under a basic ordering agreement shall be responsible for assuring compliance with the provisions of (1) through (4) above.

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PROCUREMENT BY NEGOTIATION

Part 5—Solicitations of Proposals and Quotations

3-500 Scope of Part. This part applies to all negotiated acquisition except that described by Part 6 of this Section III.

3-501 Preparation of Request for Proposals or Request for Quotations.

(a) *General.* Forms used for requesting proposals or quotations on negotiated acquisition shall be as required by (b) and (c) below and by Section XVI, or if not required by such Section, as prescribed by Departmental regulations. Generally, requests for proposals and requests for quotations shall be in writing. However, in appropriate cases as prescribed in (d) below, proposals or quotations may be solicited orally, *provided* that the resulting definitive contract is prepared on the prescribed contract form for signature by both parties, except that in the acquisition of perishable subsistence, DPSC Form 300, Order for Subsistence, may be used. Solicitations shall contain the information necessary to enable a prospective offeror or quoter to prepare a proposal or quotation properly. All such information shall be set forth in full in the solicitation rather than incorporated by reference, except that:

(1) Standard and DD ASPR Forms consisting of general provisions (contract clauses) prescribed by Section VII may be incorporated by reference to the form number, form name, and edition date; *provided*, the instructions for use of the form do not prohibit the incorporation of the form by reference; and

(2) other contract clauses set forth in Section VII may be incorporated by reference if authorized by 7-001.

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

(b) *Contract Forms and Uniform Contract Format.*

(1) This paragraph (b) applies to all negotiated acquisitions except:

a. small purchases and other simplified purchase agreements;
b. basic agreements;
c. pre-invitation notices;
d. the first step of two-step formal advertising;
e. construction and architect-engineer contracts;
f. ship construction including shipbuilding, conversion and repair;
g. acquisitions for which special contract forms inconsistent herewith are prescribed by Part 5 of Section XVI; and
h. acquisitions of subsistence.

Those acquisitions enumerated *f* through *h* need not be in the Uniform Contract Format, but must contain all applicable items. The applicability of this paragraph to acquisitions outside the United States, its possessions and Puerto Rico is optional.

(2) Requests for proposals shall be prepared on Standard Form 33, Solicitation, Offer and Award (see 16-102.3), or on forms prescribed by Departmental regulations; requests for quotations shall be prepared on Standard Form 18, Request for Quotations (see 16-102.1) or on forms prescribed by Departmental regulations.

PROCUREMENT BY NEGOTIATION

(3) The following subparagraphs are grouped so as to conform to the Uniform Contract Format (including the Table of Contents) set out below. All items of information shall be set forth in the appropriate Sections. Arrangement in this Uniform Contract Format for fixed-price supply and service contracts does not preclude use of the following paragraphs in preparing requests for proposals or requests for quotations for other types of contracts.

TABLE OF CONTENTS

THE FOLLOWING CHECKED SECTIONS ARE CONTAINED IN THE CONTRACT

Part I—The Schedule

SECTION A - Contract Form.

(i) for requests for proposals, either Standard Form 33, Part 1 (Solicitation, Offer, and Award and Acknowledgement of Amendments) or forms prescribed by Departmental regulations. Instructions for filling out SF 33 are in 16-604.1 and 16-104.2.

(ii) for requests for quotations, either SF 18 (Request for Quotations) or forms prescribed by Departmental regulations. Instructions for filling out SF 18 are in 16-104.1 and 16-104.5; if the Request for Quotations is for informational or planning purposes, the statement in 1-309 shall be placed on the face of the request;

(iii) when neither SF 18 nor SF 33 is used, the following shall be included in the first page of the solicitation:
(A) name and address of issuing activity, channels for submission of proposal/quotation, location, including room and building number where proposals/quotations, including a hand-carried proposal or quotation, must be submitted;
(B) date of issuance;
(C) closing date and time;
(D) number of pages;
(E) requisition or other purchase authority.

SECTION B - Supplies/Services, and Prices.
(i) a brief description of the contract line items being acquired (i.e., item numbers, NSN/part numbers, nouns and quantities);
(ii) any provisions for extent of quantity variations (see 1-325);
(iii) if the DD Form 1423 (Contract Data Requirements List) is used for obtaining data, one or more line or subline items of data in this Section B referring to the DD Form 1423; (see 16-815)
(iv) information normally contained in Sections C, D, E, and F relating to specific line items may be included in Section B with the appropriate line item.

SECTION C - Description/Specifications.
(i) when the NSN/part number and noun or brief description is not in sufficient detail to permit full and free competition, a sufficient description (including any necessary specifications) of the supplies and services to be furnished shall be provided in this Section C. Reference to specifications shall include identification of all amendments or revisions thereof, applicable to the acquisition and dates of both the specifications and the revisions (see Section 1, Part 12);
(ii) in accordance with 1-1206, the statement in 7-2003.10 for a "brand name or equal" item.

SECTION D - Packaging and Marking.
(i) packaging and marking requirements, if any (see 1-1204).

SECTION E - Inspection and Acceptance.
(i) place of inspection and place of acceptance, and any other instructions required to supplement the requirements of Section XIV, Part 3.

SECTION F - Deliveries or Performance.
(i) the time of delivery or performance (see 1-305);
(ii) place and method of delivery (see Section XIX);
(iii) when MILSTAMP procedures apply to shipments of supplies, a provision setting forth the obligations of the contractor under such procedures (see 19-101).

SECTION G - Contract Administration Data.
(i) accounting and appropriation data (Note: where SF 33 is used, include only data not set forth on that form);
(ii) instructions to paying offices and administrative contracting offices, including name, organization code, and telephone area code, number, and extension of contracting office representative.

SECTION H - Special Provisions.
(i) if the contract is to include option provisions, a clear statement of the provisions (see 1-1506);
(ii) if the contract is to include design-to-cost requirements, provisions in accordance with 1-338;
(iii) if 1-1503(d) applies, a conspicuous notice cautioning offerors that an offer containing an option price higher than the base price may be accepted only if the acceptance does not prejudice any other offeror (this may be placed elsewhere as long as the notice is adjacent to the limitation as to option price);
(iv) if the price negotiated is not predicated on allowability of the cost of money for facilities capital employed, the contract shall include a statement that: the cost of money for facilities capital (15-202.50) is unallowable.
(v) if the contract is to be conditioned on the availability of funds, include one of the clauses in 7-104.91;
(vi) if the contract is multiyear, the provisions required by 1-322.2(a), (b), or (f);
(vii) any progress payments provisions (see Appendix E);
(viii) any applicable Service Contract Act wage determinations of the Secretary of Labor (see Section XII, Part 10);
(ix) any special provisions relating to the Government's providing Government production and research property (see Section XIII, Part 3);
(x) when the clause in 7-104.62 is included in the contract and Appendix I, Table 2, does not list

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addresses of the required special distribution recipients, the applicable names and addresses shall be included in this Section H. The contracting office issuing the contract shall reference the line item as necessary, the addresses of the status control activity/inventory manager, and, if applicable, the processing contracting office cited in the Military Interdepartmental Purchase Request (MIPR);

(xi) in accordance with 1-1208, the clause in 7-104.48 and the clause in 7-104.49;

(xii) if the contract is to contain the Safety Precautions for Ammunition and Explosives clause in 7-104.79, a specific list of any of the mandatory requirements of DoD Manual 4145.26-M that are being waived;

(xiii) when the contract is expected to contain requirements for provisioned items, include the information prescribed in 4-302.1;

(xiv) for acquisitions involving Foreign Military Sales (FMS) or Military Assistance Program (MAP) (Grant Aid), enter the special markings, the applicable FMS country and case identifier or MAP Record Control/Program/Directive Number identifier to permit the contractor to comply with Appendix I-301, Block 16 (12);

(xv) if the contract is for supplies acquired for resale, include the clause in 7-104.88;

(xvi) if international air transportation of personnel and cargo is possible during performance of the contract, include the clause in 7-104.95;

(xvii) in accordance with 9-603(b), insert the Identification of Restricted Rights Computer Software provision in 7-2003.76;

(xviii) if the contract is to involve materials of a hazardous nature, include the clause in 7-104.98 as prescribed by 1-323.2;

(xix) when the proposed contract is to require the contractor to prepare production progress reporting in accordance with the clause in 7-104.51, the contract schedule shall contain instructions as prescribed in 25-202; and

(xx) if the contract is expected to be $500,000 or more, include the clause in 7-104.78 (Geographic Distribution of Defense Subcontract Dollars).

Part II—General Provisions

SECTION I - General Provisions.

(i) such general contract provisions (contract clauses) as are required by law or by this Regulation;

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

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

Part III—List of Documents, Exhibits, and Other Attachments

SECTION J - List of Documents, Exhibits, and Other Attachments.

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

Part IV—General Instructions

SECTION K - Representations, Certifications, and Other Statements of Offeror.

(i) when neither SF 18 nor SF 33 is used, the following shall be included in this Section K:

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

(A) SMALL BUSINESS

He /__/ is, /__/ is not a small business concern. A small business concern for the purpose of Government contracting is a concern, including its affiliates, which is independently owned and operated, is not dominant in the field of operation in which it is quoting on Government contracts, and can further qualify under the criteria concerning number of employees, average annual receipts, or other criteria, as prescribed by the Small Business Administration. (See Code of Federal Regulations, Title 13, Part 121, as amended, which contains detailed industry definitions and related procedures.) If the

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offeror/quoter is a small business concern and is not the manufacturer of the supplies offered, he also represents that all supplies to be furnished /_/ will, /_/ will not, be manufactured or produced by a small business concern in the United States, its possessions, or Puerto Rico.

(B) MINORITY BUSINESS ENTERPRISE

He /_/ is, /_/ is not, a minority business enterprise. A minority business enterprise is defined as a "business, at least 50 percent of which is owned by minority group members or, in case of publicly owned businesses, at least 51 percent of the stocks of which is owned by minority group members." For the purpose of this definition, minority group members are Negroes, Spanish-speaking American persons, American Orientals, American Indians, American Eskimos, and American Aleuts.

(C) REGULAR DEALER-MANUFACTURER (applicable only to supply contracts exceeding $10,000)

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

(D) CERTIFICATION OF INDEPENDENT PRICE DETERMINATION

(Insert the provision in 7-2003.1 in accordance with 1-115(a).)

(ii) when a request for proposals form other than SF 33 is used, a requirement for stipulation of a time within which the Government may accept the proposal;

(iii) when SF 33 is not used, the Contingent Fee clause in 7-2002.1 (if required by 1-506.1) and the following:

(A) TYPE OF BUSINESS ORGANIZATION

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

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

(B) BUY AMERICAN CERTIFICATE

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

Excluded End Products _____
Country of Origin _____

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

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

(vi) unless exempted by 12-805 from inclusion of the Equal Opportunity clause, the provisions in 7-2003.14(b)(1), (2), and (3);

(vii) the clause in 7-2003.13 shall be included in Requests for Proposals that do not involve set-asides for labor surplus area concerns;

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

(ix) if the contract is for the Military Assistance Program, the certificate in 7-2003.50;

(x) if the contract is a supply or service contract pursuant to the Balance of Payments Program, the certificate in 7-2003.52;

(xi) a request that prospective offerors or quoters state whether, to their knowledge, the contract performance involves the acquisition of Government production

and research property, the disposal of which may be restricted by patent or other rights (see 13-307(b));

(xii) when the delivery of technical data is required, insert the provision in 7-2003.66;

(xiii) the appropriate transportation solicitation provisions as required by 2-201(a) Section K (x) through (xiv);

(xiv) (A) in accordance with 3-1203(a), insert the provision in 7-2003.67(a);

(B) in accordance with 3-1204, insert the provision in 7-2003.67(b);

(C) in accordance with 3-1213(a), insert the provision in 7-2003.67(c);

(xv) any requirement for royalty information to be furnished with the offer of quotation (see 9-110(a));

(xvi) when neither SF 33 (Solicitation, Offer, and Award) nor SF 18 (Request for Quotations) is used, insert a requirement for inclusion of "country" as part of quoter's/offeror's address;

(xvii) when the contract is for the purchase of a patented item for which the Government is a licensee (1-304.3), insert the provision in 7-2003.15;

(xviii) when the proposed acquisition consists of a partial set-aside for LSA firms (1-706.7 or 1-804.1) or a partial set-aside for small business firms (1-706.6), include the clause in 7-2003.21;

(xix) the Clean Air and Water certification in 7-2003.71;

(xx) insert the Small Disadvantaged Business Concern representation in 7-2003.74;

(xxi) insert the Woman-Owned Business representation in 7-2003.80;

(xxii) insert the Percent Foreign Content representation in 7-2003.81;

SECTION L - Instructions and Conditions, and Notices to Offerors/Quoters.

(i) when SF 33 is used, it shall be accompanied by SF 33A (Solicitation Instructions and Conditions); alternatively, SF 33A may be incorporated by reference to the form name, number and edition date;

(ii) the Late Technical Proposals provision in 7-2002.3 or the Late Proposals provision in 7-2002.4 (these replace paragraphs 7 and 8 of SF 33A);

(iii) the Order of Precedence provision in 7-2003.41 (this replaces paragraph 19 of SF 33A);

(iv) type of contract contemplated, together with type of repricing, and economic price adjustment, if any;

(v) when telegraphic offers are authorized, a provision similar to that in 7-2003.29;

(vi) permission, if any, to submit alternate offers, including alternate materials or designs (see 1-1207);

(vii) if no award will be made for less than the full quantities solicited, a statement to that effect;

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

(ix) bid guarantee, performance bond, and payment bond requirements, if any (see Section X, Part 1). If a bid bond or other form of bid guarantee is required, the solicitation shall include the provision in 7-2003.25;

(x) directions for obtaining copies of any documents, such as plans, drawings and specifications, that have been incorporated by reference (see 1-1203);

(xi) information as to requirements for a Certificate of Current Cost or Pricing Data (see 3-807);

(xii) any requirements for samples or descriptive literature (for definitions, see 2-202.4 and 2-202.5(a), respectively);

(xiii) when SF 33 is not used, consistent with 3-805.1(a)(v), notice to all offerors that award may be made without discussion of proposals;

(xiv) if the contract involves performance of services on a Government installation, the provision in 7-2003.39;

(xv) in accordance with 6-1104, the U.S.-owned foreign currency provision in 7-2003.62;

(xvi) solicitations that will result in the placement of rated orders or Authorized Controlled Material Orders (see 1-307) shall contain the clause in 7-2003.22;

(xvii) when the contract is to contain a first article approval clause, the statement required by 1-1903;

(xviii) any applicable notices of small business or labor surplus area set-asides (see 1-706 and 1-804.2);

(xix) the applicable size standard and product classification (see 1-701 and 1-703);

(xx) any offer by the Government to provide Government production and research property for the performance of the contract (see Section XIII, Part 3);

(xxi) description of the procedures to be followed in obtaining permission to use Government production and research property (see Section XIII, Parts 4 and 5);

(xxii) the provision in 7-2003.40 concerning unnecessarily elaborate proposals;
(xxiii) the provision in 7-2003.10 (suitably modified for negotiation procedures) when a "brand name or equal" item is being acquired;
(xxiv) instructions regarding the marking of information that is not to be disclosed to the public or used by the Government for any purpose other than the evaluation of the proposals or quotations (see 3-507.1);
(xxv) instructions with respect to disposition of drawings and specifications supplied with the request for proposals or request for quotations;
(xxvi) statutory cost limitation, if any;
(xxvii) if the DD Form 1423 (Contract Data Requirements List) is used, a provision that if the offeror fails to enter the required information in Blocks 25 and 26 of DD Form 1423 in accordance with instructions on the form as part of his submission and refuses to do so on request, his offer may be rejected;
(xxviii) a statement covering special technical capabilities that the offeror must possess;
(xxix) a description of any information required to support proposed prices (subcontract structure, make-or-buy program, purchasing system, royalty, and cost and price information) (see Section III, Parts 8 and 9; Section IX, Part 1; and Section XXIII);
(xxx) in accordance with 7-2003.14(a), the notice of Preaward On Site Equal Opportunity Compliance Review set forth therein;
(xxxi) when Cost/Schedule Control Systems Criteria are required (see 1-331(h)), the provision in 7-2003.43 shall be included;
(xxxii) if the solicitation is to include an Industrial Preparedness production planning line item, the provision in 7-2003.68 shall be included;
(xxxiii) in accordance with 3-213.4, insert the Notice of Possible Standardization provision in 7-2003.38;
(xxxiv) if the contract is for the acquisition of goods or services for MAP, IMET, or FMS, include the clause in 7-104.97;
(xxxv) when the statement of work requires the design, development, or operation of a system of records on individuals for an agency function, insert the provision in 7-2003.72.

SECTION M - Evaluation Factors for Award.
(i) factors other than price (including technical quality when technical proposals or quotations are requested), which will be given paramount consideration in the awarding of the contract; when an award is to be based upon technical and other factors, in addition to price or cost, the solicitation shall clearly inform offerors of (A) the significant evaluation factors, and (B) the relative order of importance the Government attaches to price and all such other factors. Numerical weights, which may be employed in the evaluation of proposals, shall not be disclosed in solicitations;
(ii) statements of information required to enable evaluation of technical and financial capabilities;
(iii) discount provisions (see 2-407.3);
(iv) any provision concerning evaluation or award peculiar to the kind of contract (for example, the provision required by 22-702.1 for laundry and drycleaning services and that required by 22-502 for mortuary services);
(v) if, pursuant to 1-1504, options are to be evaluated for award, the applicable Evaluation of Options provision shall be inserted;
(vi) a statement explaining the evaluation procedure to eliminate the competitive advantage from the rent-free use of Government production and research property (see Section XIII);
(vii) any information pertaining to evaluation and award when first article approval is involved (see 1-1903);
(viii) in a solicitation for supplies of which wool is a component, the Domestic Wool Preference provision in 7-2003.48;
(ix) the appropriate transportation solicitation evaluation provisions in 7-2003.23 and 7-2003.24;
(x) identification of special factors, such as Government costs or other expenditures, including reliability and maintainability requirements, which must be considered in the evaluation of proposals or quotations (The amount of any royalty payable under the royalty-sharing provisions of a previously accepted value engineering change proposal incorporated in the solicitation will be considered in evaluating offers when the value

engineering change is one of two or more acceptable alternatives under the solicitation.); see also 1-304.3;

(xi) when it is determined that transportation costs are not to be evaluated because it is impracticable to do so, the provision is 19-208.4(b).

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

(i) requests for proposals number;

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

(iii) date of issuance;

(iv) closing date and time;

(v) number of pages and list of enclosures;

(vi) requisition or other purchase authority and appropriation and accounting data, if considered appropriate by the contracting activity;

(vii) a brief description of the work to be performed;

(viii) type of contract contemplated, together with type of repricing;

(ix) the time of performance (see 18-805);

(x) bid guarantee, performance bond, and payment bond requirements if any (see Section X, Part 1; 16-401.2(c)(iii)(1); and 18-801). If a bid bond or other form of bid guarantee is required, the solicitation shall include the provision required by 10-102.4;

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

(xii) consistent with 3-805.1(a)(v), notice to all offerors of the possibility that award may be made without discussion of proposals (All requests for proposals for construction shall contain a provision that in the event several proposals are received and the contracting officer is satisfied that the offerors understand the work and are responsible prospective contractors and that the low proposal is reasonable and does not differ unreasonably from the Government estimate, if any, award may be made to the firm whose proposal is low, without further negotiation.);

(xiii) special provisions necessary for the particular procurement, relating to such matters as progress payments (see Appendix E), patent rights (see 18-908), liquidated damages, or Buy American Act (see 7-2003.65);

(xiv) any applicable wage determinations of the Secretary of Labor (see Section XVIII, Part 7);

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

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

(xvii) information as to requirements for Certificate of Current Cost or Pricing Data (see 3-807.3);

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

(xix) instructions regarding the marking of information which is not to be disclosed to the public or used by the Government for any purpose other than the evaluation of the proposals (see 3-507.1);

(xx) directions for obtaining copies of any documents, such as plans, drawings, and specifications, as well as information as to charge, if any, to be made for drawings and specifications (see 16-401.2(c)(iii)(2)(B));

(xxi) Reserved;

(xxii) description of information required to support proposed prices (subcontract structure, purchasing system, royalty, and cost and price information) (see Section III, Part 8, Section IX, Part 1, and Section XXIII);

(xxiii) a statement of small business set-asides;

(xxiv) required representations regarding small business status;

(xxv) except when a waiver has been granted (see 18-110) prior to solicitation, if the solicitation contains one or more items subject to statutory cost limitation, the *Cost Limitation* provision in 7-2003.27;

(xxvi) provisions for performance of work by contractor, see 18-104 and 2-201(b)(xxxi);

(xxvii) estimated magnitude of the proposed construction, see 18-109, where not provided in a pre-invitation notice (see 18-205);

3-502 Solicitation for Informational or Planning Purposes. See 1-309.

3-503 Methods of Soliciting Proposals.

3-503.1 *Bidders Mailing Lists.* Bidders mailing lists for negotiated procurements shall be established, maintained, and utilized in accordance with 2-205.

3-503.2 *Delivery of Solicitations to Prospective Offerors.* When a purchasing office is located in the United States, any solicitation sent to a prospective offeror located at a foreign address shall be sent by international air mail.

3-504 Pre-proposal Conferences.

3-504.1 *General.*

(a) The pre-proposal conference is a procedure which may be used, generally in complex negotiated procurements, as a means of briefing prospective offerors after a solicitation has been issued but before offers or proposals are prepared.

(b) Such a conference permits the Government to explain or clarify complicated specifications and requirements to interested firms. It may also be used to provide an opportunity for interested firms to examine a model of the equipment being procured, where for reasons such as security or limited quantities, such model can only be shown at a specific time and location.

3-504.2 *Procedure.*

(a) When it is determined to be in the best interests of the Government to hold a pre-proposal conference, the contracting officer shall make the necessary arrangements and shall notify all those to whom solicitations have been issued as to the time, place, and general nature of the proposed conference. Such a determination may be made as a result of questions and problems raised by prospective offerors. Adequate notice shall be given to prospective offerors so that all who wish to may arrange for representation. The notice shall define as explicitly as possible the nature and scope of the conference. If time permits, prospective offerors should be asked to submit any questions they may have in advance, in order to give the purchasing office time to prepare and to make the conference as fruitful as possible.

(b) The pre-proposal conference shall be conducted by the contracting officer or his representative, and attended by technical and legal personnel as appropriate.

(c) All prospective offerors shall be furnished identical information in connection with the proposed procurement. Remarks and explanations at the conference shall not qualify the terms of the solicitation and specifications. All conferees shall be advised that unless the solicitation is amended in writing it will remain unchanged and that if an amendment is issued, normal procedures relating to the acknowledgment and receipt of solicitation amendments shall be applied. A complete record shall be made of the conference.

3-505 Amendment of Request for Proposals and Request for Quotations—Prior to Closing Date.

(a) If, after issuance of a request for proposals or quotations but before the closing date of their receipt, it becomes necessary to make a significant change in quantity, specifications, or delivery schedules, or to make any change in closing dates, or to correct a defect or ambiguity, the change shall be accomplished by issuance of an amendment to the request, whether or not a preproposal conference is held. Standard Form 30 (see 16-102.3) shall be used for amending a request for proposals. Requests for quotations may be amended by letter.

(b) When it is considered necessary to issue an amendment to a request for proposals or request for quotations, the period of time remaining before closing and the need for extending this period by postponing the time set for closing must be considered. Where only a short time remains before the time set for closing, consideration should be given to notifying offerors or quoters of an extension of time by telegram or telephone. Such notification should be confirmed in the amendment.

(c) Any information given to a prospective offeror or quoter concerning a request for proposals or request for quotations shall be furnished promptly to all other prospective offerors or quoters as an amendment to the request, whether or not a pre-proposal conference is held, if such information is necessary to offerors or quoters in submitting proposals or quotations on the request, or if the lack of such information would be prejudicial to uninformed offerors or quoters. No award shall be made on a request for proposals unless such amendment thereto has been issued in sufficient time to permit prospective offerors to consider such information in submitting or modifying their proposals.

3-506 Late Proposals and Modifications of Proposals.

(a) This paragraph does not apply to simplified small purchases made pursuant to Section III, Part 6.

(b) Offerors are responsible for submitting proposals and modifications of proposals, including final modifications at the conclusion of negotiations, so as to reach the designated Government office on time. Proposals and modifications of proposals received in the office designated in the request for proposals after the exact time specified are "late" and shall be considered only if the circumstances outlined in the provision in 7-2002.4 are applicable. Unless a specific time for receipt of proposals is stated in the request for proposals, the time for receipt shall be the time for normal close of business of the office designated for receipt of proposals on the date proposals are due.

(c) When a late proposal or modification of proposal is received and it is clear from available information that it cannot be considered for award, the Contracting Officer shall promptly notify the offeror that it was received late and will not be considered (see also 3-506(c)). Such notice need not be given where the proposed contract is to be awarded within a few days and notice pursuant to 3-508.3 would suffice. However, when a late proposal or modification of proposal is transmitted by registered or certified mail and is received before award but it is not clear from available information whether it can be considered, the offeror shall be promptly notified substantially in accordance with the notice

the purchasing or the receiving activity. If practicable, two sources not included in the previous solicitation should be requested to furnish quotations. Quotations should generally be solicited orally except for construction contracts in excess of $2,000. Written solicitations should be used when (i) the suppliers are located outside the local area, (ii) special specifications are involved, (iii) a large number of line items are included in a single proposed procurement, or (iv) obtaining oral quotations is not considered economical or possible.

(b) Reasonableness of a proposed price should be based on competitive quotations. If only one response is received, or the price variance between multiple responses reflects lack of adequate competition, a statement shall be included in the contract file setting forth the basis of the determination of fair and reasonable price. This determination may be based on a comparison of the proposed price with prices found reasonable on previous purchases, current price lists, catalogs, advertisements, similar items in a related industry, value analysis, the contracting officer's personal knowledge of the item being procured, or any other means. Written records of solicitation may be limited to notes or abstracts to show vendor or vendors contacted, prices, delivery, and any other informal historical data. If a separate form is used for documentation of price reasonableness, DD Form 1784, Small Purchase Pricing Memorandum, shall be used (see 16-813). If this form is not used, the price reasonableness statement shall be based on one or more of the criteria set forth on the form. In any case, the contracting officer should gain as much knowledge as practicable of the physical and material characteristics and intended use of the item to be purchased. When only one source is solicited, an additional notation must be made to explain the absence of competition, except for procurement of utility services available only from one source or of educational services from nonprofit institutions. Notification to unsuccessful suppliers shall be given only if requested.

(c) Occasionally an item can be obtained only from a supplier who quotes a minimum order price or quantity, which either unreasonably exceeds stated quantity requirements, or results in an unreasonable price for the quantities required. If practicable before placing the order the requiring activity should be informed in such cases of all facts regarding the quotation and requested to confirm or alter its requirement for the item or items under consideration. The file shall be documented to support the final action taken.

3-605 Blanket Purchase Agreement (BPA).

3-605.1 *General.* A blanket purchase agreement is a simplified method of filling anticipated repetitive needs for small quantities of supplies or services by establishing "charge accounts" with qualified sources of supply (see 12-302, 12-602.1 and 12-1001). Blanket purchase agreements are designed to reduce administrative costs in accomplishing small purchases by eliminating the need for issuing individual purchase documents.

3-605.2 *Limitation on Use.* A blanket purchase agreement may not be used when a call exceeds $5,000 except that BPA calls up to $10,000 may be placed by Inventory Control Points and calls for subsistence items are unlimited as to dollar value. The *Examination of Records by Comptroller General* clause in 7-104.15 and the *Listing of Employment Openings* clause in 7-103.27 shall be included in agreements for subsistence items which do not limit the dollar value of individual calls to less than $10,000.

3-605.3 *Establishment of Blanket Purchase Agreements.*

(a) *Alternate Sources.* To the extent practicable, blanket purchase agreements for items of the same type should be placed concurrently with more than one supplier. All competitive sources should be given an equal opportunity to furnish supplies or services under such agreements.

(b) *Form.*

(1) Except as provided in (2) below, blanket purchase agreements shall be prepared and issued on DD Form 1155 (Order for Supplies or Services/Request for Quotations). Either the "General Provisions," DD Form 1155r, or the "Reverse of Order for Supplies or Services/Request for Quotations—Foreign," DD Form 1155r-1, as applicable, shall be used. Other applicable provisions of the blanket purchase agreement shall be set forth on the Standard Form 36 (Continuation Sheet) or on a blank sheet of paper, including the following:

(i) the Contract Work Hours and Safety Standards Act—Overtime Compensation clause in 7-103.16(a) shall be added unless it is reasonably anticipated that the aggregate of the total dollar amounts of orders to be placed thereunder will be $2,500 or less;

(ii) where the agreement is for the intended purchase of services covered by the Service Contract Act of 1965, as amended, the clause in 7-1903.41(a) or (b) shall be substituted for Clause 16 of the General Provisions and the procedures in 12-1005 complied with, unless it is reasonably anticipated that the aggregate of the total dollar amounts of orders to be placed thereunder will be $2,500 or less;

(iii) where the agreement is for the intended purchase of supplies, the Walsh-Healey Public Contracts Act clause in 7-103.17 shall be added, unless the agreement limits the aggregate total of orders to be placed thereunder to $10,000; and

(iv) where the agreement is for the intended purchase of supplies, the applicable equal opportunity clause in 7-103.18 shall be added.

(2) Blanket purchase agreements issued by the Defense Personnel Support Center may be prepared on its form "Order for Subsistence."

(c) *Numbering.* Enter the Procurement Instrument Identification (PII) number as prescribed in Section XX, Part 2.

(d) *Accounting Data.* Blanket purchase agreements need not cite any accounting data so that purchases utilizing different appropriation data may be made under the same agreement.

(e) *Negotiation Authority.* The Schedule of each agreement shall be annotated as follows:

> The issuance of individual calls under this blanket purchase agreement will be made under the authority of 10 U.S.C. 2304(a)(1), 10 U.S.C. 2304(a)(3), 10 U.S.C. 2304(a)(6), or 10 U.S.C. 2304(a)(17).

If for the purchase of subsistence:

> The issuance of individual calls under this blanket purchase agreement will be made under the authority of 10 U.S.C. 2304(a)(1), 10 U.S.C. 2304(a)(3), 10 U.S.C. 2304(a)(6), 10 U.S.C. 2304(a)(9), or 10 U.S.C. 2304(a)(17).

This annotation shall not be duplicated on forms used to document individual calls, although the specific authority for the call may be cited therein.

of paid reimbursement vouchers ordinarily will suffice for the records of the imprest fund cashier.

(j) *Review.* The imprest fund cashier shall be required to account for the established fund at any time, by cash on hand, paid suppliers' receipts, unpaid reimbursement vouchers, and interim receipts for cash. Unannounced inspections, including cash counts are required to be made of each imprest fund at least quarterly by qualified individuals who are under the jurisdiction of the Comptroller or Chief Accounting Officer of the installation, where such positions exist, but in any case by individuals, excluding the disbursing officer advancing the funds and subordinates of the imprest fund cashier.

3–608 Purchase Orders.

3–608.1 *General.*

(a) Negotiated purchases of supplies, nonpersonal services and construction not in excess of $10,000 may be effected by using DD Form 1155 (*Order for Supplies or Services/Request for Quotations*) and its ancillary forms (for construction see also 16–402.2); Standard Form 44 (*Purchase Order - Invoice Voucher*) may also be used for material and nonpersonal services not in excess of $2,500.

(b) The DD Form 1155 provides for the arrangement of information in fixed locations, including sequential numbering of all blocks, and within certain of these blocks a code box for inserting alpha-numeric codes. The uniform arrangement of data and the provision for codes will facilitate manual and automated processing of contractual documents and interchange of information between purchasing offices and contract administration activities.

3–608.2 *Order for Supplies or Services Request for Quotations (DD Forms 1155, 1155r, 1155r–1; Standard Form 36; DD Form 1155c–1 and Standard Form 30).*

(a) *Forms.* The following forms may be used to issue purchase orders:

(i) DD Form 1155 (Order for Supplies or Services/Request for Quotations) which when used with DD Form 1155r in accordance with 3–608.2(b)(1) or with DD Form 1155r–1 in accordance with 3–608.2(b)(2) as appropriate, provides in one document—

(A) a purchase order, a blanket purchase agreement, a delivery order under a contract, or delivery order on Government agencies outside the Department of Defense (see Section V);

(B) a receiving and inspection report;

(C) a property voucher;

(D) a public voucher; and

(E) a document for acceptance by the supplier.

(ii) Standard Form 36 (Continuation Sheet) provides additional space or a blank sheet of paper may be used;

(iii) DD Form 1155c–1 (Commissary Continuation Sheet) (for use on optional basis), provides columns suited for commissary procurements; and

(iv) Standard Form 30 (Amendment of Solicitation/Modification of Contract) shall be used in all modifications to DD Form 1155 (see 3–608.4).

The foregoing forms may be used as snap-out manifold forms, as cut sheets, or as reproducible masters. In addition, DD Form 1155r or DD Form 1155r–1 may be printed on the reverse of DD Form 1155.

(b) *Conditions for Use.*

(1) *Use as a Purchase Order of Not More Than $10,000 in the United States, its Possessions, and Puerto Rico.* DD Form 1155 is authorized for negotiated purchases of not more than $10,000 within the United States, its possessions, and Puerto Rico, *provided:*

(i) The procurement is unclassified, except that DD Form 1155 may be used for classified procurements if:

(A) the Military Security Requirements clause in 7–104.12 is inserted in the Schedule;

(B) DD Form 254 (Contract Security Classification Specification) (see 16–811) is incorporated in the purchase order; and

(C) the contractor's acceptance of the purchase order is obtained by use of DD Form 1155r at the time of issuance of the order.

(ii) No clause covering the subject matter of any clause set forth in this Regulation, other than clauses on DD Form 1155r (see also 16–303) and clauses referred to in (iii) through (xxxi) below, in 3–608.3, 3–608.4, 14–302, 14–303, 14–304, and 14–306(c), is to be used.

(iii) When the contract specifies the delivery of data, one of the clauses in 7–104.9 shall be added as appropriate in accordance with the instructions contained in Section IX, Part 2.

(iv) When required by Section VI, Part 4, the *Communist Areas* clause in 7–103.15 shall be added.

(v) When required, the *Extent of Quantity Variation* clause in 7–103.4(b) shall be added.

(vi) When required by Section IV, Part 6, Humane Slaughter of Livestock, the procedures in 7–104.30 shall be followed.

(vii) The *Material Inspection and Receiving Report (MIRR)* clause shall be inserted in the Schedule as provided by 7–104.62 when the purchase is to be assigned to another activity for administration. The clause may also be inserted when otherwise desired by the purchase office.

(viii) When Government property having an acquisition cost in excess of $25,000 is to be furnished (for use in performance of contract or for repair), the appropriate Government Property clause or clauses in 7–104.24 shall be inserted in the Schedule. When Government property having an acquisition cost not in excess of $25,000 is to be furnished for use in performance of the contract or for repair, the Government-Furnished Property (Short Form) clause in 7–104.24(f) shall be inserted in the Schedule; *provided* that use of the clause shall be optional when the acquisition cost of property furnished for repair is not in excess of $2,500. When a Government Property clause is inserted in the Schedule, the contractor's signature shall be obtained on DD Form 1155r.

(ix) When the contract is for Military Assistance Program items, the "United States Products (Military Assistance Program)" certificate

3-1209 Additional Documentation. The ACO shall prepare a memorandum indicating action taken on advisory audit reports which do not result in contract price adjustments.

3-1210 DoD Annual Report of Cost Accounting Standards Activity.

(a) DoD and other Government agencies are required to furnish to the CAS Board an annual statistical report within 120 days after the close of each calendar year. The DoD report will include the required information on all affected contracts for which DoD has administrative cognizance, including contracts awarded by non-DoD Federal agencies. Each affected Contract Administration Office shall report the information outlined in (b) below. Each Military Department and affected Defense agency shall review reports originating within their Departments and forward a consolidated report to OUSDR&E(CPF) within 60 days following the end of each calendar year.

Report Control Symbol (RCS) DD- DR&E(A)1222 has been assigned to this report.

(b) Composition of Report.

(1) Format

DoD ANNUAL REPORT OF COST ACCOUNTING STANDARDS ACTIVITY FOR CALENDAR YEAR ____.

DAR 3-1210

1. Disclosure Statement Reviews for Adequacy

	Initial	Revisions
Statements Reviewed	_____	_____
Statements Determined Inadequate	_____	_____

2. Voluntary Changes

Total in Process 1 Jan. _____
Total Received During Year _____

Type I Actions Completed During Year_____

Type II Actions Completed During Year_____

Total Completed During Year _____

Total in Process 31 Dec. _____

Total Net Costs Recovered on Type I Completed Actions $_____

Total Increases for Type II Completed Actions $_____

Total Decreases for Type II Completed Actions $_____

3. Noncompliance Determinations	Pre-award	Performance
Total In Process 1 Jan.	.....	.....
Total Received During Year	_____	_____
Total Completed During Year	_____	_____
Total In Process 31 Dec.	_____	_____
Total Costs Recovered on Completed Noncompliance Actions	.....	.....

4. Equitable Adjustments for New Standards

Total in Process 1 Jan.	.....	
Total Received During Year	_____	
Total Completed During Year	_____	
Total in Process 31 Dec.	_____	
Total Increases for Completed Actions		$.....
Total Decreases for Completed Actions		$_____

5. ASBCA/Court of Claims Appeals

Undecided Cases:

ASBCA Docket Numbers	*Company*	$.....
Court of Claims Docket Numbers	*Company*	$.....
	TOTAL	$.....

Cases Decided		Settlement	
	Amount in Dispute	Contractor	Government
Docket Numbers	$.....	$.....	$.....

6. Suggestions and Recommendations for Revising CASB Standards, Rules and Regulations

(2) Special Instructions

(a) *Disclosure Statement Reviews for Adequacy.* This portion of the report is designed to show the number of Disclosure Statements from prime and subcontractors that have been reviewed by the cognizant ACO and the number that were found to be inadequate. Initial submission refers to that which is the first Disclosure Statement submitted by a contractor who was not previously required to disclose. Revised submission refers to substantive changes to a Disclosure Statement submitted by a contractor for whom a current Disclosure Statement is on file in a CAO. Resubmissions will not be counted. Informal discussions with contractors concerning their Disclosure Statements and voluntary corrections will not be reported.

(b) *Voluntary Changes.* Type I Voluntary Changes are those changes processed in accordance with paragraph (a)(4)(B) of the clause in 7-104.83(a)(1) (Cost Accounting Standards) or paragraph (a)(3) of the clause in 7-104.83(a)(2) (Disclosure and Consistency of Cost Accounting Practices). Type II Voluntary Changes are those changes processed in accordance with paragraph (a)(4)(C) of the clause in 7-104.83(a)(1) or paragraph (a)(5) of the clause in 7-104.83(a)(2). Only those cases on which final agreement has been reached on all issues, including price adjustments, will be reported as completed.

4-108 Grants for Basic Research. Grants are authorized under 42 U.S.C. 1891 for basic research at educational institutions and other nonprofit organizations whose primary purpose is the conduct of scientific research. The policies and procedures for grants are prescribed by other Department of Defense directives as implemented in Departmental procedures.

4-109 Recovery of Nonrecurring Research, Development, Test and Evaluation Costs. See section I, part 24, and 6-1306.

4-110 Cost-Sharing Policy.

4-110.1 *General.* Cost sharing under DoD contracts is encouraged in accordance with OMB Circular A-100 in the procurement of basic and applied

(next page is 4:11)

(d) If property located in a foreign country is offered for exchange/sale, the contracting officer shall comply with Chapter XVI of the Defense Disposal Manual in effecting any exchange/sale of such foreign property.

(e) A minimum of 14 calendar days should be allowed in continental United States for the inspection of property being offered for exchange/sale. For sales outside continental United States, the minimum inspection period should normally be 21 calendar days.

(f) The contracting officer may secure a bidders list, for use in connection with exchange/sale solicitations from the Defense Surplus Bidders Control Office, Defense Property Disposal Service, Federal Center, Battle Creek, Michigan 49016.

4-205.2 *Purchase Request and Certificate.* In connection with a procurement involving exchange/sale, the purchase request must be accompanied with a certificate stating that:

(i) the exchange/sale is economically advantageous;

(ii) the property is eligible for exchange/sale within the terms of applicable statutes and regulations and specifying the restrictions and limitations on the offer for exchange/sale. It is the responsibility of the activity referring exchange/sale property to a contracting officer to designate it as such, inasmuch as contracting officers are not authorized to make this determination;

(iii) the property has been offered to Federal agencies known to use or distribute such property and such agencies have not requested a transfer to them. This screening is not required when the property to be exchanged or sold is eligible for replacement in accordance with standards prescribed by the applicable DoD component.

(iv) when required, the property has been rendered innocuous or demilitarized to the extent required by applicable regulations; and

(v) a written determination has been made to apply the exchange allowances or proceeds of sale in procuring the items covered by the purchase request.

4-205.3 *Sale of Exchange/Sale Property.* A "sale" of exchange/sale property occurs when cash, as distinguished from a trade-in allowance, is received for such property. When, pursuant to criteria in 4-205.1(a)(3), (4) or (5), cash bids only are to be obtained for exchange/sale property, the sale of such property, properly designated as exchange/sale property will be arranged with the disposal officer (not with the procuring contracting officer), in accordance with the Defense Disposal Manual.

4-205.4 *Exchange of Exchange/Sale Property.*

(a) The normal procedure applicable to a procurement coupled with an exchange/sale transaction is formal advertising; however, exchange/sale property may be listed for exchange on a negotiated procurement in the same solicitation which seeks proposals on the new (replacement) items being procured.

(b) If purchase of the new items is to be formally advertised (and except as provided in 4–205.1(a)), each solicitation listing exchange/sale property, in addition to asking for prices for the new items being procured, shall ask for offers in terms of either cash or exchange (trade-in allowance) for the exchange/sale property listed. Also the solicitation in such cases should provide for award(s) on the basis or bases resulting in the best overall arrangement for the Government. Examples: If the lowest net price to the Government of the items to be procured (*i.e.*, the price of the new items less the amount offered for the exchange/sale items either in cash or trade-in) results from an offer by a supplier of the new items who agrees to accept the exchange/sale items as a trade-in, a single award would be made which would cover both the acquisition by the Government of the new items and the disposal of the exchange/sale items by trade-in. If the lowest net price to the Government results from combining a low offered price from a supplier of the new items, and a high cash offer from a different offeror to purchase the exchange/sale items, two awards would be made—one for acquisition of the new items, and the other for sale of the exchange/sale property.

4–205.5 *Proceeds of Sale.* Proceeds from sales of exchange/sale property which are transacted by a disposal officer will be handled as prescribed in Chapter XII, para. M.6, Defense Disposal Manual. Such proceeds can then be used to apply to the acquisition of the new (replacement) items. Proceeds received by the procuring-contracting officer from sale of exchange/sale property shall be turned over to the appropriate finance officer properly identified as proceeds from exchange/sale property so that they may be applied to the purchase of new replacement items.

where payment is to be made in United States dollars only, the procurement shall be made in accordance with 6–806.1.)

6–1106.3 *Awards Requiring Approval by Higher Authority.*

(a) The contracting officer shall refer the proposed procurement to the appropriate official listed in (c) below when:

(i) the lowest responsive offer in excess foreign currency exceeds the lowest responsive United States dollar offer by more than 50% regardless of the United States dollar cost of the contract;

(ii) the lowest responsive United States dollar offer exceeds $50,000; or

(iii) the lowest responsive offer in near-excess foreign currency exceeds the lowest responsive offer in United States dollars.

(b) The contracting officer shall refer the case expeditiously describing, as a minimum, the procurement involved; the number of offers received in each currency category; the lowest responsive offer in United States dollars; the date or dates the offers will expire; and his recommendation as to which offer, if any, should be accepted.

(c) The Secretaries of the Military Departments, the Director of Defense Research and Engineering, the Directors of Defense Agencies, and the Assistant Secretary of Defense (Comptroller), or their designees, shall determine whether a proposed procurement described in (a) above shall be made payable in United States-owned foreign currency or in United States dollars.

6–1107 Determinations of Nonfeasibility and Contract Certifications.

(a) At the time of award, the contracting officer shall determine whether payment in United States-owned foreign currency is feasible.

(b) When the contracting officer determines that it is not feasible under one of the criteria in 6–1108 to use United States-owned foreign currency for payment of a contract, he shall execute a Contract Certification in the following format.

CONTRACT CERTIFICATION

I hereby certify that it is not feasible to make payment under this contract in the country of ..... in the amount of $.....from United States-owned foreign currency for the reason stated. (*Cite the applicable criterion.*)

(*Signature*) .....

(*Typed Name and Title of*
Contracting Officer .....
.....)

(c) When United States-owned foreign currency and United States dollars are combined for payment of a contract, the dollar amount shown in the Contract Certification shall be that amount which is to be paid in United States dollars.

(d) The original and one copy of each Contract Certification shall be furnished to the disbursing officer designated to make payments under the contract; and one signed copy shall be filed with the contract. Other distribution may be made in accordance with Departmental instructions.

6–1108 Criteria for Nonfeasibility Determinations. The following criteria shall be used in determining that payment of contracts in whole or in part in United States-owned foreign currency is not feasible:

(i) the Department of the Treasury is not holding excess or near-excess foreign currency in the country concerned;

(ii) the contract is to be awarded in a foreign country where there is United States-owned foreign currency but where a Treaty, Executive Agreement, or law of the country concerned requires payments to be made in United States dollars;

(iii) responsive offers require payment in United States dollars in whole or in part;

(iv) the only responsive offers received require payment entirely in United States dollars;

(v) the procurement is for a compelling need and of such urgency that serious injury to the United States Government would likely be incurred if payment in excess or near-excess foreign currency were to be insisted upon;

(vi) offers in excess or near-excess foreign currency were unreasonably overpriced in relation to the United States dollar cost or the normal local foreign currency cost to non-Department of Defense users of the same or similar items or services and payment in United States dollars has been authorized by the proper authority under 6-1106.3(c).

6-1109 Excess and Near-Excess Currency Countries.

(a) The Department of the Treasury holds excess foreign currency in the following countries.

Country	*Currency*
Burma	Kyat
Egypt	Pound
Guinea	Franc
India	Rupee
Pakistan	Rupee

(b) The Department of the Treasury holds near-excess foreign currency in the following countries.

Country	*Currency*
Morocco	Dirham
Poland	Zloty
Tunisia	Dinar
Yugoslavia	Dinar

(c) Changes in the currency position of the countries in which excess and near-excess foreign currency is held are disseminated periodically by the Military Departments to their disbursing officers.

6-1110 Contracts With Domestic Concerns. The clause in 7-104.66 shall be included in any contract with a domestic concern (see 6-401(c)) when the contracting officer anticipates the contract will be performed in any United States-owned foreign currency country.

(c) The Procuring Contracting Officer will make a determination with respect to a bona fide employee or agency relationship and reasonableness of the commission or fee (*i.e.*, one of the 6-1305.3(a)(iii) fee statements), subject to the approval of the Chief of the Purchasing Office.

6-1305.5 *Contracting Procedures Relating to Sales Commissions and Fees*

If, after notification by DoD officials responsible for presentation of the Offer and Acceptance to a foreign government as required by 6-1305.3, the foreign government disapproves the fee, or a portion of the fee, the contracting officer will notify the prospective contractor and request withdrawal of the fee for the sales representative from his proposal. Should the contractor refuse to withdraw the fee, the DoD will notify the foreign government that the DoD is unable to procure the items or services from that contractor.

6-1306 Recovery of Nonrecurring Costs.

(a) Policy. It is the policy of the Department of Defense to recover a fair share of its investment in nonrecurring costs related to defense products, and/or a fair price for its contribution to the development of related technology, when such products are sold and when technology relating to the manufacture of the products is sold or licensed to a foreign government, international organization, foreign commercial firm, or domestic organization. Furthermore, in selected cases, it is DOD policy to recover, on behalf of a foreign government or international organization, a fair share of the nonrecurring costs for a special feature or product paid by the foreign government or international organization under a foreign military sales case when subsequent customers purchase the same specialized feature(s).

(b) Applicability.

(1) This policy applies to those products and technologies for which investment costs equal or exceed $5 million for any of the following:

a. Nonrecurring research, development, test, and evaluation (RDT&E) costs to develop defense products and related technology. The determination of RDT&E costs shall be based upon the current and predecessor models of an item or equipment.

b. Nonrecurring production costs.

c. RDT&E and nonrecurring production costs for special features under a foreign military sale, when requested by the FMS customer and agreed to by the U.S. Government.

(2) In the event an end item contains one or more components which individually meet the above thresholds, recoupment will be made on a component when sold separately.

(3) In the case of product sales, if the dollar threshold is met for either nonrecurring RDT&E or production costs, recoupment for both categories of investment costs will be charged.

(c) Procedures. Charges shall be computed and assessed by the DOD officials responsible for presentation of the DD Form 1513. Such charges shall not be included in the contractor's proposed price.

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6-1307 Source Selection.

(a) Procurements for FMS customers shall be implemented under normal procurement and contract management procedures set forth in ASPR and other directives. However, the FMS customer may request that a Defense article or Defense service be obtained from a particular prime source. In such cases, 3-210.2(xviii) provides authority to negotiate on a sole source basis. The FMS customer may also request that a sole source subcontract be placed with a particular firm. The Contracting Officer shall honor requests for sole source prime and subcontracts from the FMS customer as specified in the Letter of Agreement or other written direction by the Military Sales Organization.

(b) Representatives of the FMS customer shall not be permitted to direct the deletion of names of firms from bidders mailing lists or slates of proposed A/E firms. They may, however, suggest that certain firms be included. Purchasing offices shall not accept directions from the FMS customer as to source selection decisions or contract terms (other than the special contract provisions and warranties referred to in Condition *A.2.* of the DD Form 1513), nor shall the FMS customer be permitted to interfere with a prime contractor's placement of his subcontracts. Requests by the FMS customer for rejection of any bid or proposal shall not be honored unless such rejection is justified on the basis of reasons which would be sufficient in the case of a procurement by DoD to meet its own needs.

6-1308 Limitation of Liability. In procurements for FMS, the foreign purchaser shall be advised that the appropriate *Limitation of Liability* clause(s) (see 1-330) are included in the FMS contract (see Condition C on the DD Form 1513). If the foreign customer does not agree to assume the risk for loss or damage as provided in the clause(s) and objects to the inclusion of such clause(s) in the Offer and Acceptance, the contractor shall be so advised. The costs of necessary insurance, if any, to be obtained by the contractor to cover such risk of loss or damage shall be considered in establishing the FMS contract price of such items.

6-1309 Exercise of Options for Foreign Military Sales. The contract shall contain appropriate notice and recognition of the Government's right to exercise the option on behalf of a foreign country (see 1-1503(e), 1-1505(c)(ii), and 7-104.27(d)).

6-1310 Implementation of Offset Arrangements Included in Foreign Military Sales Agreements.

6-1310.1 *Scope of Paragraph.* This paragraph 6-1310 sets forth policies and procedures concerned with the fulfillment of Department of Defense offset agreements (sometimes known as reciprocal procurement arrangements) with foreign countries.

6-1310.2 *General.*

(a) The Office of the Secretary of Defense may, from time to time, determine that it is in the best interests of the Government to enter into FMS agreements with foreign countries with associated procurement offset provisions. These offset provisions typically require the Military Departments or the U. S. prime contractor, or both, to identify items for which foreign sources may obtain contracts up to a specified offset level and in accordance with the terms and conditions of the particular DoD offset agreement. Normally offset agreements should be negotiated prior to the FMS Offer and Acceptance in order that the DoD and its prime contractors have an opportunity to assess in advance the DoD's ability to fulfill the offset, and include in the offer those costs associated with such agreements.

(b) The policy of the Department of Defense is that the U. S. contractor(s) involved in the FMS and the foreign customer will make suitable arrangements to fulfill an offset agreement. Only if it is determined that the offset agreement cannot be fulfilled in this fashion will the Department of Defense seek to fulfill the offset commitments from other Defense procurements. When practical, the U. S. prime contractor shall be contacted and coordination obtained prior to the Government committing the U. S. prime contractor's participtation.

(c) The Defense Security Assistance Agency (DSAA) acts as the focal point within the Executive Branch for inter-agency coordination on offset policy in consultation with the Office of the Assistant Secretary of Defense (International Security Affairs) from whom DSAA derives overall policy guidance. The Office of the Assistant Secretary of Defense (Installations and Logistics) (OASD (I&L)) is responsible for matters pertaining to the fulfillment of the offset portion of FMS agreements. General information regarding the existence of offset agreements with particular countries or implementation of such agreements may be obtained by submitting inquiries through the Departments to the Director, Contract Placement, OASD (I&L). Questions concerning the selection of specific items for offset procurement opportunities, waivers of duty and price differentials, or any other matter concerning specific contractual actions will be referred through the Departments to the Director, Contract Placement, OASD (I&L).

6-1310.3 *Procedures.*

(a) Whenever a FMS offset agreement involves a single major weapon system, the Military Department responsible for acquisition of the weapon system will be responsible for managing any resulting offset program. If a FMS offset agreement involves the sale of items from two or more Departments, OASD (I&L) may either direct that one Department be responsible for coordinating the implementation of the offset agreement, or apportion responsibility for managing the offset program among two or more Departments. Such management includes (i) the development of special contractual provisions consistent with (c) below, (ii) the consideration of other DoD contract items for competition by foreign sources (to the extent other defense procurement is involved or becomes necessary), and (iii) the obtaining of appropriate waivers from Buy American, International Balance of Payments (IBOP), duty, and other similar procurement restrictions. Even though a Department is not involved in managing certain offset agreements, it will consider foreign sources in the country involved for specific competitive procurements upon request of the Department managing the offset.

(2) results in the Contractor not being required to pay or bear the burden of, or in his obtaining a refund or drawback of, any such Federal excise tax or duty which would otherwise have been payable on such transactions or property or which was the basis of an increase in the contract price, the contract price shall be decreased by the amount of the relief, refund, or drawback, or that amount shall be paid to the Government, as directed by the Contracting Officer. The contract price shall be similarly decreased if the Contractor, through his fault or negligence or his failure to follow instructions of the Contracting Officer, is required to pay or bear the burden of, or does not obtain a refund or drawback of, any such Federal excise tax or duty.

(c) Paragraph (b) above shall not be applicable to social security taxes or to any other employment tax.

(d) No adjustment of less than $100 shall be made in the contract price pursuant to paragraph (b) above.

(e) As used in paragraph (b) above, the term "contract date" means the date set for bid opening, or if this is a negotiated contract, the contract date. As to additional supplies or services procured by modification to this contract, the term "contract date" means the date of such modification.

(f) Unless there does not exist any reasonable basis to sustain an exemption, the Government upon the request of the Contractor shall, without further liability, furnish evidence appropriate to establish exemption from any Federal, State, or local tax; *provided* that, evidence appropriate to establish exemption from any Federal excise tax or duty which may give rise to either an increase or decrease in the contract price will be furnished only at the discretion of the Government.

(g) The Contractor shall promptly notify the Contracting Officer of matters which will result in either an increase or decrease in the contract price and shall take action with respect thereto as directed by the Contracting Officer.

(End of clause)

(b) *Noncompetitive Negotiated Contracts.* In accordance with 11-401.2, insert the following clause.

FEDERAL, STATE, AND LOCAL TAXES (1960 JUL)

(a) As used throughout this clause, the term "contract date" means the date of this contract. As to additional supplies or services procured by modification of this contract, the term "contract date" means the date of such modification.

(b) Except as may be otherwise provided in this contract, the contract price includes, to the extent allocable to this contract, all Federal, State, and local taxes which, on the contract date:

(i) by Constitution, statute, or ordinance, are applicable to this contract, or to the transactions covered by this contract, or to property or interests in property; or

(ii) pursuant to written ruling or regulation, the authority charged with administering any such tax is assessing or applying to, and is not granting or honoring an exemption for, a Contractor under this kind of contract, or the transactions covered by this contract, or property or interests in property.

(c) Except as may be otherwise provided in this contract, duties in effect on the contract date are included in the contract price, to the extent allocable to this contract.

(d)(1) If the Contractor is required to pay or bear the burden

(i) of any tax or duty which either was not to be included in the contract price pursuant to the requirements of paragraphs (b) and (c), or of a tax or duty specifically excluded from the contract price by a provision of this contract; or

(ii) of an increase in rate of any tax or duty, whether or not such tax or duty was excluded from the contract price; or

(iii) of any interest or penalty on any tax or duty referred to in (i) or (ii) above,

the contract price shall be increased by the amount of such tax, duty, interest, or penalty allocable to this contract; *provided*, that the Contractor warrants in writing that no amount of such tax, duty, or rate increase was included in the contract price as a contingency reserve or otherwise; and *provided further*, that liability for such tax, duty, rate increase, interest, or penalty was not incurred through the fault or negligence of the Contractor or his failure to follow instructions of the Contracting Officer.

(2) If the Contractor is not required to pay or bear the burden, or obtains a refund or drawback, in whole or in part, of any tax, duty, interest, or penalty which:

(i) was to be included in the contract price pursuant to the requirements of paragraphs (b) and (c),

(ii) was included in the contract price, or

(iii) was the basis of an increase in the contract price, the contract price shall be decreased by the amount of such relief, refund, or drawback allocable to this contract, or the allocable amount of such relief, refund, or drawback shall be paid to the Government, as directed by the Contracting Officer. The contract price also shall be similarly decreased if the Contractor, through his fault or negligence or his failure to follow instructions of the Contracting Officer, is required to pay or bear the burden, or does not obtain a refund or drawback of any such tax, duty, interest, or penalty. Interest paid or credited to the Contractor incident to a refund of taxes shall inure to the benefit of the Government to the extent that such interest was earned after the Contractor was paid or reimbursed by the Government for such taxes.

(3) Invoices or vouchers covering any adjustment of the contract price pursuant to this paragraph (d) shall set forth the amount thereof as a separate item and shall identify the particular tax or duty involved.

(4) This paragraph (d) shall not be applicable to social security taxes, income and franchise taxes, other than those levied on or measured by (i) sales or receipts from sales, or (ii) the Contractor's possession of, interest in, or use of property, title to which is in the Government; excess profits taxes; capital stock taxes; unemployment compensation taxes; or property taxes, other than such property taxes, allocable to this contract, as are assessed either on completed supplies covered by this contract, or on the Contractor's possession of, interest in, or use of property, title to which is in the Government.

(5) No adjustment of less than $100 is required to be made in the contract price pursuant to this paragraph (d).

(e) Unless there does not exist any reasonable basis to sustain an exemption, the Government upon request of the Contractor, without further liability, agrees, except as otherwise provided in this contract, to furnish evidence appropriate to establish exemption from any tax which the Contractor warrants in writing was excluded from the contract price. In addition, the Contracting Officer may furnish evidence appropriate to establish exemption from any tax that may, pursuant to this clause, give rise to either an increase or decrease in the contract price. Except as otherwise provided in this contract, evidence appropriate to establish exemption from duties will be furnished only at the discretion of the Contracting Officer.

(f)(1) The Contractor shall promptly notify the Contracting Officer of all matters pertaining to Federal, State, and local taxes, and duties, that reasonably may be expected to result in either an increase or decrease in the contract price.

(2) Whenever an increase or decrease in the contract price may be required under this clause, the Contractor shall take action as directed by the Contracting Officer, and the contract price shall be equitably adjusted to cover the costs of such action, including any interest, penalty, and reasonable attorneys' fees.

(End of clause)

(c) *Contracts in United States Possessions or Puerto Rico.* In accordance with 11-401.3, insert the following supplementary clause.

TAXES (1963 NOV)

The term "local taxes" as used in the clause of this contract entitled "Federal, State, and Local Taxes" includes taxes imposed by a possession of the United States and the Commonwealth of Puerto Rico.

(End of clause)

(d) *Foreign Contracts not With Foreign Governments.*

(1) In accordance with 11-403.2(a), insert the following clause:

TAXES, DUTIES, AND CHARGES FOR DOING BUSINESS (1977 JAN)

(a) To the extent that this contract provides for the furnishing of supplies or the performance of services outside the United States, its possessions, and Puerto Rico, the following clause is applicable in lieu of the clause in this contract, if any, entitled "Federal, State, and Local Taxes."

(b) As used throughout this clause, the words and terms defined in this paragraph shall have the meanings set forth herein.

(i) The term "country concerned" means any country in which expenditures under this contract are made.

(ii) The words "tax" and "taxes" include fees and charges for doing business that are levied by the government of the country concerned or by political subdivisions thereof.

(iii) The term "contract date" means the date of this contract or, if this is a formally advertised contract, the date set for bid opening; as to additional supplies or services procured by modification to this contract, the term means the date of the modification.

(c) Except as may be otherwise provided in this contract, the contract price includes all taxes and duties in effect and applicable to this contract on the contract date, except taxes and duties (i) from which the Government of the United States, the Contractor, any subcontractor, or the transactions or property covered by this contract are exempt under the laws of the country concerned or political subdivision thereof, or (ii) which the Government of the United States and the government of the country concerned have agreed shall not be applicable to expenditures in such country by or on behalf of the United States.

(d)(1) If the Contractor is required to pay or bear the burden—

(i) of any tax or duty which either was not to be included in the contract price pursuant to the requirements of paragraph (c) hereof, or was specifically excluded from the contract price by a provision of this contract; or

(ii) of an increase in rate of any tax or duty, whether or not such tax or duty was excluded from the contract price; or

(iii) of any interest or penalty on any tax or duty referred to in (i) or (ii) above,

the contract price shall be correspondingly increased; *provided* that the Contractor warrants in writing that no amount of such tax, duty, or increase therein was included in the contract price as a contingency reserve or otherwise; and *provided further*, that liability for such tax, duty, increase therein, interest or penalty was not incurred through the fault or negligence of the Contractor or his failure to follow instructions of the Contracting Officer or to comply with the provisions of subparagraph (e) (1) below.

(2) If the Contractor is not required to pay or bear the burden, or obtains a refund or drawback, in whole or in part, of any tax, duty, increase therein, interest or penalty which (i) was to be included in the contract price pursuant to the requirements of paragraph (c), (ii) was included in the contract price, or (iii) was the basis of an increase in the contract price, the contract price shall be correspondingly decreased or the amount of such relief, refund, or drawback shall be paid to the Government of the United States, as directed by the Contracting Officer, unless, with respect to (i), the Contractor can show, in a manner acceptable to the Contracting Officer, that such tax, duty, increase therein, interest, or penalty had not been included in the contract price. The contract price also shall be correspondingly decreased if the Contractor, through his fault or negligence or his failure to follow instructions of the Contracting Officer or to comply with the provisions of subparagraph (e)(1) below, is required to pay or bear the burden, or does not obtain a refund or drawback of any such tax, duty, increase therein, interest or penalty. Interest paid or credited to the Contractor incident to a refund of taxes or duties shall inure to the benefit of the Government of the United States to the extent that such interest was earned after the Contractor was paid or reimbursed by the Government of the United States for such taxes or duties.

(3) If the Contractor obtains a reduction in his tax liability under the United States Internal Revenue Code of 1954, as amended (Title 26, U.S. Code), on account of the payment of any tax or duty which either (i) was to be included in the contract price pursuant to the requirements of paragraph (c) of this clause, (ii) was included in the contract price, or (iii) was the basis of an increase in the contract price, the amount of the reduction shall be paid or credited to the Government of the United States as the Contracting Officer directs, unless, with respect to (i), the Contractor can show in a manner acceptable to the Contracting Officer, that such tax or duty had not been included in the contract price.

(4) Invoices or vouchers covering any adjustment of the contract price pursuant to this paragraph (d) shall set forth the amount thereof as a separate item and shall identify the particular tax or duty involved.

(5) No adjustment in the contract price or payment or credit to the United States is required pursuant to this paragraph (d) if the total amount thereof for the contract period will be less than one hundred dollars ($100).

(6) Except for the second sentence of subparagraph (2) of this paragraph (d), subparagraphs (1) and (2) of this paragraph (d) shall not be applicable to social security taxes; income and franchise taxes, other than those levied on or measured by (i) sales or receipts from sales, or (ii) the Contractor's possession of, interest in, or use of property, title to which is in the Government; excess profits taxes; capital stock taxes; transportation taxes; unemployment compensation taxes; or property taxes, other than such property taxes, allocable to this contract, as are assessed either on completed supplies covered by this contract, or on the Contractor's possession of, interest in, or use of property, title to which is in the Government.

(e)(1) The Contractor shall take all reasonable action to obtain exemption from or refund of any taxes or duties, including interest or penalty, from which the United States Government, the Contractor, any subcontractor, or the transactions or property covered by this contract are exempt under the laws of the country concerned or political subdivisions thereof, or which the Government of the United States and the government of the country concerned have agreed shall not be applicable to expenditures in such country by or on behalf of the United States.

(2) The Contractor shall promptly notify the Contracting Officer of all matters pertaining to taxes or duties which reasonably may be expected to result in either an increase or a decrease in the contract price.

(3) Whenever an increase or decrease in the contract price may be required under this clause, the Contractor shall take action as directed by the Contracting Officer, and the contract price shall be equitably adjusted to cover the cost of such action, including any interest, penalty, and reasonable attorneys' fees.

(End of clause)

(2) In accordance with 11-403.2(a), insert a clause substantially as follows:

FIXED-PRICE, INTO-PLANE, FUEL CONTRACTS AT OVERSEAS LOCATIONS (JAN 1979)

(a) As used throughout this clause, the following terms shall have the meanings set forth below:

(1) The term "direct tax" means any foreign tax, duty, fee, or like charge, directly applicable to the completed supplies or services covered by this contract. It includes any foreign tax, duty, fee, or like charge, directly applicable to the importation, exportation, production, manufacture, distribution, transportation, storage, withdrawal from storage, handling, receipt, sale, or delivery of such supplies or services. The term does not include unemployment compensation taxes; social security taxes; income taxes; excess-profits taxes; capital stock taxes; property taxes, except such property taxes as are assessed either on completed supplies covered by this contract or on the Contractor's interest in or use of Government-owned property supplied under this contract;

and such other taxes as are not within the definition of the term "direct tax" as set forth in this paragraph. If this contract provides for the furnishing of supplies in Puerto Rico, the term "direct tax" also includes the U.S. import tax on petroleum.

(2) The term "nonrefundable tax" means any direct tax which the Contractor is required to pay and, in respect to which, he is unable to obtain a refund or drawback.

(b) The contract prices do not include any direct tax.

(c) The Contractor shall use all reasonable efforts to collect all refunds or drawbacks due to the Contractor, either in its own right or under any rights and privileges arising out of this contract, of any direct tax which the Contractor is required to pay or bear the burden of.

(d) The Government shall reimburse the Contractor for any nonrefundable tax. Contractor invoices for such reimbursement shall be submitted separately on a monthly basis and, when applicable, shall show credit deductions for all refunds or drawbacks received by the Contractor.

(e) Prior to submitting an initial invoice for any nonrefundable tax, the Contractor shall furnish the Contracting Officer, for approval, a written statement in quadruplicate showing the nature of the nonrefundable tax, the unit rate thereof in U.S. dollars per U.S. gallon, and the airport and grade of product involved. The Contractor shall notify the Contracting Officer by a written statement in quadruplicate of any changes in said unit rates and of any additional nonrefundable tax. The Contracting Officer will inform the Accounting and Finance Office of his approval or disapproval of the rates for which reimbursement is sought. All invoices for any nonrefundable tax submitted by the Contractor shall be forwarded by the Contractor directly to the Accounting and Finance Officer, Attn: Examination Section, DLA Administrative Support Center, Cameron Station, Alexandria, Virginia, 22314, who will certify the invoices for payment only in accordance with unit rates for such taxes as approved by the Contracting Officer.

(f) The provisions of this paragraph (f) shall apply only to the extent that this contract is performed within any of

the following foreign countries: Australia, the Bahamas, Bahrain, Barbados, Belgium, Canada, Republic of China, Denmark (including Greenland), Ethiopia, Federal Republic of Germany (including West Berlin), France, Greece, Iceland, Iran, Italy, Japan, Republic of Korea, Luxembourg, the Netherlands, New Zealand, Norway, Panama, the Philippines, Portugal (including the Azores), Saudi Arabia, Spain, Thailand, Trinidad and Tobago, Turkey, the United Kingdom (including Anegada Island, Antigua Island, Ascension Island, Bermuda, British Indian Ocean Territories (Diego Garcia), Mahe Island, and Turks and Caicos Island), and Yugoslavia. The contract price, including the price in subcontracts, does not include any tax or duty which the Government of the United States and the government of any of the foregoing countries have agreed shall not apply to expenditures in that country by the United States. If any such tax or duty has been included in the contract price through error or otherwise, the contract price shall be correspondingly reduced.

(End of clause)

(e) *Fixed-Price Contracts With Foreign Governments.* In accordance with 11-403.2(b), insert the following clause.

TAXES (1960 JUL)

(a) The contract price, including the prices in any subcontracts hereunder, does not include any tax or duty which the Government of the United States and the Government of ..... have agreed shall not be applicable to expenditures made by the United States in ....., or any tax or duty not applicable to this contract or any subcontracts hereunder, pursuant to the laws of ..... If any such tax or duty has been included in the contract price through error or otherwise, the contract price shall be correspondingly reduced.

(b) If, after the contract date, the Government of the United States and the Government of ..... shall agree that any tax or duty included in the contract price shall not be applicable to expenditures by the United States in ....., the contract price shall be reduced accordingly.

(End of clause)

7-103.11 *Default.*

DEFAULT (1969 AUG)

(a) The Government may, subject to the provisions of paragraph (c) below, by written notice of default to the Contractor, terminate the whole or any part of this contract in any one of the following circumstances:

(i) if the Contractor fails to make delivery of the supplies or to perform the services within the time specified herein or any extension thereof; or

(ii) if the Contractor fails to perform any of the other provisions of this contract, or so fails to make progress as to endanger performance of this contract in accordance with its terms, and in either of these two circumstances does not cure such failure

7-103.13 *Reserved.*

(next page is 7:17)

7-103.14 *Discounts.*

DISCOUNTS (1968 JUN)

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

(End of clause)

When SF 33A is used, the above clause will be substituted for subparagraph (b) of clause 9, *Discounts* (see 16-101.1(ii)).

7-103.15 *Rhodesia and Certain Communist Areas.* In accordance with 6-403, insert the following clause.

RHODESIA AND CERTAIN COMMUNIST AREAS (1977 SEP)

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

(i) any supplies or services originating from sources within Rhodesia and the communist areas of North Korea, Vietnam, or Cuba;

(ii) any supplies, however processed, which are or were located in or transported from or through North Korea, Vietnam, or Cuba; or

(iii) ferrochromium or steel mill products in their basic shapes and forms which contain more than three percent (3%) chromium if they are produced outside of the United States and contain Rhodesian chromium.

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

(End of clause)

7-103.16 *Contract Work Hours and Safety Standards Act—Overtime Compensation.*

(a) In accordance with 12-301 and 12-302, insert the following clause.

CONTRACT WORK HOURS AND SAFETY STANDARDS ACT—OVERTIME COMPENSATION (1971 NOV)

This contract, to the extent that it is of a character specified in the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333), is subject to the following provisions and to all other applicable provisions and exceptions of such Act and the regulations of the Secretary of Labor thereunder.

(a) *Overtime requirements.* No Contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any laborer or mechanic in any workweek in which he is employed on such work to work in excess of eight (8) hours in any calendar day or in excess of forty (40) hours in such workweek on work subject to the provisions of the Contract Work Hours and Safety Standards Act unless such laborer or mechanic receives compensation at a rate not less than one and one-half times his basic rate of pay for all such hours worked in excess of eight (8) hours in any calen-

dar day or in excess of forty (40) hours in such workweek, whichever is the greater number of overtime hours.

(b) *Violation, liability for unpaid wages, liquidated damages.* In the event of any violation of the provisions of paragraph (a), the Contractor and any subcontractor responsible therefor shall be liable to any affected employee for his unpaid wages. In addition, such Contractor and subcontractor shall be liable to the United States for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic employed in violation of the provisions of paragraph (a) in the sum of $10 for each calendar day on which such employee was required or permitted to be employed on such work in excess of eight (8) hours or in excess of his standard workweek of forty (40) hours without payment of the overtime wages required by paragraph (a).

(c) *Withholding for unpaid wages and liquidated damages.* The Contracting Officer may withhold from the Government Prime Contractor, from any moneys payable on account of work performed by the Contractor or subcontractor, such sums as may administratively be determined to be necessary to satisfy any liabilities of such Contractor or subcontractor for unpaid wages and liquidated damages as provided in the provisions of paragraph (b).

(d) *Subcontracts.* The Contractor shall insert paragraphs (a) through (d) of this clause in all subcontracts, and shall require their inclusion in all subcontracts of any tier.

(e) *Records.* The Contractor shall maintain payroll records containing the information specified in 29 CFR 516.2(a). Such records shall be preserved for three (3) years from the completion of the contract.

(End of clause)

(b) The following clause shall be used, in addition to the clause in (a) above, when firefighters or fireguards are to be used.

CONTRACT WORK HOURS AND SAFETY STANDARDS ACT—OVERTIME COMPENSATION — FIREFIGHTERS AND FIREGUARDS (1974 APR)

A workday consisting of a fixed and recurring 24-hour period commencing at the same time on each calendar day may be used in lieu of the calendar day in applying the daily overtime provisions of the Act to the employment of firefighters or fireguards under the following conditions:

(i) Where such employment is under a platoon system requiring such employees to remain at or within the confines of their post of duty in excess of eight (8) hours per day in a standby or on-call status, and

(ii) If the use of such alternate 24-hour day has been agreed upon between the employer and such employees or their authorized representatives before performance of the work, and

(iii) *provided* that in determining the daily and weekly overtime requirements of the Act in any particular worksheet of any such employee whose established worksheet begins at an hour of the calendar day different from the hour when such agreed 24-hour day commences, the hours worked in excess of eight (8) hours in any such 24-hour day shall be counted in the established workweek (of 168 hours commencing at the same time each week) in which such hours are actually worked.

(End of clause)

7-103.17 *Walsh-Healey Public Contracts Act.*

WALSH-HEALEY PUBLIC CONTRACTS ACT (1958 JAN)

If this contract is for the manufacture or furnishing of materials, supplies, articles, or equipment in an amount which exceeds or may exceed $10,000 and is otherwise subject to the Walsh-Healey Public Contracts Act, as amended (41 U.S.C. 35-45), there are hereby incorporated by reference all representations and stipulations required by said Act and regulations issued thereunder by the Secretary of Labor, such representations and stipulations being subject to all applicable rulings and interpretations of the Secretary of Labor which are now or may hereafter be in effect.

(End of clause)

7-104.7 *Contract Schedule Subline Items Not Separately Priced.* In accordance with 20-304.2(c)(ii) and at the option of the contracting officer, the following clause may be inserted.

CONTRACT SCHEDULE SUBLINE ITEMS NOT SEPARATELY PRICED—WITHHOLDING OF BILLING AND PAYMENT (1970 NOV)

If the unit price of any contract subline or exhibit subline item contained in the Schedule of this contract is not separately priced ("NSP" entered as the unit price column) and the unit price for such subline item is included within the unit price of a related subline item, payment shall not be made nor shall the Contractor invoice the Government for any portion of a contract line item or exhibit line item which contains a "NSP" subline until the total quantity of all related contract subline items or exhibit subline items have been delivered and accepted. This clause is not applicable to Technical Data.

(End of clause)

7-104.8 *Reporting and Refund of Royalties.*

(a) In accordance with 9-110(d), insert the following clause.

REPORTING OF ROYALTIES (FOREIGN) (1966 OCT)

(a) If this contract is in an amount which exceeds fifty thousand United States dollars ($50,000), the Contractor shall report in writing to the Contracting Officer, during the performance of this contract the amount of royalties paid or to be paid by the Contractor directly to others in the performance of this contract. The Contractor shall also (i) furnish in writing any additional information relating to such royalties as may be requested by the Contracting Officer, and (ii) insert a provision similar to this clause in any subcontract hereunder which involves an amount in excess of the equivalent of fifty thousand United States dollars ($50,000).

(b) The term "royalties" as used herein refers to any costs or charges in the nature of royalties, license fees, patent or license amortization costs, or the like for the use of or for rights in patents or patent applications.

(End of clause)

(b) In accordance with 9-111, insert the following clause.

REFUND OF ROYALTIES (1968 FEB)

(a) The contract price includes certain amounts for royalties payable by the Contractor or subcontractors or both, which amounts have been reported to the Contracting Officer.

(b) The term "royalties" as used in this clause refers to any costs or charges in the nature of royalties, license fees, patent or license amortization costs, or the like, for the use or for rights in patents and patent applications in connection with the performance of this contract or any subcontract hereunder.

(c) The Contractor shall furnish to the Contracting Officer, before final payment under this contract, a statement of royalties paid or required to be paid in connection with the performance of this contract and subcontracts hereunder together with the reasons therefor.

(d) The Contractor will be compensated for royalties reported under (c) above only to the extent that such royalties were included in the contract price and are determined by the Contracting Officer to be properly chargeable to the Government and allocable to the contract. Therefore, to the extent that any royalties which are included in the contract price are not in fact paid by the Contractor or are determined by the Contracting Officer not to be properly chargeable to the Government and allocable to the contract, the contract price shall be reduced. Repayment or credit to the Government shall be made as the Contracting Officer directs.

(e) If, at any time within three (3) years subsequent to final payment under this contract, the Contractor for any reason is relieved in whole or in part from the payment of the royalties included in the final contract price as adjusted pursuant to paragraph (d) above, the Contractor

shall promptly notify the Contracting Officer of that fact and shall reimburse the Government in a corresponding amount.

(f) The substance of this clause, including this paragraph (f), shall be included in any subcontract in which the amount of royalties reported during negotiation of the subcontract exceeds two hundred and fifty dollars ($250).

(End of clause)

7-104.9 *Rights in Data and Computer Software.*

(a) *Basic Data Clause.* In accordance with 9-203 and 9-603, insert the following clause.

RIGHTS IN TECHNICAL DATA AND COMPUTER SOFTWARE (1979 MAR)

(a) *Definitions.*

(1) *Technical Data* means recorded information, regardless of form or characteristic, of a scientific or technical nature. It may, for example, document research, experimental, developmental or engineering work; or be usable or used to define a design or process or to procure, produce, support, maintain, or operate materiel. The data may be graphic or pictorial delineations in media such as drawings or photographs; text in specifications or related performance or design type documents; or computer printouts. Examples of technical data include research and engineering data, engineering drawings and associated lists, specifications, standards, process sheets, manuals, technical reports, catalog item identifications and related information and computer software documentation. *Technical data* does not include computer software or financial, administrative, cost and pricing, and management data or other information incidental to contract administration.

(2) *Computer* - a data processing device capable of accepting data, performing prescribed operations on the data, and supplying the results of these operations; for example, a device that operates on discrete data by performing arithmetic and logic processes on these data, or a device that operates on analog data by performing physical processes on the data.

(3) *Computer Software* - computer programs and computer data bases.

(4) *Computer Program* - a series of instructions or statements in a form acceptable to a computer, designed to cause the computer to execute an operation or operations. Computer programs include operating systems, assemblers, compilers, interpreters, data management systems, utility programs, sort-merge programs, and ADPE maintenance/diagnostic programs, as well as applications programs such as payroll, inventory control, and engineering analysis programs. Computer programs may be either machine-dependent or machine-independent, and may be general-purpose in nature or designed to satisfy the requirements of a particular user.

(5) *Computer Data Base* - a collection of data in a form capable of being processed and operated on by a computer.

(6) *Computer Software Documentation* - Technical data, including computer listings and printouts, in human-readable form which (i) documents the design or details of computer software, (ii) explains the capabilities of the software, or (iii) provides operating instructions for using the software to obtain desired results from a computer.

(7) *Unlimited Rights* means rights to use, duplicate, or disclose technical data or computer software in whole or in part, in any manner and for any purpose whatsoever, and to have or permit others to do so.

(8) *Limited Rights* means rights to use, duplicate, or disclose technical data, in whole or in part, by or for the Government, with the express limitation that such technical data shall not, without the written permission of the party furnishing such technical data be (a) released or disclosed in whole or in part outside the Government, (b) used in whole or in part by the Government for manufacture, or in the case of computer software documentation, for preparing the same or similar computer software, or (c) used by a party other than the Government, except for:

(i) emergency repair or overhaul work only, by or for the Government, where the item or process concerned is not otherwise reasonably available to enable timely performance of the work, *provided* that the release or disclosure thereof outside the Government shall be made subject to a prohibition against further use, release or disclosure; or

graph shall not impair the right of the Government to use similar or identical data or computer software acquired from other sources.

(c) Copyright

(1) In addition to the rights granted under the provisions of (b) above, the Contractor hereby grants to the Government a nonexclusive, paid-up license throughout the world, of the scope set forth below, under any copyright owned by the Contractor, in any work of authorship prepared for or acquired by the Government under this contract, to reproduce the work in copies or phonorecords, to distribute copies or phonorecords to the public, to perform or display the work publicly, and to prepare derivative works thereof, and to have others do so for Government purposes. With respect to technical data and computer software in which the Government has unlimited rights, the license shall be of the same scope as the rights defined in (a)(7). With respect to technical data in which the Government has limited rights, the scope of the license is limited to the rights defined in (a)(8). With respect to computer software which the parties have agreed in accordance with (b)(3) will be furnished with restricted rights, the scope of the license is limited to such rights.

(2) Unless written approval of the Contracting Officer is obtained, the Contractor shall not include in technical data or computer software prepared for or acquired by the Government under this contract any works of authorship in which copyright is not owned by the Contractor without acquiring for the Government any rights necessary to perfect a copyright license of the scope specified in (c)(1).

(3) As between the Contractor and the Government, the Contractor shall be considered the "person for whom the work was prepared" for the purpose of determining authorship under Section 201(b) of Title 17, United States Code.

(4) Technical data delivered under this contract which carries a copyright notice shall also include the following statement which shall be placed thereon by the Contractor, or should the contractor fail, by the Government:

> This material may be reproduced by or for the U.S. Government purusant to the copyright license under DAR clause 7-104.9(a)(date).

(d) *Removal of Unauthorized Markings.* Notwithstanding any provision of this contract concerning inspection and acceptance, the Government may correct, cancel, or ignore any marking not authorized by the terms of this contract on any technical data or computer software furnished hereunder, if:

(i) the Contractor fails to respond within sixty (60) days to a written inquiry by the Government concerning the propriety of the markings, or

(ii) the Contractor's response fails to substantiate, within sixty (60) days after written notice, the propriety of limited rights markings by clear and convincing evidence, or of restricted rights markings by identification of the restrictions set forth in the contract.

In either case the Government shall give written notice to the Contractor of the action taken.

(e) *Relation to Patents.* Nothing contained in this clause shall imply a license to the Government under any patent or be construed as affecting the scope of any license or other right otherwise granted to the Government under any patent.

(f) *Limitation on Charges for Data and Computer Software.* The Contractor recognizes that the Government or a foreign government with funds derived through the Military Assistance Program or otherwise through the United States Government may contract for property or services with respect to which the vendor may be liable to the Contractor for charges for the use of technical data or computer software on account of such a contract. The Contractor further recognizes that it is the policy of the Government not to pay in connection with its contracts, or to allow to be paid in connection with contracts made with funds derived through the Military Assistance Program or otherwise through the United States Government, charges for data or computer software which the Government has a right to use and disclose to others, which is in the public domain, or which the Government has been given without restrictions upon its use and disclosure to others. This policy does not apply to reasonable reproduction, handling, mailing, and similar administrative costs incident to the furnishing of such data or computer software. In recognition of this policy, the Contractor agrees to participate in and make appropriate arrangements for the exclusion of such charges from such contracts, or for the refund of amounts received by the Contractor with respect to any such charges not so excluded.

(g) *Acquisition of Data and Computer Software from Subcontractors.*

(1) Whenever any technical data or computer software is to be obtained from a subcontractor under this contract, the Contractor shall use this same clause in the subcontract, without alteration, and no other clause shall be used to enlarge or diminish the Government's or the Contractor's rights in that subcontractor data or computer software which is required for the Government.

(2) Technical data required to be delivered by a subcontractor shall normally be delivered to the next-higher tier Contractor. However, when there is a requirement in the prime contract for data which may be submitted with limited rights pursuant to (b)(2) above, a subcontractor may fulfill such requirement by submitting such data directly to the Government rather than through the prime Contractor.

(3) The Contractor and higher-tier subcontractors will not use their power to award subcontracts as economic leverage to acquire rights in technical data or computer software from their subcontractors for themselves.

(End of clause)

(b) *Notice of Certain Limited Rights.* The paragraph (h) set forth below may be added to the clause in (a) above in any contract in which the contracting officer desires notification of limited rights data (see 9-202.2(g)).

(h) (1) Unless the Schedule provides otherwise, and subject to (2) below, the Contractor will promptly notify the Contracting Officer in writing of the intended use by the Contractor or a subcontractor in performance of this contract of any item, component or process for which technical data would fall within paragraph (b)(2) above.

(2) Such notification is not required with respect to:

(i) standard commercial items which are manufactured by more than one source of supply; or

(ii) items, components or processes for which such notice was given pursuant to predetermination of rights in technical data in connection with this contract.

(3) Contracting Officer approval is not necessary under this clause for the Contractor to use the item, component or process in the performance of the contract. (1972 APR)

(c) *Technical Data Clause—Specific Acquisition.* In accordance with 9-203(c), insert the following clause.

RIGHTS IN TECHNICAL DATA—SPECIFIC ACQUISITION (1979 MAR)

(a) *Definition. Technical Data* means recorded information, regardless of form or characteristic, of a scientific or technical nature. It may, for example, document research, experimental, developmental or engineering work; or be usable or used to define a design or process or to procure, produce, support, maintain, or operate materiel. The data may be graphic or pictorial delineations in media such as drawings or photographs; text in specifications or related performance or design type documents; or computer printouts. Examples of technical data include research and engineering data, engineering drawings and associated lists, specifications, standards, process sheets, manuals, technical reports, catalog item identifications, and related information, and documentation related to computer software. Technical data does not include computer software or financial, administrative, cost and pricing, and management data, or other information incidental to contract administration.

(d) *Fixed-Price With Reimbursement Provision.* If the supply or services contract sets out a fixed-price for a portion of the contract but also provides for reimbursement of costs of certain materials, include the clause from (a) above, but substitute the following paragraph (c) for paragraph (c) of the clause.

(c) *Title.* Title to all property furnished by the Government shall remain in the Government. In order to define the obligations of the parties under this clause, title to each item of facilities, special test equipment, and special tooling (other than that subject to a "Special Tooling" clause) acquired by the Contractor for the Government pursuant to this contract shall pass to and vest in the Government when its use in the performance of this contract commences, or upon payment therefor by the Government, whichever is earlier, whether or not title previously vested. Title to all material purchased by the Contractor, for the cost of which the Contractor is entitled to be reimbursed as a direct item of cost under this contract, shall pass to and vest in the Government upon delivery of such material by the vendor. Title to other material, the cost of which is reimbursable to the Contractor under this contract, shall pass to and vest in the Government upon (i) issuance for use of such material in the performance of this contract, or (ii) commencement of processing or use of such material in the performance of this contract, or (iii) reimbursement of the cost thereof by the Government, whichever occurs first. All Government-furnished property, together with all property acquired by the Contractor title to which vests in the Government under this paragraph, is subject to the provisions of this clause and is hereinafter collectively referred to as "Government property." Title to Government property shall not be affected by the incorporation or attachment thereof to any property not owned by the Government, nor shall such Government property, or any part thereof, be or become a fixture or lose its identity as personalty by reason of affixation to any realty.

(e) *"As Is" Government Property.* Insert the following clause, in addition to the clause in (a) above, when Government production and research property is furnished "as is" (see 13-308).

GOVERNMENT PROPERTY FURNISHED "AS IS" (1965 APR)

(a) The Government makes no warranty whatsoever with respect to Government property furnished "as is" except that the property is in the same condition when placed at the f.o.b. point specified in the solicitation as when inspected by the Contractor pursuant to the solicitation, or, if not inspected by the Contractor, as when last available for inspection under the solicitation.

(b) The Contractor may repair any property made available to him "as is". Such repair will be at the Contractor's expense except as otherwise provided in this clause. Such property may be modified at the Contractor's expense, but only with the written permission of the Contracting Officer. Any repair or modification of property furnished "as is" shall not affect the title of the Government.

(c) If there is any change in the condition of Government property furnished "as is" from the time inspected or last available for inspection under the solicitation to the time placed on board at the location specified in the solicitation, and such change will adversely affect the Contractor, the Contractor shall, upon receipt of the property, notify the Contracting Officer of such fact, and, as directed by the Contracting Officer, either (i) return such property at the Government's

expense or otherwise dispose of the property, or (ii) effect repairs to return the property to its condition when inspected under the solicitation, or if not inspected, last available for inspection under the solicitation. Upon completion of (i) or (ii) above, the Contracting Officer upon written request of the Contractor shall equitably adjust any contractual provisions affected by the return, disposition or repair, in accordance with the procedures provided for in the "Changes" clause of this contract. The foregoing provisions for adjustment are exclusive and the Government shall not be liable for any delivery of Government property furnished "as is" in a condition other than that in which it was originally offered.

(d) Except as otherwise provided in this clause, Government property furnished "as is" shall be governed by the "Government Property" clause of this contract.

(End of clause)

(f) *Short Form Clause.* Instead of the clause in (a) above, the following short form clause may be used when:

(i) the Government is to furnish to the contractor Government property having an acquisition cost of $50,000 or less, or

(ii) property is furnished to a contractor for use on a Government installation and contract administration is retained by the purchasing office.

When, pursuant to the authority in 13-803, the procuring contracting officer has authorized Government personnel to maintain Government property records, the second sentence of subparagraph (b) of the clause shall be deleted in its entirety when inserting the Property Records clause in (g) below. In overseas contracts, insert the words "United States" before the words "Government furnished" in the following clause.

GOVERNMENT-FURNISHED PROPERTY (SHORT FORM) (1964 NOV)

(a) The Government shall deliver to the Contractor, for use only in connection with this contract, the property described in the schedule or specifications (hereinafter referred to as "Government-furnished property"), at the times and locations stated therein. If the Government-furnished property, suitable for its intended use, is not so delivered to the Contractor, the Contracting Officer shall, upon timely written request made by the Contractor, and if the facts warrant such action, equitably adjust any affected provision of this contract pursuant to the procedures of the "Changes" clause hereof.

(b) Title to Government-furnished property shall remain in the Government. The Contractor shall maintain adequate property control records of Government-furnished property in accordance with sound industrial practice.

(c) Unless otherwise provided in this contract, the Contractor, upon delivery to him of any Government-furnished property, assumes the risk of, and shall be responsible for, any loss thereof or damage thereto except for reasonable wear and tear, and except to the extent that such property is consumed in the performance of this contract.

(d) The Contractor shall, upon completion of this contract, prepare for shipment, deliver f.o.b. origin, or dispose of all Government-furnished property not consumed in the performance of this contract or not theretofore delivered to the Government, as may be directed or authorized by the Contracting Officer. The net proceeds of any such disposal shall be credited to the contract price or paid in such other manner as the Contracting Officer may direct.

(End of clause)

(g) *Records of Government Property.* In accordance with 13-803, insert the following clause in addition to the clause in (a) or (f) above.

Paragraphs (b) through (j) of the clause set forth in (a)(1) above shall be included as part of the VE Program Requirements clause except that, the guidelines in (a)(2) through (a)(5) above shall also be applicable.

7-104.45 *Limitation of Liability.*

(a) In accordance with 1-330, insert the following clause.

LIMITATION OF LIABILITY (1974 APR)

(a) Except for remedies expressly provided elsewhere in this contract, the Contractor shall not be liable for loss of or damage to property of the Government (excluding the supplies delivered under this contract) occurring after acceptance of the supplies delivered under this contract and resulting from any defects or deficiencies in such supplies.

(b) The foregoing limitations shall not apply when the defects or deficiencies in such supplies or the Government acceptance of such supplies resulted from willful misconduct or lack of good faith on the part of any of the Contractor's directors or officers, or on the part of any of his managers, superintendents, or other equivalent representatives, who have supervision or direction of:

(i) all or substantially all of the Contractor's business; or

(ii) all or substantially all of the Contractor's operations at any one plant or separate location, in which this contract is being performed; or

(iii) a separate and complete major industrial operation in connection with the performance of this contract.

(c) Notwithstanding paragraph (a) above, if the Contractor carries insurance or has established a reserve for self-insurance covering liability for damages or losses suffered by the Government through purchase or use of the contract supplies required to be delivered to the Government under this contract, the Contractor shall be liable to the Government to the extent of such insurance or reserve for self-insurance for damages or losses to property of the Government occurring after acceptance of the supplies delivered to the Government under this contract and resulting from any defects or deficiencies in such supplies.

(d) The substance of this clause, including this paragraph (d) suitably altered to reflect the relationship of the contracting parties, shall be included in all subcontracts hereunder.

(End of clause)

(b) In accordance with 1-330, in procurements of major items, insert the following clause.

LIMITATION OF LIABILITY — MAJOR ITEMS (1979 MAR)

(a) Except as provided below, and notwithstanding any other provision of this contract, the Contractor shall not be liable for loss of or damage to property of the Government (including the supplies delivered under this contract) occurring after acceptance of the supplies delivered under this contract and resulting from any defects or deficiencies in such supplies.

(b) The foregoing limitations shall not apply when the defects or deficiencies in such supplies or the Government acceptance of such supplies resulted from willful misconduct or lack of good faith on the part of any of the Contractor's directors or officers, or on the part of any of his managers, superintendents, or other equivalent representatives, who have supervision or direction of

(i) all or substantially all of the Contractor's business; or

(ii) all or substantially all of the Contractor's operations at any one plant or separate location, in which this contract is being performed; or

(iii) a separate and complete major industrial operation in connection with the performance of this contract.

(c) Notwithstanding paragraph (a) above, if the Contractor carries insurance or has established a reserve for self-insurance covering liability for damages or losses suffered by the Government through purchase or use of the contract supplies required to be delivered to the Government

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under this contract, the Contractor shall be liable to the Government for damages or losses to property of the Government occurring after acceptance of the supplies delivered to the Government under this contract and resulting from any defects or deficiencies in such supplies to the extent of such insurance or reserve for self-insurance.

(d) This clause does not diminish the Contractor's obligation, to the extent otherwise arising under this contract, relating to correction, repair, replacement or other relief for any defect or deficiency in supplies delivered under this contract. If loss or damage has occurred and correction, repair, or replacement is no longer feasible or desired by the Government, the Contractor shall, as determined by the Contracting Officer:

(i) pay to the Government the amount which it would have cost the Contractor to make such correction, repair or replacement before the loss or damage occurred, or

(ii) provide other equitable relief.

(e) The provisions of this clause shall not limit or otherwise affect the Government's rights pursuant to the following listed clauses, if included in this contract:

GROUND AND FLIGHT RISKS,
GOVERNMENT PROPERTY, and
WARRANTY OF TECHNICAL DATA

(f) In all subcontracts hereunder, except those covered by (g) below, the Contractor shall either

(i) insert, with the advance written consent of the Contracting Officer, the substance of this clause, including this paragraph (f), suitably altered to reflect the relationship of the contracting parties; or

(ii) insert the substance of the clause in 7-104.45(a) suitably altered to reflect the relationship of the contracting parties.

(g) In subcontracts for both major items for which this clause is appropriate, and other end items for which the clause in 7-104.45(a) is appropriate, the substance of both clauses shall be included, with the advance written consent of the Contracting Officer. The Contractor shall identify high unit cost items by line item and include the following preamble to this clause:

(The provisions of this clause shall apply only to those items identified in this contract as being subject to this clause.)

(End of clause)

(c) In contracts for the purchase of both major items (see 1-330) for which the clause in (b) above is appropriate, and other contract end items for which the clause in (a) above is appropriate, the clauses in both (a) and (b) above shall be included. The Contracting Officer shall identify high unit cost items by line item and include the following preamble to the Limitation of Liability - Major Items clause:

(The provisions of this clause shall apply only to those items identified in this contract as being subject to this clause.)

7-104.46 *Required Sources for Precision Components for Mechanical Time Devices.* In accordance with 1-2207.4, insert the following clause:

REQUIRED SOURCES FOR PRECISION COMPONENTS FOR MECHANICAL TIME DEVICES (1971 AUG)

(a) For the purpose of this clause:

technical operating characteristics of the proposed electromagnetic radiating device to the Contracting Officer during the initial planning, experimental, or developmental phases of contractual performance. DD Form 1494, "Application for Frequency Allocation," shall be used for this purpose and shall be prepared in accordance with instructions contained on the form.

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

(End of clause)

7-104.62 *Material Inspection and Receiving Report.* Insert the following clause in all contracts which anticipate delivery of a separate and distinct object or entity whether separately priced or not.

MATERIAL INSPECTION AND RECEIVING REPORT (1969 DEC)

At the time of each delivery of supplies or services under this contract, the Contractor shall prepare and furnish to the Government a Material Inspection and Receiving Report in the manner and to the extent required by ASPR Appendix F, "Material Inspection and Receiving Report."

(End of clause)

However, when contract administration is retained by the purchasing office, the clause is not required in the following situations unless the use of a MIRR is desired by the contracting officer:

(i) procurements effected under Section III, Part 6—Small Purchase and Other Simplified Purchase Procedures;

(ii) negotiated subsistence procurements;

(iii) procurements of fresh milk and related fresh dairy products;

(iv) contracts for which the end item is a scientific or technical report;

(v) research and development procurements not requiring the delivery of separately priced end items;

(vi) base, post, camp or station procurements;

(vii) in overseas areas when the contracting officer determines that the preparation and distribution of DD Form 250 by the contractor would be impracticable, the contracting officer shall arrange for the contractor to provide the information necessary for the preparation of the DD Form 250 by the contract administration personnel; and

(viii) procurements for services where hardware is not acquired as an item in the contract, e.g., level of effort type contracts; field service type contracts, etc.

A MIRR is not required when indefinite delivery type contracts are placed by central procurement offices which authorize only base, post, camp or station activities to issue orders, *provided* that such contract and orders are not assigned for administration.

7-104.63 *Protection of Government Buildings, Equipment and Vegetation.* Insert the following clause in all contracts which involve the performance of services on a Government installation.

PROTECTION OF GOVERNMENT BUILDINGS, EQUIPMENT AND VEGETATION (1968 FEB)

The Contractor shall use reasonable care to avoid damaging existing buildings, equipment, and vegetation (such as trees, shrubs, and grass) on the Government installation. If the Contractor fails to do so and damages any such buildings, equipment, or vegetation, he shall replace or repair the damage at no expense to the Government as directed by the Contracting Officer. If he fails or refuses to make such repair or replacement, the Contractor shall be liable for the cost thereof which may be deducted from the contract price.

(End of clause)

7-104.64 *Recovery of Nonrecurring Costs on Commercial Sales of Defense Products and Technology.* In accordance with 1-2403 insert the following clause.

RECOVERY OF NONRECURRING COSTS ON COMMERCIAL SALES (1979 SEP)

(a) Definitions.

(1) *Commercial sale* means a sale to a customer (either foreign or domestic) other than the U.S. Government by a defense contractor of products, technology, material, services, and/or development or production techniques that were originally developed, improved, or produced using DOD appropriations/funds.

(2) *Domestic organization* means any U.S. nongovernmental organization or private commercial firm.

(3) *Technology* means a collection of information of any kind that can be used or adapted for use in the design, production, manufacture, utilization, or reconstruction of articles or materiel. It may take a tangible form, such as as scale model, prototype, blueprint, or an operating manual, or may take an intangible form, such as technical advice.

(4) *Nonrecurring research, development, test, and evaluation (RDT&E) costs* are those costs funded by an RDT&E appropriation to develop or improve the product or technology under consideration. This includes costs of any engineering change proposal initiated prior to date of the contract with the customer, as well as projections of such costs, to the extent additional effort applicable to the sale model or technology is necessary or planned. It does not include costs funded by either Procurement or Operations and Maintenance appropriations to improve the product.

(5) *Nonrecurring production costs* are those one-time costs incurred in support of previous production of the model specified and those costs specifically incurred in support of the total projected production run from which delivery is to be made, which would normally be expensed against a production run. These nonrecurring costs include such costs as preproduction, special tooling, special test equipment, production engineering, product improvement, destructive testing, and pilot model production, testing, and evaluation.

(6) *"Special"RDT&E and nonrecurring production costs* are those incurred for and paid by an FMS customer in developing a special feature or unique requirement under a DOD Offer and Acceptance (DD Form 1513).

(7) *Fair market price of technology*, such as that sold or licensed under a licensing or technical assistant agreement, is a price negotiated between a buyer and seller when the monetary return to the seller is primarily determined by the buyer's need for the technology and the potential market for the product(s) produced from the technology.

(8) *Model* is the generic term applied to a basic item and all modifications to that item. The model can generally be identified by a basic alphanumeric designation, such as a ship hull series, an equipment or system series, an airframe series, or a vehicle series. Recoupment within a model series is identified by determining total nonrecurring investment (RDT&E or production, as appropriate) applicable to that model series and dividing by the total number of units of the model series estimated to be produced for DOD requirements, FMS, and commercial sales.

(9) *Major defense equipment*, as applicable herein, means any item of significant combat equipment on the United States Munitions List having a nonrecurring research and development cost of more than $200 million.

(b) In the event the Contractor intends to enter into domestic or foreign commercial sales for items in this contract, or essentially similar items, or enter into license or technical assistance agreements for the technology developed under this contract, he shall promptly notify the Contracting Officer (or the original DOD Contracting Office in the event the contract is closed) to obtain the applicable nonrecurring recoupment charge.

(1) The Contractor agrees that, with respect to (2) below, he will:

(i) Reimburse the U.S. Government for a fair share of U.S. Government expenditures for nonrecurring costs applicable to the items, or, in the case of technology, the Government's proportionate share of the fair market price of the technology for the commercial customer. In the event that the current charge is unavailable, the Contractor will submit information required to support the development of the appropriate charge.

(ii) Reimburse a fair share of nonrecurring costs related to a special feature or product paid by a foreign government or international organization under a U.S. Government Foreign Military Sales case when the Contractor enters into a commercial sale or license agreement for the same or similar special feature or product.

(2) The Government will require reimbursement under the provisions of this clause when:

(i) The Government's investment in research, development, test, and evaluation (RDT&E) equals or exceeds $5 million.

(ii) The Government's investment in nonrecurring production costs equals or exceeds $5 million.

(iii) A foreign government's RDT&E and nonrecurring production costs for a special feature or product equal or exceed $5 million (when requested under an FMS case and agreed to by the U.S. Government).

(iv) Reimbursement for investment costs below the thresholds in (i) through (iii) are specifically approved by the Secretary of Defense or his designee.

(3) For each commercial sale of the item, the amount to be reimbursed to the U.S. Government for nonrecurring costs shall be determined by dividing the total nonrecurring costs incurred and projected to be incurred by the total production quantity of the item, past and projected, including the production quantity for the Department of Defense (or FMS purchaser in the case of special feature or product recoupment), and multiplying the result by the quantity involved in each commercial sale or license agreement. In principle, for defense equipment for which several model designators exist, the nonrecurring costs and the total production quantity should be accumulated over the entire range of models and major subsystems that are basically similar to the model and subsystems being sold. In a combination FMS and commercial sale of a product, the Contractor agrees to reimburse the Government for the nonrecurring costs associated with the commercial portion of the customer's purchase.

(4) For each commercial sale of technology, these factors will be considered in determining fair market price: (i) the costs incurred by the Department of Defense in developing the technology being considered for sale; (ii) the costs that would be incurred by the buyer in independently developing the technology; and (iii) the estimated dollar value of the product(s) that will be produced by the buyer upon transfer of the technology. In the case of sale or license of technology to a domestic organization, the fair market price will be the lower of either a fair share of the DOD investment cost identified to the development of the technology or a proportionate share of the fair market price for the technology based on demand or the potential monetary return on investment. For sales or licenses of technology to foreign commercial customers, this price will be the greater of these two alternatives. The foregoing domestic pricing criterion will only be applied if the prospective commercial purchaser agrees that, in the event the

technology is transferred from the prospective purchaser to a foreign recipient prior to its becoming generally available, the domestic purchaser will provide further payment to the Government on the basis of the foreign pricing criterion.

(c) The determination by the Government of the amount to be reimbursed pursuant to this clause shall not be subject to the Disputes clause.

(d) In the case of a commercial sale to a foreign government or international organization that qualifies for U.S. Government Foreign Military Sales, the Contractor agrees to inform his customer that any Defense-furnished goods, services, and transportation (i.e., DOD support costs) can be provided only by means of a Foreign Military Sales case (DOD Offer and Acceptance, DD Form 1513) executed by the U.S. Government and the customer. The foreign government, at its option, may designate the Contractor to act as its agent in executing the Foreign Military Sales case and/or to receive possession or performance of the goods, services, or transportation.

(e) In the event of a commercial sale of items developed under this contract, or essentially similar items, or sale or license of technology relating thereto, the Contractor agrees to relieve the Government for any and all loss or liability that might result from the contractor's use of Government data, tooling, test equipment or facilities.

(f) Notwithstanding the provisions of the clauses of this contract entitled "Patent Rights - Retention by the Contractor" and "Rights in Technical Data and Computer Software," the Contractor agrees that his rights to enter into production for commercial sales of the items or essentially similar items, or to sell or license related technology, are expressly contingent upon compliance with the provisions of this clause, provided that the Secretary of Defense or his designee may waive the Government's rights under this clause, in whole or in part, whenever he determines that such action would be in the best interests of the Government.

(g) The substance of this provision shall be placed in all subcontracts for components, or items which can be sold commercially and which meet, or are expected to meet, the thresholds set forth herein.

(End of clause)

7-104.65 *Insurance.* In accordance with 10-405, insert the following clause.

INSURANCE (1977 JAN)

(a) The Contractor shall, at his own expense, procure and maintain during the entire performance period of this contract insurance of at least the kinds and minimum amounts set forth in the Schedule.

(b) Prior to the commencement of work hereunder, the Contractor shall furnish to the Contracting Officer a certificate or written statement of the above-required insurance. The policies evidencing required insurance shall contain an endorsement to the effect that cancellation or any material change in the policies adversely affecting the interests of the Government in such insurance shall not be effective for such period as may be prescribed by the laws of the State in which this contract is to be performed and in no event less than thirty (30) days after written notice thereof to the Contracting Officer.

(c) The Contractor shall also require all first-tier subcontractors who will perform work on a Government installation to procure and maintain the insurance required by the Schedule during the entire period of their performance. The Contractor shall furnish (or assure that there has been furnished) to the Contracting Officer a current Certificate of Insurance meeting the requirements of (b) above for each such first-tier subcontractor, at least five (5) days prior to entry of each such subcontractor's personnel on the Government installation.

(End of clause)

7-104.66 *Use of Excess and Near-Excess Currency.* In accordance with 6-1110, insert the following clause.

ACQUISITION AND USE OF EXCESS AND NEAR-EXCESS CURRENCY (1967 DEC)

The Contractor shall not expend United States dollars for the performance of this contract in any of the countries set forth in the Schedule of this contract for the purchase of currency of such countries or for the purchase of goods or services needed for performance under this contract. The Contractor shall purchase all such currencies from United States disbursing officers in such countries at the rates of exchange used by such officers at the times of purchase.

(End of clause)

7-104.67 *Reserved.*

7-104.68 *Reserved.*

7-104.69 *FOB Point of Delivery of Government-Furnished Property.* When Government property is to be furnished under a contract and the Government will be responsible for transportation arrangements and costs, insert the following clause.

F.O.B. POINT FOR DELIVERY OF GOVERNMENT-FURNISHED PROPERTY (1968 JUN)

(a) Unless otherwise specified herein, any Government property furnished to the Contractor for use within the United States (excluding Alaska and Hawaii) or Canada will be delivered by the Government at a point to be specified by the Contractor in his bid (or proposal). Should the Government elect to make delivery by railroad, the f.o.b. point shall be private siding, Contractor's plant. If the Contractor's plant is not served by rail, the f.o.b. point shall be railroad cars in the same or nearest city having rail service. All linehaul transportation costs to the specified destination will be borne by the Government. The Government may choose the mode of transportation and the carriers.

(b) If the destination of such Government-furnished property is a Contractor's plant located outside the 48 contiguous states, the District of Columbia and Canada, the f.o.b. point for Government delivery of Government-furnished property shall be a location in the United States (excluding Alaska and Hawaii) specified by the Contractor. If the Contractor fails to name a point, then the f.o.b. point shall be the port city in the United States, nearest to the Government source of the Government-furnished property, which has regular commercial water transportation services to the offshore port nearest Contractor's plant.

(c) Unless otherwise directed by the Contracting Officer or provided in the contract, the Contractor shall return all Government-furnished equipment, supplies, and property, including all property not returned in the form of acceptable end items, to the point at which such Government property was originally furnished to the Contractor hereunder. Notwithstanding the fact that the Government may have furnished the property at the Contractor's plant, the Contracting Officer may direct the Contractor to deliver the Government property being returned to, and load, block, and brace it in, railway cars in the city in which the Contractor's plant is located, or, if the Contractor's city is not served by rail service, in the nearest city having rail service. Unless otherwise specified in the contract, all property shall be packed in containers conforming with the

(3) Follow consistently the cost accounting practices disclosed pursuant to (2) above and the established cost accounting practices of the business unit. A change to such practices may be proposed, however, by either the Government or the Contractor, and the Contractor agrees to negotiate with the Contracting Officer the terms and conditions under which a change may be made. After the terms and conditions under which the change is to be made have been agreed to, the change must be applied prospectively to this contract, and the Disclosure Statement if affected must be amended accordingly. No agreement may be made under this provision that will increase costs paid by the United States.

(4) Agree to an adjustment of the contract price of cost allowance, as appropriate, if he or a subcontractor fails to comply with the applicable Cost Accounding Standards or to follow any practice disclosed or established pursuant to subparagraph (a)(2) or (a)(3) above and such failure results in any increased costs paid by the United States. Such adjustment shall provide for recovery of the increased cost to the United States together with interest thereon computed at the rate determined by the Secretary of the Treasury pursuant to Public Law 92-41, 85 Stat. 97, or 7 percent per annum, whichever is less, from the time the payment by the United States was made to the time the adjustment is effected.

(5) When the parties agree to a change to either a disclosed cost accounting practice or an established cost accounting practice, negotiate an equitable adjustment as provided in the changes clause of this contract.

(b) If the parties fail to agree whether the Contractor has complied with an applicable Cost Accounting Standard, rule or regulation of the Cost Accounting Standards Board and as to any cost adjustment demanded by the United States, such failure to agree shall be a dispute concerning a question of fact within the meaning of the disputes clause of this contract.

(c) The Contractor shall permit any authorized representatives of the head of the agency, of the Cost Accounting Standards Board, or of the Comptroller General of the United States to examine and make copies of any documents, papers, or records relating to compliance with the requirements of this clause.

(d) The Contractor shall include in all negotiated subcontracts into which he enters the substance of this clause except paragraph (b) of this section, and shall require such inclusion in all other subcontracts of any tier, except that:

(1) If the subcontract is awarded to a business unit which pursuant to Part 331 is required to follow all Cost Accounting Standards, the clause entitled "Cost Accounting Standards" set forth in DAR 7-104.83(a)(1) shall be inserted in lieu of this clause, or

(2) This requirement shall not apply to negotiated subcontracts where the price negotiated is based on:

(i) Established catalog or market prices of commercial items sold in substantial quantities to the general public or

(ii) Prices set by law or regulation.

(e) The requirement shall not apply to negotiated subcontracts otherwise exempt from the requirement to accept a Cost Accounting Standards clause by reason of Section 331.30(b) of the Board's regulation.

NOTE: The terms defined in Section 331.20 of Part 331 of Title 4, Code of Federal Regulations (4 CFR 331.20) shall have the same meaning herein. As there defined, "negotiated subcontract" means "any subcontract except a firm fixed-price subcontract made by a Contractor or subcontractor after receiving offers from at least two firms not associated with each other or such Contractor or subcontractor, providing (1) the solicitation to all competing firms is identical, (2) price is the only consideration in selecting the subcontractor from among the competing firms solicited, and (3) the lowest offer received in compliance with the solicitation from among those solicited is accepted."

(End of clause)

(b) *Administration of Cost Accounting Standards.* In accordance with 3-1204, insert the following clause.

ADMINISTRATION OF COST ACCOUNTING STANDARDS (1978 MAY)

For the purpose of administering Cost Accounting Standards requirements under this contract, the Contractor shall:

(a) Submit to the cognizant Contracting Officer a description of the accounting change and the general dollar magnitude of the change to reflect the sum of all increases and the sum of all decreases for all contracts containing the Cost Accounting Standards clause (7-104.83(a)(1)) or the Disclosure and Consistency of Cost Accounting Practices clause (7-104.83(a)(2)):

(i) for any change in cost accounting practices required to comply with a new cost accounting standard in accordance with paragraph (a)(3) and (a)(4)(A) of the clause entitled "Cost Accounting Standards" within sixty (60) days (or such other date as may be mutually agreed to) after award of a contract requiring such change:

(b) *Notice.* The primary purpose of this clause is to obtain prompt reporting of Government conduct which the Contractor considers to constitute a change to this contract. Except for changes identified as such in writing and signed by the Contracting Officer, the Contractor shall notify the Administrative Contracting Officer in writing promptly, and in any event within ..... (**to be negotiated*) calendar days from the date that the Contractor identifies any Government conduct (including actions, inactions, and written or oral communications) which the Contractor regards as a change to the contract terms and conditions. The Notice shall state, on the basis of the most accurate information available to the Contractor:

(i) the date, nature, and circumstances of the conduct regarded as a change;

(ii) the name, function, and activity of each Government individual and contractor official or employee involved in or knowledgeable about such conduct;

(iii) the identification of any documents and the substance of any oral communication involved in such conduct;

(iv) in the instance of alleged acceleration of scheduled performance or delivery, the basis upon which it arose;

(v) the particular elements of contract performance for which the Contractor may seek an equitable adjustment under this clause, including:

(1) what contract line item(s) have been or may be affected by the alleged change;

(2) what labor or materials or both have been or may be added, deleted, or wasted by the alleged change;

(3) to the extent practicable, what delay and disruption in the manner and sequence of performance and effect on continued performance have been or may be caused by the alleged change;

(4) what adjustments to contract price, delivery schedule, and other provisions affected by the alleged change are estimated; and

(vi) the Contractor's estimate of the time by which the Government must respond to the Contractor's notice to minimize cost, delay or disruption of performance.

(c) *Continued Performance.* Following submission of the notice required by (b) above, the Contractor shall diligently continue performance of this contract to the maximum extent possible in accordance with its terms and conditions as construed by the Contractor, unless such notice reports a direction of the Contracting Officer or a communication from a specifically authorized representative of the Contracting Officer, in either of which events the Contractor shall continue performance in compliance therewith, *provided*, however, that if the Contractor regards the direction or communication as a change as described in (b) above, notice shall be given as therein provided. All directions, communications, interpretations, orders and similar actions of such specifically authorized representative shall be reduced to writing promptly and copies thereof furnished to the Contractor and to the Contracting Officer. The Contracting Officer shall promptly countermand any action which exceeds the authority of the specifically authorized representative.

(d) *Government Response.* The Contracting Officer shall promptly, and in any event within ..... (**to be negotiated*) calendar days after receipt of **NOTICE**, respond thereto in writing. In such response the Contracting Officer shall either:

(i) confirm that the conduct of which the Contractor gave notice constitutes a change and when necessary direct the mode of further performance;

(ii) countermand any communication regarded as a change;

(iii) deny that the conduct of which the Contractor gave notice constitutes a change and when necessary direct the mode of further performance;

or

(iv) in the event the Contractor's notice information is inadequate to make a decision under (i), (ii), or (iii) above, advise the Contractor what additional information is required, and establish the date by which it should be furnished and the date thereafter by which the Government will respond.

(e) *Equitable Adjustments.* If the Contracting Officer confirms that Government conduct effected a change as alleged by the Contractor, and such conduct causes an increase or decrease in the Contractor's cost of, or the time required for, performance of any part of the work under this contract, whether changed or not changed by such conduct, an equitable adjustment shall be made

(i) in the contract price or delivery schedule or both; and

(ii) in such other provisions of the contract as may be affected,

and the contract shall be modified in writing accordingly. In the case of drawings, designs or specifications which are defective and for which the Government is responsible, the equitable adjustment shall include the cost and time extension for delay reasonably incurred by the Contractor in attempting to comply with such defective drawings, designs or specifications before the Contractor identified, or reasonably should have identified, such defect. When the cost of property made obsolete or excess as a result of a change confirmed by the Contracting Officer pursuant to this clause is included in the equitable adjustment, the Contracting Officer shall have the right to prescribe the manner of disposition of such property. The equitable adjustment shall not include increased costs or time extensions for delay resulting from the Contractor's failure to provide notice or to continue performance as provided, respectively, in (b) and (c) above.

NOTE: The phrases "contract price" and "cost" wherever they appear in the foregoing clause, may be appropriately modified to apply to cost-reimbursement or incentive type contracts, or to combinations thereof.

(End of clause)

7-104.87 *Cost/Schedule Control Systems.* In accordance with 1-331(h), insert the following clause:

COST/SCHEDULE CONTROL SYSTEMS (1979 MAR)

(a) The Contractor shall establish, maintain and use in the performance of this contract Cost/Schedule Control Systems meeting the attached criteria (DODI 7000.2 Performance Measurement for Selected Acquisitions). Prior to acceptance by the Contracting Officer and within ninety* (90) (**or as otherwise agreed to by the parties*) calendar days after contract award, the Contractor shall be prepared to demonstrate the operation of his systems to the Government to verify that the proposed systems meet the established criteria set forth above. As a part of the demonstration, review and acceptance procedure, the Contractor shall furnish the Government a description of the Cost/Schedule Control Systems applicable to this contract in such form and detail as indicated by the AFSCP/AFLCP 173-5, DARCOM-P 715-5, NAVMAT P-5240 Cost Schedule Control Systems Criteria Joint Implementation Guide hereinafter referred to as the guide, or required by the Contracting Officer. The Contractor agrees to provide access to all pertinent records, data and plans as requested by representatives of the Government for the conduct of the review.

(b) The description of the management systems accepted by the Contracting Officer, identified by title and date, shall be referenced in the contract. Such systems shall be maintained and used by the Contractor in the performance of this contract.

(c) Contractor changes to the accepted systems shall be submitted to the Contracting Officer for review and approval. The Contracting Officer shall advise the Contractor of the acceptability of such changes within sixty (60) days after receipt from the Contractor. When systems existing at time of contract award do not comply with the criteria, adjustments necessary to assure compliance will be effected at no change in contract price or fee.

(d) The Contractor agrees to provide access to all pertinent records and data requested by the Contracting Officer or his duly authorized representative for the purpose of permitting Government surveillance to insure continuing application of the accepted systems to this contract. Deviations from accepted systems discovered during contract performance shall be corrected as directed by the Contracting Officer.

(e) The Contractor shall require that each selected subcontractor, as mutually agreed to between the Government and the Contractor and as set forth in the schedule of this contract, shall meet the Cost/Schedule Control Systems criteria as set forth in the guide and shall incorporate in all such subcontracts adequate provisions for demonstration, review, acceptance and surveillance of subcontractors' systems, to be carried out by the Government when requested by either the prime or subcontractor.

(f) If the Contractor or subcontractor is utilizing Cost/Schedule Control Systems which have been previously accepted, or is operating such systems under a current Memorandum of Un-

handling, manufacture, packaging, transportation, storage, inspection or disposal of, or any other use which will involve exposure to such hazardous material as defined in Federal Standard No. 313A ("Material Safety Data Sheet, Preparation and Submission of"). For safety precautions for ammunition and explosives, see 1-323.1.

HAZARDOUS MATERIAL IDENTIFICATION AND MATERIAL SAFETY DATA (1977 OCT)

(a) As used in this clause, *hazardous material* shall be as defined in Federal Standard No. 313A ("Material Safety Data Sheet, Preparation and Submission of"), in effect on the date of this contract.

(b) The Contractor shall prepare and submit Material Safety Data Sheet (Form OSHA-20 (DoD)) in accordance with Federal Standard No. 313A for all hazardous material, whether or not listed in Appendix A of the Standard, delivered pursuant to this contract or for which performance of work, use, handling, manufacture, packaging, transportation, storage, inspection or disposal of, or any other use after delivery to the Government designated destination will involve exposure to hazardous materials or items containing such materials. Material Safety Data Sheets shall be submitted five (5) days prior to delivery of the material.

(c) The requirements of this clause, or any act or failure to act by the Government in surveillance or enforcement of this clause, shall not affect or relieve the Contractor of any responsibility or liability for the safety of Government or Contractor personnel or property, or of any subcontractor or vendor personnel.

(d) Nothing contained in this clause shall relieve the Contractor from complying with applicable federal, state, and local laws, codes, ordinances and regulations (including the obtaining of licenses and permits) in connection with hazardous material in the performance of this contract.

(e) *Government's rights in data furnished under this contract with respect to hazardous material:*

(i) The Government shall have the right to use, duplicate and disclose any data to which this clause is applicable for the purposes of apprising personnel of the hazards to which they may be exposed in using, handling, packaging, transporting, or disposing of hazardous materials and for medical treatment of those affected by such material, and to have others use, duplicate, and disclose such data for the Government for such purposes.

(ii) Such data shall not be duplicated, or disclosed, or released outside the Government, in whole or in part for any procurement or manufacturing purpose, if the following legend is marked on each piece of data to which this clause is applicable:

"This is furnished under United States Government Contract No. ..... and shall not be used, duplicated or disclosed for any procurement or manufacturing purpose without the permission of ..... This legend shall be marked on any reproduction hereof."

(End of legend)

(iii) The Contractor shall not place the legend set forth above or any other restrictive legend on any data which the Contractor or any subcontractor previously delivered to the Government without limitations or which should be delivered without limitations under the conditions prescribed by the "*Rights in Technical Data and Computer Software*" clause of ASPR 7-104.9(a).

(iv) Notwithstanding any other provision of this contract providing for rights in data, the rights of the Government to use, duplicate, and disclose data furnished pursuant to the requirements of this clause shall be as provided by this clause. The Government is not precluded from using similar or identical data acquired from other sources.

(f) The Contractor shall insert this clause, including this paragraph (f), with appropriate changes in the designation of the parties, in any subcontract of any tier (including purchase designations or purchase orders) hereunder which involves hazardous material.

(End of clause)

7-104.99 *Notice of Intent to Disallow or Not Recognize Costs.* Insert the clause in 7-203.35 in all fixed-price incentive contracts and contracts providing for price redetermination.

7-104.100 *Certificate of Conformance.* In accordance with 14-306(c), insert the following clause.

CERTIFICATE OF CONFORMANCE (1979 MAR)

Unless required otherwise in the contract or by the CAO, the Contractor is required to deliver the supplies to be furnished hereunder with a "Certificate of Conformance." In no case shall the Government's right to inspect supplies under the inspection provisions of this contract be prejudiced. The Contractor signed certificate shall be attached to or included on the top copy of the DD 250 or 1155 copies distributed to the payment office. When acceptance is at destination, a copy of the signed certificate shall also be attached to or entered on copies of the DD 250, DD 1155, or other appropriate documents accompanying the shipment. This certificate shall read as follows: "I hereby certify that on _____ (Date) the _____ (Contractor's Name) provided the supplies called for by Contract No. _____ via _____ (Carrier) on _____ (Bill of Lading or Shipping Document) in accordance with all applicable requirements for shipment. I further certify that the supplies are of the quality specified and are in all respects in conformance with the contract requirements, including specifications and/or drawings, preservation, packaging, packing and marking requirements; physical item identification (part number), and in the quantity shown on this, or the attached acceptance document."

Date of Execution: _____

Signature _____

Title _____

(End of Clause)

7-104.101 *Contract Certification - Wage and Price Standards.* In accordance with 1-341(f)(2), insert the following clause.

CONTRACT CERTIFICATION - WAGE AND PRICE STANDARDS (1979 SEP)

(This clause is applicable if the contract, an order against a basic ordering agreement or a supplemental agreement for new work is in excess of $5 million, or indefinite delivery-type contracts when the cumulative value of orders is expected to exceed $5 million.)

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CONTRACT CLAUSES AND SOLICITATION PROVISIONS

(a) The Contractor hereby certifies, as of the date of this contract, to be in compliance with the Wage and Price Standards issued by the Council on Wage and Price Stability (6 CFR 705, Appendix, and Part 706).

(b) If it is later determined, after notice and opportunity to be heard, that the Contractor was willfully not in compliance with such standards as of the date of this contract, then this contract may be terminated in accordance with the provisions of the Termination for Default clause.

(c) Should the Government determine that termination for default would not be in the public interest, the Contractor agrees to accept an equitable reduction of the contract price or cost allowance and profit or fee, as appropriate under the circumstances.

(d) The Contractor shall require a Certification - Wage and Price Standards, limited to (a) above, as a condition of award of any first-tier subcontract which exceeds $5 million. The Contractor further agrees that should any price adjustment in subcontract prices result from the operation of this provision as to subcontracts, he will advise the Contracting Officer and an equitable adjustment of the contract price will be made. The operation of this provision in any subcontract shall not excuse the Contractor from performance of this contract in accordance with its terms and conditions. Any waiver or relaxation of the certification requirements with respect to such first-tier subcontractors can only be made by the Secretary.

(End of clause)

7-105 Additional Clauses. The following clauses shall be inserted in fixed-price supply contracts in accordance with Departmental procedures when it is desired to cover the subject matter thereof in such contracts.

7-105.1 *Alterations in Contract.*

(a)

ALTERATIONS IN CONTRACT (1949 JUL)

The following alterations have been made in the provisions of this contract

(End of clause)

CONTRACT CLAUSES AND SOLICITATION PROVISIONS

otherwise not paid to the Contractor. The completion invoice or voucher shall be submitted by the Contractor promptly following completion of the work under this contract but in no event later than one (1) year (or such longer period as the Contracting Officer may in his discretion approve in writing) from the date of such completion.

(L) The Contractor agrees that any refunds, rebates, credits, or other amounts (including any interest thereon) accruing to or received by the Contractor or any assignee under this contract shall be paid by the Contractor to the Government, to the extent that they are properly allocable to costs for which the Contractor has been reimbursed by the Government under this contract. Reasonable expenses incurred by the Contractor for the purpose of securing such refunds, rebates, credits, or other amounts shall be allowable costs hereunder when approved by the Contracting Officer. Prior to final payment under this contract, the Contractor and each assignee under this contract whose assignment is in effect at the time of final payment under this contract shall execute and deliver:

(i) an assignment to the Government, in form and substance satisfactory to the Contracting Officer, of refunds, rebates, credits, or other amounts (including any interest thereon) properly allocable to costs for which the Contractor has been reimbursed by the Government under this contract; and

(ii) a release discharging the Government, its officers, agents, and employees from all liabilities, obligations, and claims arising out of or under this contract, subject only to the following exceptions:

(A) specified claims in stated amounts or in estimated amounts where the amounts are not susceptible of exact statement by the Contractor;

(B) claims, together with reasonable expenses incidental thereto, based upon liabilities of the Contractor to third parties arising out of the performance of this contract; *provided*, that such claims are not known to the Contractor on the date of the execution of the release; and *provided further* that the Contractor gives notice of such claims in writing to the Contracting Officer not more than six (6) years after the date of the release or the date of any notice to the Contractor that the Government is prepared to make final payment, whichever is earlier; and

(C) claims for reimbursement of costs (other than expenses of the Contractor by reason of his indemnification of the Government against patent liability), including reasonable expenses incidental thereto, incurred by the Contractor under the provisions of this contract relating to patents.

(m) Any cost incurred by the Contractor under the terms of this contract which would constitute allowable cost under the provisions of this clause shall be included in determining the amount payable under this contract, notwithstanding any provisions contained in the specifications or other documents incorporated in this contract by reference, designating services to be performed or materials to be furnished by the Contractor at his expense or without cost to the Government.

(n) Any failure by the parties to agree on a final overhead rate under this clause shall be considered a dispute concerning a question of fact for decision by the Contracting Officer within the meaning of the "*Disputes*" clause of this contract.

(End of clause)

(b) When, in accordance with 3-405.4, incentive revision of the fee in a cost-reimbursement type supply contract is to be provided, insert the following clause. Additional instructions for use of the clause are in (c) below.

ALLOWABLE COST, INCENTIVE FEE, AND PAYMENT (1979 MAR)

(a)(1) For the performance of this contract, the Government shall pay to the Contractor:

(i) the cost thereof (hereinafter referred to as "allowable cost") determined by the Contracting Officer to be allowable in accordance with:

(A) Part 2 of Section XV of the Armed Services Procurement Regulation as in effect on the date of this contract; and

(B) the terms of this contract; and

(ii) a fee determined as provided in this contract.

(2) The target cost and target fee of this contract are set forth in the Schedule and shall be subject to adjustment in accordance with (n) and (o) below. As used throughout this contract the term—

(i) "target cost" means the estimated cost of this contract initially negotiated, adjusted in accordance with (n) below; and

(ii) "target fee" means the fee which was initially negotiated on the assumption that this contract would be performed for a cost equal to the estimated cost of this contract initially negotiated, adjusted in accordance with (n) below.

(b) Payments shall be made to the Contractor when requested as work progresses, but not more frequently than bi-weekly, in amounts approved by the Contracting Officer. The Contractor may submit to an authorized representative of the Contracting Officer, in such form and reasonable detail as such representative may require, an invoice or public voucher supported by a statement of cost for the performance of this contract and claimed to constitute allowable cost. For this purpose, except as provided herein with respect to pension, profit sharing, and employee stock ownership plan contributions, the term "*costs*" shall include only those recorded costs which result, at the time of the request for reimbursement, from payment by cash, check, or other form of actual payment for items or services purchased directly for the contract, together with (when the Contractor is not delinquent in payment of costs of contract performance in the ordinary course of business) costs incurred, but not necessarily paid, for materials which have been issued from the Contractor's stores inventory and placed in the production process for use on the contract, for direct labor, for direct travel, for other direct inhouse costs, and for properly allocable and allowable indirect costs, as is shown by records maintained by the Contractor for purposes of obtaining reimbursement under Government contracts plus the amount of progress payments which have been paid to Contractor's subcontractors under similar cost standards. In addition, when the aforementioned contributions are paid by the Contractor to the pension, profit sharing, or employee stock ownership plan funds less frequently than quarterly, accrued costs therefor shall be excluded from indirect costs for payment purposes until such costs are paid. If such contributions are paid on a quarterly or more frequent basis, accruals therefor may be included in indirect costs for payment purposes *provided* that they are paid to the fund within thirty (30) days after the close of the period covered. If payments are not made to the fund within such thirty-day period, these contributions shall be excluded from indirect cost for payment purposes until payment has been made. (*See 15–205.6(f)*). The restriction on payment more frequently than bi-weekly and the requirement of prior payment for items or services purchased directly for the contract shall not apply where the Contractor is a small business concern.

(c) Promptly after receipt of each invoice or voucher and statement of cost, the Government shall, except as otherwise provided in this contract, subject to the provisions of ((j) below, make payment thereon as approved by the Contracting Officer. Normally, payment of fee shall be made to the Contractor as specified in the Schedule. However, when in the opinion of the Contracting Officer, the Contractor's performance or cost indicates that target will not be achieved, the Government shall pay on the basis of such lesser fee as is appropriate. Further when the Contractor demonstrates that his performance or cost clearly indicates that he will earn a fee significantly in excess of target fee, the Government may, in the sole discretion of the Contracting Officer, pay on the basis of such higher fee as is appropriate. After payment of eighty-five percent (85%) of the applicable fee, the Contracting Officer may withhold further payment of fee until a reserve shall have been set aside in an amount which he considers necessary to protect the interests of the Government, but such reserve shall not exceed fifteen percent (15%) of the total applicable fee or one hundred thousand dollars ($100,000) whichever is less.

(d) Notwithstanding the provisions of paragraph (j) below, allowable indirect costs under this contract shall be obtained by applying overhead rate(s) established in accordance with paragraphs (e) and (f) below.

(e) Final annual overhead rates and the appropriate bases shall be established by procurement or audit determination in accordance with the procedures of Section III, Part 7, of ASPR in effect for the period covered by the proposal.

(f) The Contractor shall, within ninety (90) days after the expiration of each of its fiscal years for estimating, accumulating, and reporting contract costs, or some later date if approved by the Contracting Officer, submit to the Contracting Officer and to the cognizant audit activity a proposed final overhead rate(s) for that period based on the Contractor's actual cost experience during that period, together with supporting cost data specifying the contract(s) and/or subcon-

(I) in the event of the termination of this contract for the convenience of the Government and not for the default of the Contractor, there shall be paid a percentage of the fee equivalent to the percentage of the completion of work contemplated by the contract, but exclusive of subcontract effort included in subcontractors' termination claims, less fee payments previously made hereunder; or

(II) in the event of the termination of this contract for the default of the Contractor, the total fee payable shall be such proportionate part of the fee (or, if this contract calls for articles or services of different types, of such part of the fee as is reasonably allocable to the type of article or services under consideration) as the total number of articles or amount of services delivered to and accepted by the Government bears to the total number of articles or amount of services of a like kind called for by this contract;

if the amount determined under this subparagraph (i) is less than the total payment theretofore made to the Contractor, the Contractor shall repay to the Government the excess amount; or

(ii) if the settlement includes only the fee, the amount thereof will be determined in accordance with the subparagraph (i)(D) above.

(f) Costs claimed, agreed to, or determined pursuant to (c), (d), and (e) hereof shall be in accordance with the Section XV Contract Cost Principles and Procedures of the Armed Services Procurement Regulation as in effect on the date of this contract.

(g) The Contractor shall have the right of appeal, under the clause of this contract entitled "Disputes", from any determination made by the Contracting Officer under paragraphs (c) or (e) above, except that if the Contractor has failed to submit his claim within the time provided in paragraph (c) above and has failed to request extension of such time, he shall have no such right of appeal. In any case where the Contracting Officer has made a determination of the amount due under paragraph (c) or (e) above, the Government shall pay to the Contractor the following: (i) if there is no right of appeal hereunder or if no timely appeal has been taken, the amount so determined by the Contracting Officer, or (ii) if an appeal has been taken, the amount finally determined on such appeal.

(h) In arriving at the amount due the Contractor under this clause, there shall be deducted (i) all unliquidated advance or other payments theretofore made to the Contractor, applicable to the terminated portion of this contract; (ii) any claim which the Government may have against the Contractor in connection with this contract; and (iii) the agreed price for, or the proceeds of sale of, any materials, supplies, or other things acquired by the Contractor or sold pursuant to the provisions of the clause and not otherwise recovered by or credited to the Government.

(i) In the event of a partial termination, the portion of the fee which is payable with respect to the work under the continued portion of the contract shall be equitably adjusted by agreement between the Contractor and the Contracting Officer, and such adjustment shall be evidenced by an amendment to this contract.

(j) The Government may from time to time, under such terms and conditions as it may prescribe, make partial payments and payments on account against costs incurred by the Contractor in connection with the terminated portion of the contract whenever in the opinion of the Contracting Officer the aggregate of such payments shall be within the amount to which the Contractor will be entitled hereunder. If the total of such payments is in excess of the amount finally determined to be due under this clause, such excess shall be payable by the Contractor to the Government upon demand, together with interest computed at the rate established by the Secretary of the Treasury pursuant to Public Law 92–41, 85 STAT 97 for the Renegotiation Board, for the period from the date such excess payment is received by the Contractor to the date on which such excess is repaid to the Government; *provided*, however, that no interest shall be charged with respect to any such excess payment attributable to a reduction in the Contractor's claim by reason of retention or other disposition of termination inventory until 10 days after the date of such retention or disposition, or such later date as determined by the Contracting Officer by reason of the circumstances.

(k) The provisions of this clause relating to the fee shall be inapplicable if this contract does not provide for payment of a fee.

(End of clause)

7-203.11 *Excusable Delays.* In accordance with 8-708, insert the following clause.

EXCUSABLE DELAYS (1969 AUG)

Except with respect to defaults of subcontractors the Contractor shall not be in default by reason of any failure in performance of this contract in accordance with its terms (including any failure by the Contractor to make progress in the prosecution of the work hereunder which endangers such performance) if such failure arises out of causes beyond the control and without the fault or negligence of the Contractor. Such causes may include, but are not restricted to: acts of God or of the public enemy; acts of the Government in either its sovereign or contractual capacity; fires; floods; epidemics; quarantine restrictions; strikes; freight embargoes; and unusually severe weather; but in every case the failure to perform must be beyond the control and without the fault or negligence of the Contractor. If the failure to perform is caused by the failure of a subcontractor to perform or make progress and if such failure arises out of causes beybnd the control of both the Contractor and subcontractor, and without the fault or negligence of either of them, the Contractor shall not be deemed to be in default, unless (i) the supplies or services to be furnished by the subcontractor were obtainable from other sources (ii) the Contracting Officer shall have ordered the Contractor in writing to procure such supplies or services from such other sources, and (iii) the Contractor shall have failed to comply reasonably with such order. Upon request of the Contractor, the Contracting Officer shall ascertain the facts and extent of such failure and, if he shall determine that any failure to perform was occasioned by any one or more of the said causes, the delivery schedule shall be revised accordingly, subject to the rights of the Government under the clause hereof entitled "Termination." (As used in this clause, the terms "subcontractor" and "subcontractors" mean subcontractor(s) at any tier.)

(End of clause)

7-203.12 *Disputes.* Insert the clause in 7-103.12.

7-203.13 *Reserved.*

7-203.14 *Commercial Bills of Lading Covering Shipment To or From Contractor's Plant.* In accordance with 19-217.1(b), insert the following clause.

COMMERCIAL BILL OF LADING NOTATIONS (1969 DEC)

Prior to directing any shipment on a commercial bill of lading for which the Contractor will be reimbursed transportation costs as a direct allowable cost, the Contractor shall insure that the commercial shipping documents are annotated with either of the following notations, as appropriate:

(i) when the Government is shown as the consignor or the consignee, the notation:
"Transportation hereunder is for the U.S. Department of Defense and the actual charges paid to the carrier(s) by the consignor or consignee are assignable to, and are to be reimbursed by, the Government."

(ii) when the Government will not be shown as the consignor or the consignee, the notation:
"Transportation hereunder is for the U.S. Department of Defense, and the actual total transportation charges paid to the carrier(s) by the consignor or consignee are to be reimbursed by the Government pursuant to cost-reimbursable contract No. ..... This may be confirmed by contacting ..... (name and address of in the contract administration office listed in the contract such as DCASR, Detroit, Michigan, 1580 E. Grand Blvd., Detroit, Michigan 48211)."

(End of clause)

7-203.15 *Convict Labor.* In accordance with 12-203, insert the clause in 7-104.17.

LIMITATION OF LIABILITY - MAJOR ITEMS (1979 MAR)

(a) Except as provided below and notwithstanding any other provision of this contract, the Contractor shall not be liable for loss of or damage to property of the Government (including the supplies delivered under this contract) occurring after acceptance of the supplies delivered under this contract and resulting from any defects or deficiencies in such supplies.

(b) The foregoing limitations shall not apply when the defects or deficiencies in such supplies or the Government acceptance of such supplies resulted from willful misconduct or lack of good faith on the part of any of the Contractor's directors or officers, or on the part of any of his managers, superintendents, or other equivalent representatives, who have supervision or direction of:

(i) all or substantially all of the Contractor's business; or

(ii) all or substantially all of the Contractor's operations at any one plant or separate location, in which this contract is being performed; or

(iii) a separate and complete major industrial operation in connection with the performance of this contract.

(c) Notwithstanding paragraph (a) above, if the Contractor carries insurance or has established a reserve for self-insurance covering liability for damages or losses suffered by the Government through purchase or use of the contract supplies required to be delivered to the Government under this contract, the Contractor shall be liable to the Government for damages or losses to property of the Government occurring after acceptance of the supplies delivered to the Government under this contract and resulting from any defects or deficiencies in such supplies to the extent of such insurance or reserve for self-insurance.

(d) This clause does not diminish the Contractor's obligation, to the extent otherwise arising under this contract, relating to correction, repair, replacement or other relief for any defect or deficiency in supplies delivered under this contract.

(e) The provisions of this clause shall not limit or otherwise affect the Government's rights pursuant to the following listed clauses, if included in this contract:

GROUND AND FLIGHT RISKS,
AIRCRAFT FLIGHT RISK,
GOVERNMENT PROPERTY, and
WARRANTY OF TECHNICAL DATA.

(f) In all subcontracts hereunder, except those covered by (g) below, the Contractor shall either:

(i) insert, with the advance written consent of the Contracting Officer, the substance of this clause including this paragraph (f) suitably altered to reflect the relationship of the contracting parties; or

(ii) insert the substance of the clause in 7-104.45(a), suitably altered to reflect the relationship of the contracting parties.

(g) In subcontracts for both major items for which this clause is appropriate, and other end items for which the clause in 7-104.45(a) is appropriate, the substance of both clauses shall be included, with the advance written consent of the Contracting Officer. The Contractor shall identify high unit cost items by line item and include the following preamble to this clause:

(The provisions of this clause shall apply only to those items identified in this contract as being subject to this clause.)

(End of clause)

(b) In contracts for the purchase of both major items (see 1-330) for which the clause in (a) above is appropriate, and other contract end items for which the clause in 7-104.45(a) is appropriate, both clauses shall be included. The Contracting Officer shall identify high unit cost items by line item and include the following preamble to the Limitation of Liability - Major Items clause:

(The provisions of this clause shall apply only to those items identified in this contract as being subject to this clause.)

7-204.34 *Multi-Year Procurement.* In accordance with 1-322.5, insert the clauses in 7-104.47.

7-204.35 *New Material.* In accordance with 1-1208, insert the clause in 7-104.48.

7-204.36 *Aircraft, Missile, and Space Vehicle Accident Reporting and Investigation.* In accordance with 7-104.81, insert the clause therein.

7-204.37 *Minority Business Enterprises.* In accordance with 1-332, insert the appropriate clause or clauses in 7-104.36.

7-204.38 *Special Test Equipment.* Insert the clause in 7-104.26 in negotiated contracts which provide that the contractor will acquire special test equipment for the Government but do not specify the items to be acquired (see 13-306.3(c)).

7-204.39 *First Article Approval.*

(a) In accordance with 1-1904, insert the clause in 7-104.55(a) with appropriate modifications.

(b) In accordance with 1-1904, insert the clause in 7-104.55(b) with appropriate modifications.

7-204.40 *Order of Precedence.* In accordance with 3-501(b)Sec.C(xxxi), insert the clause in 7-2003.41.

7-204.41 *United States Products and Services (Balance of Payments Programs).* In accordance with 6-806.4, insert the clause in 7-2003.53.

7-204.42 *Identification of Expenditures in the United States.* In accordance with 6-807, insert the clause in 7-104.58.

7-204.43 *Reserved.*

7-204.44 *Material Inspection and Receiving Report.* Insert the clause in 7-104.62 except in negotiated subsistence procurements and contracts for tanker/barge shipments of bulk petroleum products.

7-204.45 *Recovery of Nonrecurring Costs on Foreign Sales of Major Defense Equipment.* Insert the clause in 7-104.64, as appropriate.

7-204.46 *Use of Excess and Near-Excess Currency.* In accordance with the requirements of 6-1110, insert the clause in 7-104.66.

7-204.47 *Production Progress Report.* In accordance with the requirements of 25-202, insert the clause in 7-104.51.

7-204.48 *Procurement of Miniature and Instrument Ball Bearings.* In accordance with 1-2207.3 , insert the clause in 7-104.38.

7-204.49 *Safety Precautions for Ammunition and Explosives.* In accordance with 7-104.79, insert the clause therein.

7-204.50 *Notice of Radioactive Materials.* In accordance with 7-104.80, insert the clause therein.

7-204.51 *Procurement of Precision Components for Mechanical Time Devices.* In accordance with 1-2207.4 , insert the clause in 7-104.46.

7-204.52 *Payment of Interest on Contractors' Claims.* In accordance with 1-333, insert the clause in 7-104.82.

7-204.53 *Cost Accounting Standards.* In accordance with 3-1204, insert the clauses in 7-104.83.

7-204.54 *Contractor's Identification of Changes.* In accordance with 26-802, insert a clause as provided in 7-104.86.

7-204.55 *Cost/Schedule Control Systems.* In accordance with 1-331(h) and 3-501(b) Section C (xlv), insert the clause in 7-104.87.

7-204.56 *Engineering Change Proposals (ECP's).* In accordance with 26-205, insert the clause in 7-104.89.

7-204.57 *Change Order Accounting.* In accordance with 26-205, insert the clause in 7-104.90.

7-204.58 *Time of Delivery.* Insert a clause in accordance with 7-104.92.

7-204.59 *Capture and Detention.* In accordance with 10-406, insert the clause in 7-104.94.

7-204.60 *Preference For United States Flag Air Carriers.* In accordance with 1-336.1(b), insert the clause in 7-104.95.

7-204.61 *Submission of Commercial Freight Bills to the General Services Administration for Audit.* In accordance with 19-403.2(c), insert the following clause

SUBMISSION OF COMMERCIAL FREIGHT BILLS TO THE GENERAL SERVICES ADMINISTRATION FOR AUDIT (1976 FEB)

When transportation costs are reimbursed to the Contractor, the Contractor is required to furnish to the

General Services Administration — FZATR
Chester A. Arthur Building
Washington, D. C. 20406

(or to the ACO if specified) individual commercial freight bills (or equivalent shipment data and evidence of payment) for transportation charges in excess of $500.00.

(End of clause)

7-204.62 *Privacy Act.* In accordance with 1-327.1, insert the clause in 7-104.96.

7-204.63 *Preference for Domestic Specialty Metals.* In accordance with 7-104.93, insert the applicable clause therein.

7-204.64 *Exclusionary Policies and Practices of Foreign Governments.* In accordance with 6-1312, insert the clause in 7-104.97.

7-204.65 *Hazardous Material Identification and Material Safety Data.* In accordance with 1-323.2(b), insert the clause in 7-104.98.

7-204.66 *Geographic Distribution of Defense Subcontract Dollars.* In accordance with 1-340, insert the clause in 7-104.78 .

7-204.67 *Contract Certification - Wage and Price Standards.* In accordance with 1-341(f), include the clause in 7-104.101.

7–205 Additional Clauses. The following clauses shall be inserted in cost-reimbursement type supply contracts in accordance with Departmental procedures when it is desired to cover the subject matter thereof in such contracts.

7–205.1 *Alterations in Contract.* The clause in 7–105.1(a) may be inserted.

7–205.2 *Approval of Contract.* The clause in 7–105.2 may be inserted.

7–205.3 *Title and Risk of Loss.* Insert the clause in 7–103.6.

7–205.4 *Bill of Materials.* In accordance with 7–105.6, insert the clause therein.

7–205.5 *Reserved.*

7–205.6 *Stop Work Orders.* The clause in 7–105.3, if modified by changing (i) the words "the 'Termination for Convenience' clause of this contract" to "the 'Termination' clause of the contract" and (ii) the words "an equitable adjustment shall be made in the delivery schedule or contract price, or both" to "an equitable adjustment shall be made in the delivery schedule, the estimated cost, the fee, or a combination thereof, and in any other provisions of the contract that may be affected," is authorized for use in any cost-reimbursement type contract under the criteria and in accordance with the instructions in 7–105.3.

7–205.7 *Warranty of Technical Data.* In accordance with 1–324.6, insert the clause in 7–104.9(o).

thereof, unless one or more extensions in writing are granted by the Contracting Officer upon written request of the Contractor within such one year period or authorized extension thereof. Upon failure of the Contractor to submit his termination claim within the time allowed, the Contracting Officer may determine, on the basis of information available to him, the amount, if any, due to the Contractor by reason of the termination and shall thereupon pay to the Contractor the amount so determined.

(d) Costs claimed, agreed to, or determined pursuant to (c) above and (e) below shall be in accordance with the Section XV Contract Cost Principles and Procedures of the Armed Services Procurement Regulation as in effect on the date of this contract.

(e) Subject to the provisions of paragraph (c) above, the Contractor and the Contracting Officer may agree upon the whole or any part of the amount or amounts to be paid to the Contractor by reason of the termination under this clause, which amount or amounts may include any reasonable cancellation charges thereby incurred by the Contractor and any reasonable loss upon outstanding commitments for personal services which he is unable to cancel, *provided*, however, that in connection with any outstanding commitments for personal services which the Contractor is unable to cancel, the Contractor shall have exercised reasonable diligence to divert such commitments to his other activities and operations. Any such agreement shall be embodied in an amendment to this contract and the Contractor shall be paid the agreed amount.

(f) The Government may from time to time, under such terms and conditions as it may prescribe, make partial payments against costs incurred by the Contractor in connection with the terminated portion of this contract, whenever, in the opinion of the Contracting Officer, the aggregate of such payments is within the amount to which the Contractor will be entitled hereunder.

(g) The Contractor agrees to transfer title and deliver to the Government, in the manner, at the time, and to the extent, if any, directed by the Contracting Officer, such information and items which, if the contract had been completed, would have been required to be furnished to the Government, including:

(i) completed or partially completed plans, drawings and information; and

(ii) materials or equipment produced or in process or acquired in connection with the performance of the work terminated by the notice.

Other than the above, any termination inventory resulting from the termination of the contract may, with the written approval of the Contracting Officer, be sold or acquired by the Contractor under the conditions prescribed by and at a price or prices approved by the Contracting Officer. The proceeds of any such disposition shall be applied in reduction of any payments to be made by the Government to the Contractor under this contract or shall otherwise be credited to the price or cost of work covered by this contract or paid in such other manner as the Contracting Officer may direct. Pending final disposition of property arising from the termination, the Contractor agrees to take such action as may be necessary, or as the Contracting Officer may direct, for the protection and preservation of the property related to this contract which is in the possession of the Contractor and in which the Government has or may acquire an interest.

(h) Any disputes as to questions of fact which may arise hereunder shall be subject to the "Disputes" clause of this contract.

(End of clause)

(d) The clause in (b) above suitably altered to indicate the relationship between the prime contractor and subcontractor is suggested for use in subcontracts placed with educational institutions and when modified as prescribed in (c) above for use with other nonprofit institutions; *provided*, such subcontracts incorporate, or are negotiated on the basis of, the cost principles set forth in Section XV; and *provided further*, such subcontracts are placed on the no-fee or no-profit basis.

7–302.11 *Disputes.* In accordance with 7–103.12, insert the clause therein.

7–302.12 *Reserved.*

7-302.13 *Buy American Act.* In accordance with 7-104.3, insert the clause therein. When the contract involves construction work, in accordance with 7-602.20 and 7-602.24 also insert the clauses therein.

7-302.14 *Convict Labor.* In accordance with 12-203, insert the clause in 7-104.17.

7-302.15 *Walsh-Healey Public Contracts Act.* In accordance with Section XII, Part 6, insert the clause in 7-103.17.

7-302.16 *Contract Work Hours and Safety Standards Act—Overtime Compensation.* In accordance with 12-301, 12-302, and 12-306, insert the clauses in 7-103.16.

7-302.17 *Equal Opportunity.* In accordance with 12-807.1, insert the applicable clause in 7-103.18.

7-302.18 *Officials Not To Benefit.* Insert the clause in 7-103.19.

7-302.19 *Covenant Against Contingent Fees.* Insert the clause in 7-103.20.

7-302.20 *Gratuities.* In accordance with 7-104.16, insert the clause therein.

7-302.21 *Authorization and Consent.* In accordance with 9-102, insert the following clause or the clause in 7-103.22 as appropriate.

AUTHORIZATION AND CONSENT (1961 JAN)

The Government hereby gives its authorization and consent for all use and manufacture of any invention described in and covered by a patent of the United States in the performance of this contract or any part hereof or any amendment hereto or any subcontract hereunder (including any lower-tier subcontract).

(End of clause)

7-302.22 *Notice and Assistance Regarding Patent Infringement.* In accordance with 9-104, insert the clause in 7-103.23.

7-302.23 *Clauses for Domestic Contracts.*

(a) *Patent Rights clause - Acquisition by the Government (Long Form).* When a contract is determined to fall within 9-107.3(a)(2), the following clause shall be included in the contract.

PATENT RIGHTS - ACQUISITION BY THE GOVERNMENT (LONG FORM) (1977 AUG)

(a) *Definitions.*

(1) "*Subject Invention*" means any invention or discovery of the Contractor conceived or first actually reduced to practice in the course of or under this contract, and includes any art, method, process, machine, manufacture, design, or composition of matter, or any new and useful improvement thereof, or any variety of plant, which is or may be patentable under the Patent Laws of the United States of America or any foreign country.

(2) "*Contract*" means any contract, agreement, grant, or other arrangement, or subcontract entered into with or for the benefit of the Government where a purpose of the contract is the conduct of experimental, developmental, or research work.

(3) "*States and domestic municipal governments*" means the States of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, the Trust Territory of the Pacific Islands, and any political subdivision and agencies thereof.

(4) "*Government agency*" includes an executive department, independent commission, board, office, agency, administration, authority, Government corporation, or other Government establishment of the executive branch of the Government of the United States of America.

(5) "*To bring to the point of practical application*" means to manufacture in the case of a composition or product, to practice in the case of a process, or to operate in the case of a machine and under such conditions as to establish that the invention is being worked and that its benefits are reasonably accessible to the public.

Secretary and approved by the Contracting Officer, (or in contracts with the Department of the Navy, *The Department*). When the Government has assumed liability for subcontracts, the term "*Contractor*" in this paragraph (b) shall include subcontractors.

(c) No payment shall be made by the Government under this clause unless the amount thereof shall first have been certified to be just and reasonable by the Secretary or his representative designated for such purpose. The rights and obligations of the parties under this clause shall survive the termination, expiration, or completion of this contract. The Government may discharge its liability under this paragraph by making payments to the Contractor or directly to parties to whom the Contractor may be liable.

(d) With the prior written approval of the Contracting Officer, the Contractor may include in any subcontract under this contract, the same provisions as those in this clause, whereby the Contractor shall indemnify the subcontractor against any risk defined in this contract to be unusually hazardous or nuclear in nature. Such a subcontract shall provide the same rights and duties, and the same provisions for notice, furnishing of evidence or proof, and the like, between the Contractor and the subcontractor as are established by this clause. The Contracting Officer may also approve similar indemnification of subcontractors at any tier upon the same terms and conditions. Subcontracts providing for indemnification within the purview of this clause shall provide for the prompt notification to the Contracting Officer of any claim or action against, or of any loss by, the subcontractor which is covered by this clause, and shall entitle the Government at its election, to control or assist in the settlement or defense of any such claim or action. The Government shall indemnify the Contractor with respect to his obligations to subcontractors under subcontract provisions thus approved by the Contracting Officer. The Government may discharge its obligations under this paragraph by making payments directly to subcontractors or to parties to whom the subcontractor may be liable.

(e) If insurance coverage or other financial protection program approved by the Secretary is reduced, the liability of the Government under this clause shall not be increased by reason of such reduction.

(f) The Contractor shall (i) promptly notify the Contracting Officer of any claim or action against, or of any loss by, the Contractor or any subcontractor which reasonably may be expected to involve indemnification under this clause, (ii) furnish evidence or proof of any claim, loss or damage covered by this clause in the manner and form required by the Government, and (iii) immediately furnish to the Government copies of all pertinent papers received by the Contractor. The Government may direct, control or assist in the settlement or defense of any such claim or action. The Contractor shall comply with the Government's directions, and execute any authorizations required in regard to such settlement or defense.

(End of clause)

7-303.63 *Preference for United States Flag Air Carriers.* In accordance with 1-336.1(b), insert the clause in 7-104.95.

7-303.64 *Privacy Act.* In accordance with 1-327.1, insert the clause in 7-104.96.

7-303.65 *Preference for Domestic Specialty Metals.* In accordance with 7-104.93, insert the applicable clause therein.

7-303.66 *Exclusionary Policies and Practices of Foreign Governments.* In accordance with 6-1312, insert the clause in 7-104.97.

7-303.67 *Hazardous Material Identification and Material Safety Data.* In accordance with 1-323.2(b), insert the clause in 7-104.98.

7-303.68 *Geographic Distribution of Defense Subcontract Dollars.* In accordance with 1-340, insert the clause in 7-104.78.

7-303.69 *Contract Certification - Wage and Price Standards.* In accordance with 1-341(f), include the clause in 7-104.101

7-304 Additional Clauses. The following clauses shall be inserted in fixed-price research and development contracts in accordance with Departmental procedures when it is desired to cover the subject matter thereof.

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7-304.1 *Changes.* **ON PROVISIONS**

CHANGES (1965 JUN)

The Contracting Officer may at any time, by a written order, and without notice to the sureties, if any, make changes, within the general scope of this contract, in any one or more of the following: (i) drawings, designs, or specifications; (ii) method of shipment or packing; and (iii) place of inspection, delivery, or acceptance. If any such change causes an increase or decrease in the cost of, or the time required for performance of, this contract, or otherwise affects any other provisions of this contract, whether changed or not changed by any such order, an equitable adjustment shall be made (i) in the contract price or time of performance, or both, and (ii) in such other provisions of the contract as may be so affected, and the contract shall be modified in writing accordingly. Any claim by the Contractor for adjustment under this clause must be asserted within thirty (30) days from the date of receipt by the Contractor of the notification of change; *provided*, however, that the Contracting Officer, if he decides that the facts justify such action, may receive and act upon any such claim asserted at any time prior to final payment under this contract. Failure to agree to any adjustment shall be a dispute concerning a question of fact within the meaning of the clause of this contract entitled "Disputes". However, nothing in this clause shall excuse the Contractor from proceeding with the contract as changed.

(End of clause)

In the foregoing clause, the period of "thirty (30) days" within which any claim for adjustment must be asserted, may be varied in accordance with Departmental procedures. In accordance with 10 U.S.C. 2306(f), prior to the pricing of any change order that is expected to exceed $100,000, except where the price is based on adequate price competition, established catalog or market prices of commercial items sold in substantial quantities to the general public, or prices set by law or regulation, the contracting officer shall require the contractor to furnish a Certificate of Current Cost or Pricing Data (see 3-807.6) and shall assure the contract includes or is modified to include a defective pricing data clause (see 7-104.29).

7-304.2 *Alterations in Contract.* The clause in 7-105.1(a) may be inserted.

7-304.3 *Approval of Contract.* The clause in 7-105.2 may be inserted.

7-304.4 *Bill of Materials.* In accordance with 7-105.6, the clause set forth therein may be inserted.

7-304.5 *Notice of Shipments.* The clause in 7-105.4 may be inserted.

7-304.6 *Reports of Work.* In accordance with 7-404.6, the clause set forth therein may be inserted.

7-304.7 *Liquidated Damages.* In accordance with 1-310, the clause in 7-105.5 may be inserted.

7-304.8 *Reserved.*

7-304.9 *Reserved.*

7-304.10 *Warranties.* In accordance with 1-324, an appropriate warranty may be inserted.

7-304.11 *Stop Work Orders.* In accordance with 7-105.3, the clause set forth therein may be inserted.

7-304.12 *Term of Performance or Delivery Date.* Insert a clause in accordance with 1-305.5. Clauses in 7-104.92 shall be used as a guide.

(b) Insert the following additional subparagraph to the clause in (a) above, in accordance with 23-201.2(d).

(k) Notwithstanding approval of the Contractor's procurement system, the Contractor shall not enter into certain subcontracts or classes of subcontracts set forth elsewhere in this contract without the prior written consent of the Contracting Officer. With respect to subcontracts so identified, the advance notification requirements of paragraph (a) above shall be fully applicable even though the Contractor's procurement system has been approved and those subcontracts are within the scope of the approval.

(c) In contracts with educational institutions, change "(iii)" in paragraph (a) of the clause in (a) above to read:

(iii) provides for the fabrication, purchase, rental, installation, or other acquisition of equipment or of industrial facilities (1975 OCT)

(d) In accordance with 23-201.4, insert the Equal Opportunity Pre-Award Clearance of Subcontracts clause in 7-104.22.

7-402.9 *Utilization of Small Business Concerns.* In accordance with 1-707.3 (a) and (b), insert one or both of the clauses in 7-104.14.

7-402.10 *Termination.* In accordance with 8-702 and 8-704, insert the appropriate clause set forth in either 7-203.10 or 7-302.10.

7-402.11 *Disputes.* In accordance with 7-103.12, insert the clause therein.

7-402.12 *Reserved.*

7-402.13 *Buy American Act.* In accordance with 7-104.3, insert the clause therein.

7-402.14 *Convict Labor.* In accordance with 12-201, insert the clause in 7-104.17.

CONTRACT CLAUSES AND SOLICITATION PROVISIONS

7–402.15 *Walsh-Healey Public Contracts Act.* In accordance with Section XII, Part 6, insert the clause in 7–103.17.

7–402.16 *Contract Work Hours and Safety Standards Act—Overtime Compensation.* In accordance with 12–301, 12–302, and 12–306, insert the clauses in 7–103.16.

7–402.17 *Equal Opportunity.* In accordance with 12–807.1, insert the applicable clause in 7–103.18.

7–402.18 *Officials Not To Benefit.* In accordance with 7–103.19, insert the clause therein.

7–402.19 *Covenant Against Contingent Fees.* In accordance with 7–103.20, insert the clause therein.

7–402.20 *Authorization and Consent.* In accordance with 9–102, insert the clause in 7–302.21.

7–402.21 *Notice and Assistance Regarding Patent and Copyright Infringement.* In accordance with 9–104, insert the clause in 7–103.23.

7–402.22 *Patent Rights.* In accordance with 9–107, insert the appropriate clause as set forth in 7–302.23.

7–402.23 *Reserved.*

7–402.24 *Military Security Requirements.* Insert the Military Security Requirements clause in accordance with 7–104.12, modified in accordance with 7–204.12. In contracts without fee with educational institutions, add the following paragraphs (e), (f) and (g).

(e) In the event a change in security requirements, as provided in paragraphs (b) and (c), results (1) in a change in the security classification of this contract or any element thereof from an unclassified status to a classified status or from a lower classification to a higher classification, or (2) in more restrictive area controls than previously required, the Contractor shall exert every reasonable effort compatible with his established policies to continue the performance of work under the contract in compliance with such change in security classification or requirements. If, despite such reasonable efforts, the Contractor determines that the continuation of work under this contract is not practicable because of such change in security classification or requirements, he shall so notify the Contracting Officer in writing.

(f) After receiving such written notification, the Contracting Officer shall explore the circumstances surrounding the proposed change in security classification or requirements and shall endeavor to work out a mutually satisfactory method whereby the Contractor can continue performance of the work under this contract.

(g) If, upon the expiration of fifteen (15) days after receipt by the Contracting Officer of the notification of the Contractor's stated inability to proceed, (1) the application to this contract of such change in security classification or requirements has not been withdrawn, or (2) a mutually satisfactory method for continuing performance of work under this contract has not been agreed upon, the Contractor may request the Contracting Officer to terminate the contract in

CONTRACT CLAUSES AND SOLICITATION PROVISIONS

INDEMNIFICATION UNDER PUBLIC LAW 85–804 — COST-REIMBURSEMENT TYPE CONTRACTS (1974 APR)

(a) Pursuant to Public Law 85–804 (50 U.S.C. 1431 - 1435) and Executive Order 10789, as amended, and notwithstanding any other provision of this contract, but subject to the following paragraphs of this clause, the Government shall hold harmless and indemnify the Contractor against:

(i) claims (including reasonable expenses of litigation or settlement) by third persons (including employees of the Contractor) for death, personal injury, or loss of, damage to, or loss of use of property;

(ii) loss of or damage to property of the Contractor, and loss of use of such property but excluding loss of profit; and

(iii) loss of, damage to, or loss of use of property of the Government but excluding loss of profit;

to the extent that such a claim, loss or damage (A) arises out of or results from a risk defined in this contract to be unusually hazardous or nuclear in nature and (B) is not compensated by insurance or otherwise. Any such claim, loss or damage within deductible amounts of Contractor's insurance shall not be covered under this clause.

(b) The Government shall not be liable for:

(i) claims by the United States (other than those arising through subrogation) against the Contractor; or

(ii) losses affecting the property of such Contractor;

when the claim, loss or damage was caused by the willful misconduct or lack of good faith on the part of any of the Contractor's directors or officers, or principal officials. For purposes of this clause, the term "*principal officials*" means any of the Contractor's managers, superintendents, or other equivalent representatives who have supervision or direction of:

(A) all or substantially all of the Contractor's business; or

(B) all or substantially all of the Contractor's operations at any one plant or separate location in which this contract is being performed; or

(C) a separate and complete major industrial operation in connection with the performance of this contract.

The Contractor shall not be indemnified under this clause for liability assumed under any contract or agreement unless such assumption of liability has been specifically authorized by the Secretary and approved by the Contracting Officer (or in contracts with the Department of the Navy, *The Department*). When the Government has assumed liability for subcontracts, the term "*Contractor*" in this paragraph (b) shall include subcontractors.

(c) No payment shall be made by the Government under this clause unless the amount thereof shall first have been certified to be just and reasonable by the Secretary or his representative designated for such purpose. The rights and obligations of the parties under this clause shall survive the termination, expiration, or completion of this contract. The Government may discharge its liability under this paragraph by making payments to the Contractor or directly to parties to whom the Contractor may be liable.

(d) With the prior written approval of the Contracting Officer, the Contractor may include in any subcontract under this contract, the same provisions as those in this clause, whereby the Contractor shall indemnify the subcontractor against any risk defined in this contract to be unusually hazardous or nuclear in nature. Such a subcontract shall provide the same rights and duties, and the same provisions for notice, furnishing of evidence or proof, and the like, between the Contractor and the subcontractor as are established by this clause. The Contracting Officer may also approve similar indemnification of subcontractors at any tier upon the same terms and conditions. Subcontracts providing for indemnification within the purview of this clause shall provide for the prompt notification to the Contracting Officer of any claim or action against, or of any loss by, the subcontractor which is covered by this clause, and shall entitle the Government at its election, to control or assist in the settlement or defense of any such claim or action. The Government shall indemnify the Contractor with respect to his obligations to subcontractors under subcontract provisions thus approved by the Contracting Officer. The Government may discharge its obligations under this paragraph by making payments directly to subcontractors or to parties to whom the subcontractor may be liable.

(e) If insurance coverage or other financial protection program approved by the Secretary is reduced, the liability of the Government under this clause shall not be increased by reason of such reduction.

(f) In addition to the Contractor's responsibilities under the "Insurance — Liability to Third Persons" clause of this contract, which are hereby made applicable to claims under this clause, the Contractor shall (i) promptly notify the Contracting Officer of any claim or action against, or of any loss by, the Contractor or any subcontractor which reasonably may be expected to involve indemnification under this clause, (ii) furnish evidence or proof of any claim, loss or damage covered by this clause in the manner and form required by the Government, and (iii) to the extent required by the Government, permit and authorize the Government to direct, control or assist in the settlement or defense of any such claim or action. The cost of insurance (including self insurance), covering a risk defined in this contract as unusually hazardous or nuclear in nature shall not be reimbursed either as a direct or indirect cost except to the extent that such insurance has been required or approved under the "Insurance—Liability to Third Persons" clause hereof.

(g) "Limitation of Cost" / "Limitation of Funds" clauses of this contract do not apply to the Government's obligations under this clause. Such obligations shall be excepted from the release required under the "Allowable Cost" clause of this contract.

(End of clause)

7-403.58 *Preference for United States Flag Air Carriers.* In accordance with 1-336.1(b), insert the clause in 7-104.95.

7-403.59 *Submission of Commercial Freight Bills to the General Services Administration for Audit.* In accordance with 19-403.2(c), insert the clause in 7-204.61.

7-403.60 *Privacy Act.* In accordance with 1-327.1, insert the clause in 7-104.96.

7-403.61 *Preference for Domestic Specialty Metals.* In accordance with 7-104.93, insert the applicable clause therein.

7-403.62 *Exclusionary Policies and Practices of Foreign Governments.* In accordance with 6-1312, insert the clause in 7-104.97.

7-403.63 *Hazardous Material Identification and Material Safety Data.* In accordance with 1-323.2(b), insert the clause in 7-104.98.

7-403.64 *Geographic Distribution of Defense Subcontract Dollars.* In accordance with 1-340, insert the clause in 7-104.78.

7-403.65 *Contract Certification - Wage and Price Standards.* In accordance with 1-341(f), include the clause in 7-104.101.

7-404 Additional Clauses. The following clauses shall be inserted in accordance with Departmental procedures when it is desired to cover the subject matter thereof in such contracts.

7-404.1 *Changes.*

CHANGES (1967 APR)

(a) The Contracting Officer may at any time, by a written order, and without notice to the sureties, if any, make changes, within the general scope of this contract, in any one or more of the following:

(i) drawings, designs, or specifications;
(ii) method of shipment or packing; and
(iii) place of inspection, delivery, or acceptance.

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

(i) in the estimated cost or delivery schedule, or both;
(ii) in the amount of any fixed fee to be paid to the Contractor; and
(iii) in such other provisions of the contract as may be affected, contract shall be modified in writing accordingly.

Any claim by the Contractor for adjustment under this clause must be asserted within thirty (30) days from the date of receipt by the Contractor of the notification of change; *provided*, however, that the Contracting Officer, if he decides that the facts justify such action, may receive and act upon any such claim asserted at any time prior to final payment under this contract. Failure to agree to any adjustment shall be a dispute concerning a question of fact within the meaning of the clause of this contract entitled "Disputes." However, except as provided in paragraph (c) below, nothing in this clause shall excuse the Contractor from proceeding with the contract as changed.

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

(End of clause)

In the foregoing clause, the period of "thirty (30) days" within which any claim for adjustment must be asserted, may be varied in accordance with Departmental procedures. In accordance with 10 U.S.C. 2306(f), prior to the pricing of any change order that is expected to exceed $100,000, except where the price is based on adequate price competition, established catalog or market prices of commercial items sold in substantial quantities to the general public, or prices set by law or regulation, the contracting officer shall require the contractor to furnish a Certificate of Current Cost or Pricing Data (see 3-807.6) and shall assure that the contract includes or is modified to include a defective pricing data clause (see 7-104.29).

7-404.2 *Alterations in Contract.* In accordance with 7-105.1(a), insert the clause therein.

7-404.3 *Approval of Contract.* In accordance with 7-105.2, insert the clause therein.

7-404.4 *Bill of Materials.* In accordance with 7-105.6, insert the clause therein.

7-404.5 *Stop Work Orders.* The clause in 7-105.3, if modified as prescribed in 7-205.6, is authorized for use under the criteria and in accordance with the instructions in 7-105.3.

7-404.6 *Reports of Work.*

REPORTS OF WORK (1960 JUL)

(a) The Contractor shall submit reports making full disclosure of all work done and the results thereof, in the manner, at the times, and to the extent set forth in the Schedule; *provided* that, unless otherwise specified in the Schedule, the Contractor shall submit such reports in triplicate from time to time as requested and upon completion (or earlier termination) of the work. Except as may be otherwise specified in the Schedule, or unless the Contractor is otherwise instructed, the Contractor shall, upon completion (or earlier termination) of the work, deliver any working drawings and specifications of any prototypes as may have been developed.

(b) If the Contractor becomes unable to complete the contract work and to deliver at the time specified in the Schedule because of technical difficulties, notwithstanding the exercise of good faith and diligent efforts in performance of the work, he shall give the Contracting Officer written notice of the anticipated delays with reasons therefor not less than forty-five (45) days before the completion date specified in the Schedule or within such time as the Contracting Officer deems sufficient. When notice is so required, the Contracting Officer may, in his discretion, extend the time specified in the Schedule for such period as he deems advisable.

(End of clause)

In the above clause, the words "Task Order" or other appropriate designation may be substituted for the word "Schedule," as appropriate. Subparagraph (a) may be used without subparagraph (b). The last sentence of subparagraph (b) may be omitted.

7–404.7 *Title and Risk of Loss.* In accordance with 7–103.6, insert the clause therein.

7–404.8 *Term of Performance or Delivery Date.* Insert a clause in accordance with 1–305.5. Clauses in 7–104.92 shall be used as a guide.

7–404.9 *Warranty of Technical Data.* In accordance with 1–324.6, insert the clause in 7–104.9(o).

7–504.13 *Availability of Funds.* In accordance with 1–318, insert one of the clauses in 7–104.91.

7–504.14 *Term of Performance or Delivery Date.* When applicable, a clause in accordance with 7–104.92 may be used.

7–504.15 *Preference for United States Flag Air Carriers.* In accordance with 1–336.1(b), insert the clause in 7–104.95.

7–504.16 *Privacy Act.* In accordance with 1–327.1, insert the clause in 7–104.96.

7–504.17 *Preference for Domestic Specialty Metals.* In accordance with 7–104.93, insert the applicable clause therein.

7–504.18 *Exclusionary Policies and Practices of Foreign Governments.* In accordance with 6–1312, insert the clause in 7–104.97.

7–504.19 *Contract Certification - Wage and Price Standards.* In accordance with 1–341(f), include the clause in 7–104.101.

7–505 Additional Clause. The following clause shall be inserted in personal services contracts in accordance with Departmental procedures when it is desired to cover the subject matter thereof in such contracts.

7–505.1 *Alterations in Contract.* In accordance with 7–105.1(a), insert the clause therein.

CONTRACT CLAUSES AND SOLICITATION PROVISIONS

Part 6—Construction and Architect-Engineer Contracts

7–600 Scope of Part. This Part sets forth uniform contract clauses for use in connection with the procurement of construction (see 18–100) and of architect-engineer services for the production and delivery of designs, plans, drawings and specifications, or for supervision and inspection of construction, or both.

7–601 General. As used throughout this Part, the term "construction contract" means any contract (other than one entered into on Standard Form 19 or DD Form 1155 (*see 16–401.2, 16–402.2, and 18–302*), a letter contract, a notice of award, or a modification not effecting new procurement) which is for construction as defined in 18–101.1.

7–602 Required Clauses for Fixed-Price Construction Contracts. The following clauses shall be inserted in all fixed-price construction contracts, except as otherwise provided in this Part.

7–602.1 *Definitions.*

DEFINITIONS (1964 JUN)

(a) The term "Head of the Agency" or "Secretary" as used herein means the Secretary, the Under Secretary, any Assistant Secretary, or any other head or assistant head of the executive or military department or other Federal agency; and the term "his duly authorized representative" means any person or persons or board (other than the Contracting Officer) authorized to act for the head of the agency or the Secretary.

(b) The term "Contracting Officer" as used herein means the person executing this contract on behalf of the Government and includes a duly appointed successor or authorized representative.

(End of clause)

Additional definitions may be included *provided* they are not inconsistent with the foregoing clause or the provisions of this Regulation.

7–602.2 *Specifications and Drawings.*

SPECIFICATIONS AND DRAWINGS (1964 JUN)

The Contractor shall keep on the work a copy of the drawings and specifications and shall at all times give the Contracting Officer access thereto. Anything mentioned in the specifications and not shown on the drawings, or shown on the drawings and not mentioned in the specifications, shall be of like effect as if shown or mentioned in both. In case of difference between drawings and specifications, the specifications shall govern. In case of discrepancy either in the figures, in the drawings, or in the specifications, the matter shall be promptly submitted to the Contracting Officer, who shall promptly make a determination in writing. Any adjustment by the Contractor without such a determination shall be at his own risk and expense. The Contracting Officer shall furnish from time to time such detail drawings and other information as he may consider necessary, unless otherwise provided.

(End of clause)

7–602.3 *Changes.*

CHANGES (1968 FEB)

(a) The Contracting Officer may, at any time, without notice to the sureties, by written order designated or indicated to be a change order, make any change in the work within the general scope of the contract, including but not limited to changes:

CONTRACT CLAUSES AND SOLICITATION PROVISIONS

..... percent (.....%) of the lump sum price will be paid to the Contractor upon completion of his mobilization at the work site. The remaining ..... percent (.....%) will be paid to the Contractor upon completion of demobilization.

(b) In the event the Contracting Officer considers that the amount in this item (.....%), which represents mobilization and (.....%) which represents demobilization, does not bear a reasonable relation to the cost of the work in this contract, the Contracting Officer may require the Contractor to produce cost data to justify this portion of the bid. Failure to justify such price to the satisfaction of the Contracting Officer will result in payment of actual mobilization costs, as determined by the Contracting Officer at the completion of mobilization, and actual demobilization costs, as determined by the Contracting Officer at the completion of demobilization, and payment of the remainder of this item in the final payment under this contract. The determination of the Contracting Officer is not subject to appeal.

(End of clause)

(3) The percentage of the lump sum price, for mobilization and demobilization in paragraph (a) of the above clauses, attributed to mobilization should generally be 60% and the remaining 40% considered to be the cost of demobilization. These percentages may be varied to reflect the situation contemplated under the particular contract, but in no event should mobilization exceed 80% of the payment item.

7–603.38 *Exclusion of Periods in Computing Completion Schedules.* Insert the following clause in contracts which provide that no work will be required between certain dates:

EXCLUSION OF PERIODS IN COMPUTING COMPLETION SCHEDULES (1965 JAN)

No work will be required during the period between ..... and ..... inclusive and such period has not been considered in computing the time allowed for completion. The Contractor may, however, perform work during all or any part of this period upon giving prior written notice to the Contracting Officer. If the work performed during such period is less than *(..... cubic yards) (the average monthly work necessary to complete the contract within the time specified) and the Contracting Officer maintains an inspection force during this period to inspect the work, the Contractor will be charged the percentage of the cost of maintaining such force that his work is less than *(..... cubic yards) (the average monthly work necessary to complete the contract within the time specified).

(End of clause)

(*Delete inapplicable provision.)

7–603.39 *Amount of Liquidated Damages.* In accordance with 18–113, insert the following clause:

LIQUIDATED DAMAGES (1965 JAN)

In case of failure on the part of the Contractor to complete the work within the time fixed in the contract or any extensions thereof, the Contractor shall pay to the Government as liquidated damages, pursuant to the clause of this contract entitled "Termination for Default—Damages for Delay—Time Extensions", the sum of ..... for each day of delay.

(End of clause)

7–603.40 *Required Source for Jewel Bearings and Related Items.* In accordance with 1–2207.2, insert the clause in 7–104.37.

7–603.41 *Employment of Ocean-Going Vessels by Construction Contractors.* In accordance with 1–1409, insert the following clause:

EMPLOYMENT OF OCEAN-GOING VESSELS BY CONSTRUCTION CONTRACTORS (1979 JUNE)

(a) If ocean transportation is required after the date of award of this contract to bring any supplies, materials, or equipment, to the construction site from the United States either for use in performance of or for incorporation in the work called for by this contract, United States-flag vessels shall be employed in such transportation to the extent such vessels are available at fair and reasonable rates for United States-flag vessels. The Contractor shall not make any shipment exceeding ten measurement tons (400 cubic feet) by other than a United States-flag vessel without notifying the Contracting Officer that United States-flag vessels are not available at fair and reasonable rates for such vessels and obtaining his permission to ship in other vessels. If such permission is granted, the contract price shall be equitably adjusted to reflect the difference in cost.

(b) The Contractor shall include the substance of this clause, including this paragraph (b), in each subcontract or purchase order hereunder which may involve the ocean transportation of construction supplies, materials, or equipment from the United States.

(c) Promptly after each shipment, the Contractor shall furnish to the U.S. Maritime Administration, Division of National Cargo, 14th and E Streets, N.W., Washington, D.C. 20230, one copy of the applicable ocean shipping document indicating for each shipment made under this contract the name and nationality of the vessel and the measurement tonnage (400 cubic feet) shipped on the vessel.

(End of clause)

7-603.42 *Architectural Designs and Data—Government Rights.*

(a) In accordance with 18-910.1(a), insert one of the following clauses, if appropriate.

(1) *Government Rights (Unlimited).*

GOVERNMENT RIGHTS (UNLIMITED) (1979 MAR)

The Government shall have unlimited rights, in all drawings, designs, specifications, notes and other works developed in the performance of this contract, including the right to use same on any other Government design or construction without additional compensation to the Contractor. The Contractor hereby grants to the Government a paid-up license throughout the world to all such works to which he may assert or establish any claim under design patent or copyright laws. The Contractor for a period of three years after completion of the project agrees to furnish the original or copies of all such works on the request of the Contracting Officer.

(End of clause)

program are reflected in the Contractor's minority and female workforce participation, makes a good faith effort to meet its individual goals and timetables, and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the Contractor. The obligation to comply, however, is the Contractor's and failure of such a group to fulfill an obligation shall not be a defense for the Contractors noncompliance.

(i) A single goal for minorities and a separate single goal for women have been established. The Contractor, however, is required to provide equal employment opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and nonminority. Consequently, the Contractor may be in violation of the Executive Order if a particular group is employed in a substantially disparate manner (for example, even though the Contractor has achieved its goals for women generally, the Contractor may be in violation of the Executive Order if a specific minority group of women is underutilized).

(j) The Contractor shall not use the goals and timetables or affirmative action standards to discriminate against any person because of race, color, religion, sex, or national origin.

(k) The Contractor shall not enter into any subcontract with any person or firm debarred from Government contracts pursuant to Executive Order 11246.

(l) The Contractor shall carry out such sanctions and penalties for violation of this clause and of the Equal Opportunity clause, including suspension, termination and cancellation of existing subcontracts as may be imposed or ordered pursuant to Executive Order 11246, as amended, and its implementing regulations, by the Office of Federal Contract Compliance Programs. Any Contractor who fails to carry out such sanctions and penalties shall be in violation of this clause and Executive Order 11246, as amended.

(m) The Contractor, in fulfilling its obligations under this clause shall implement specific affirmative action steps, at least as extensive as those standards prescribed in paragraph (g) of this clause, so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the Contractor fails to comply with the requirements of the Executive Order, the implementing regulations, or this clause, the Director shall proceed in accordance with 41 CFR 60-4.8.

(n) The Contractor shall designate a responsible official to monitor all employment related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required by the Government and to keep records. Records shall at least include for each employee the name, address, telephone numbers, construction trade, union affiliation if any, employee identification number when assigned, social security number, race, sex, status (e.g., mechanic, apprentice, trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and locations at which the work was performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, contractors shall not be required to maintain separate records.

(o) Nothing herein provided shall be construed as a limitation upon the application of other laws which establish different standards of compliance or upon the application of requirements for the hiring of local or other area residents (e.g., those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).

(End of clause)

7-603.61 *Geographic Distribution of Defense Subcontract Dollars.* In accordance with 1-340, insert the clause in 7-104.78.

7-603.62 *Contract Certification - Wage and Price Standards.* In accordance with 1-341(f), include the clause in 7-104.101.

7-604 Additional Clauses. The following clauses shall be inserted in contracts when it is desired to cover the subject matter thereof in such contracts.

7-604.1 *Alterations in Contract.* (See 16-401.1(viii).) The following clause may be used if applicable, in negotiated contracts when Standard Form 23 is not used:

ALTERATIONS (1961 JAN)

The following alterations were made in this contract before it was signed by the parties hereto.

(End of clause)

7-604.2 *Approval of Contract.* The contract clause in 7-105.2 may be inserted.

7-604.3 *Layout of Work.* The following clause is authorized for use in construction contracts when appropriate.

LAYOUT OF WORK (1965 JAN)

The Contractor shall lay out his work from Government established base lines and bench marks indicated on the drawings and shall be responsible for all measurements in connection therewith. The Contractor shall furnish, at his own expense, all stakes, templates, platforms, equipment, tools, and materials and labor as may be required in laying out any part of the work from the base lines and bench marks established by the Government. The Contractor will be held responsible for the execution of the work to such lines and grades as may be established or indicated by the Contracting Officer. It shall be the responsibility of the contractor to maintain and preserve all stakes and other marks established by the Contracting Officer until authorized to remove them. If such marks are destroyed, by the Contractor or through his negligence, prior to their authorized removal, they may be replaced by the Contracting Officer at his discretion. The expense of replacement will be deducted from any amounts due or to become due the Contractor.

(End of clause)

(2) "*Safety precaution areas*" means those portions of approach-departure clearance zones and transitional zones where placement of objects incident to contract performance might result in vertical projections at or above the approach-departure clearance surface or the transitional surface.

(A) The "approach-departure clearance surface" is an extension of the primary surface and the clear zone at each end of each runway, for a distance of 50,000 feet, first along an inclined plane (glide angle) and then along a horizontal plane, both flaring symmetrically about the runway centerline extended. The inclined plane (glide angle) begins in the clear zone 200 feet past the end of the runway (and primary surface) at the same elevation as the end of the runway, and continues upward at a slope of 50:1 (one foot vertically for each 50 feet horizontally) to an elevation of 500 feet above the established airfield elevation; at that point the plane becomes horizontal, continuing at that same uniform elevation to a point 50,000 feet longitudinally from the beginning of the inclined plane (glide angle) and ending there. The width of the surface at the beginning of the inclined plane (glide angle) is the same as the width of the clear zone; thence it flares uniformly, reaching the maximum width of 16,000 feet at the end.

(B) The "approach-departure clearance zone" is the ground area under the approach-departure clearance surface.

(C) The "transitional surface" is a sideways extension of all primary surfaces, clear zones, and approach-departure clearance surfaces along inclined planes. The inclined plane in each case begins at the edge of the surface. The slope of the inclined plane is 7:1 (one foot vertically for each 7 feet horizontally), and it continues to the point of intersection with the inner horizontal surface (which is the horizontal plane 150 feet above the established airfield elevation) or the outer horizontal surface (which is the horizontal plane 500 feet above the established airfield elevation), whichever is applicable.

(D) The "transitional zone" is the ground area under the transitional surface. (It adjoins the primary surface, clear zone and approach-departure clearance zone.)

(c) The Contractor shall report to the Contracting Officer before initiating any work and shall notify him of proposed changes of locations and operations.

(d) Neither equipment nor personnel shall use any runway for purposes other than aircraft operation without permission of the Contracting Officer unless the runway is closed by order of the Contracting Officer and marked as provided in (e)(2) below.

(e)(1) The Contractor shall place nothing upon the landing areas without authorization of the Contracting Officer.

(2) Unless otherwise authorized by the Contracting Officer, the Contractor shall outline those landing areas hazardous to aircraft, with red flags by day, and with electric, battery-operated, low-intensity red flasher lights by night.

(3) Before entering any landing area at an airfield where flying is controlled, additional permission must be obtained every time from the control tower operator, unless the landing area is marked as hazardous to aircraft in accordance with (2) above.

(4) All vehicles which the Contractor operates in landing areas shall be identified by means of a flag on a staff attached to and flying above the vehicle. The flag shall be three feet square and shall consist of a checkered pattern of international orange and white squares of one foot on each side (except that the flag may vary up to 10 percent from each of these dimensions).

(5) Unless otherwise authorized by the Contracting Officer, all other equipment and materials in the landing areas shall be marked with red flags by day, and with electric, battery-operated, low-intensity red flasher lights by night.

(6) Work shall be carried on so as to leave that portion of the landing area which is available to aircraft free from hazards, holes, piles of material, and projecting shoulders that might damage an airplane tire.

(f)(1) The Contractor shall place nothing upon the safety precaution areas without authorization of the Contracting Officer.

(2) Unless otherwise authorized by the Contracting Officer, all equipment and materials in safety precaution areas shall be marked with red flags by day, and with electric, battery-operated, low-intensity red flasher lights by night.

(3) All objects, placed in safety precaution areas, which project above the approach-departure clearance surface or above the transitional surface must be provided at night with a red light or red lantern.

(g) The Contractor shall keep all paved surfaces, such as runways, taxiways, and hardstands, clean at all times and, specifically, free from small stones which might damage aircraft propellers or jet aircraft.

(h) While work is actually being performed on the airfield by the Contractor, the operation of mobile equipment shall be governed by the safety provisions above. At all other times all mobile equipment shall be removed to locations approved by the Contracting Officer at a distance of at least 750 feet from the runway centerline plus any additional distance necessary to insure compliance with the other provisions of this clause.

(i) Only those trenches may be opened for which material is on hand and ready for placing therein. As soon as practicable after material has been placed and work approved, trenches shall be backfilled and compacted as required by the contract. Meanwhile all hazardous conditions shall be marked and lighted in accordance with the other provisions of this clause.

(End of clause)

* At some airfields the width of the primary surfaces is 1500 feet (750 feet on each side of the runway centerline). In such instances substitute the proper width in the clause.

7-606.19 *Reserved.*

7-606.20 *Reserved.*

7-606.21 *Payment of Interest on Contractor's Claims.* In accordance with 1-333, insert the clause in 7-104.82.

7-606.22 *Cost Accounting Standards.* In accordance with 3-1204, insert the clauses in 7-104.83.

7-606.23 *Capture and Detention.* In accordance with 10-406, insert the clause in 7-104.94.

7-606.24 *Value Engineering.* A VE Incentive or Program Requirement clause may be included in Cost-Reimbursement Type construction contracts at the discretion of the Contracting Officer. Use 7-602.50 or 7-104.44 (as modified by 7-204.32(b) or (c)) to suit the procurement.

7-606.25 *Patent Rights.* In accordance with 9-107 and 18-908, insert the appropriate clause in 7-302.23.

7-606.26 *Filing of Patent Applications.* In accordance with 9-106, insert the clause in 7-104.6.

7-606.27 *Reporting of Royalties.* In accordance with 9-110(d), insert the clause in 7-104.8(a).

7-606.28 *Privacy Act.* In accordance with 1-327.1, insert the clause in 7-104.96.

7-606.29 *Preference for Domestic Specialty Metals.* In accordance with 7-104.93, insert the applicable clause therein.

7-606.30 *Exclusionary Policies and Practices of Foreign Governments.* In accordance with 6-1312, insert the clause in 7-104.97.

7-606.31 *Hazardous Material Identification and Material Safety Data.* In accordance with 1-323.2(b), insert the clause in 7-104.98.

7-606.32 *Geographic Distribution of Defense Subcontract Dollars.* In accordance with 1-340, insert the clause in 7-104.78.

7-606.33 *Contract Certification - Wage and Price Standards.* In accordance with 1-341(f), include the clause in 7-104.101.

7-607 Required Clauses for Fixed-Price Architect-Engineer Contracts. The following clauses shall be inserted in all fixed-price architect-engineer contracts:

7-607.1 *Definitions.*

DEFINITIONS (1972 APR)

(a) The term "head of the agency" or "Secretary" as used herein means the Secretary, or any other head of the executive or military department or other Federal agency, and the term "his duly authorized representative" means any person or persons or board (other than the Contracting Officer) authorized to act for the head of the agency or the Secretary.

(b) The term "Contracting Officer" as used herein means the person executing this contract on behalf of the Government and includes a duly appointed successor or authorized representative.

(End of clause)

Additional definitions may be included *provided* they are not inconsistent with the foregoing clause or the provisions of this Regulation.

7-607.2 *Responsibility of the Architect-Engineer.*

RESPONSIBILITY OF THE ARCHITECT-ENGINEER (1972 APR)

(a) The Architect-Engineer shall be responsible for the professional quality, technical accuracy and the coordination of all designs, drawings, specifications, and other services furnished by the Architect-Engineer under this contract. The Architect-Engineer shall, without additional compensation, correct or revise any errors or deficiencies in his designs, drawings, specifications, and other services.

(b) Neither the Government's review, approval or acceptance of, nor payment for, any of the services required under this contract shall be construed to operate as a waiver of any rights under this contract or of any cause of action arising out of the performance of this contract, and the Architect-Engineer shall be and remain liable to the Government in accordance with applicable law for all damages to the Government caused by the Architect-Engineer's negligent performance of any of the services furnished under this contract.

(c) The rights and remedies of the Government provided for under this contract are in addition to any other rights and remedies provided by law.

(End of clause)

7-607.3 *Changes.*

CHANGES (1972 APR)

(a) The Contracting Officer may, at any time, by written order, make changes within the general scope of the contract in the services to be performed. If such changes cause an increase or decrease in the Architect-Engineer's cost of, or time required for, performance of any services under this contract, whether or not changed by any order, an equitable adjustment shall be made and the contract shall be modified in writing accordingly. Any claim of the Architect-Engineer for adjustment under this clause must be asserted in writing within 30 days from the date of receipt by the Architect-Engineer of the notification of change unless the Contracting Officer grants a further period of time before the date of final payment under the contract.

(b) No services for which an additional cost or fee will be charged by the Architect-Engineer shall be furnished without the prior written authorization of the Contracting Officer.

(End of clause)

7-607.4 *Termination.*

TERMINATION (1972 APR)

(a) The Contracting Officer may, by written notice to the Architect-Engineer, terminate this contract in whole or in part at any time, either for the Government's convenience or because of the failure of the Architect-Engineer to fulfill his contract obligations. Upon receipt of such notice, the Architect-Engineer shall: (1) immediately discontinue all services affected (unless the notice directs otherwise), and (2) deliver to the Contracting Officer all data, drawings, specifications, reports, estimates, summaries, and such other information and materials as may have been accumulated by the Architect-Engineer in performing this contract, whether completed or in process.

(b) If the termination is for the convenience of the Government, an equitable adjustment in the contract price shall be made, but no amount shall be allowed for anticipated profit on unperformed services.

(c) If the termination is due to the failure of the Architect-Engineer to fulfill his contract obligations, the Government may take over the work and prosecute the same to completion by contract or otherwise. In such case, the Architect-Engineer shall be liable to the Government for any additional cost occasioned to the Government thereby.

(d) If, after notice of termination for failure to fulfill contract obligations, it is determined that the Architect-Engineer had not so failed, the termination shall be deemed to have been effected for the convenience of the Government. In such event, adjustment in the contract price shall be made as provided in paragraph (b) of this clause.

(e) The rights and remedies of the Government provided in this clause are in addition to any other rights and remedies provided by law or under this contract.

(End of clause)

7-607.5 *Disputes.*

(a) Except as provided in (b) below, insert the following clause:

DISPUTES (1972 APR)

(a) Except as otherwise provided in this contract, any dispute concerning a question of fact arising under this contract which is not disposed of by agreement shall be decided by the Contracting Officer, who shall reduce his decision to writing and mail or otherwise furnish a copy thereof to the Architect-Engineer. The decision of the Contracting Officer shall be final and conclusive unless, within 30 days from the date of receipt of such copy, the Architect-Engineer mails or otherwise furnishes to the Contracting Officer a written appeal addressed to the head of the agency involved. The decision of the head of the agency or his duly authorized representative for the determination of such appeals shall be final and conclusive. This provision shall not be pleaded in any suit involving a question of fact arising under this contract as limiting judicial review of any such decision to cases where fraud by such official or his representative or board is alleged; *provided, however*, that any such decision shall be final and conclusive unless the same is fraudulent or capricious or arbitrary or so grossly erroneous as necessarily to imply bad faith or is not supported by substantial evidence. In connection with any appeal proceeding under this clause, the Architect-Engineer shall be afforded an opportunity to be heard and to offer evidence in support of his appeal. Pending final decision of a dispute hereunder, the Architect-Engineer shall proceed diligently with the performance of the contract and in accordance with the Contracting Officer's decision.

(b) This Disputes clause does not preclude consideration of questions of law in connection with decisions provided for in paragraph (a) above. Nothing in this contract, however, shall be construed as making final the decision of any administrative official, representative, or board on a question of law.

(End of clause)

In accordance with departmental procedures, the foregoing clause may be modified to provide for intermediate appeal in overseas areas. The decision shall, if mailed, be sent by certified mail, return receipt requested.

(b) In procurement to be performed outside the United States, its possessions and Puerto Rico, when it is anticipated that the architect-engineer will be a foreign firm, one of the clauses provided for in 7-103.12(b) will be inserted in accordance with the instructions therein, substituting "Architect-Engineer" for "Contractor."

(c) The form in which the contracting officer shall notify the architect-engineer of his decision under the Disputes Clause, is in 1-314.

7-608.24 *Contract Certification - Wage and Price Standards.* In accordance with 1-341(f), include the clause in 7-104.101.

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(i) credits to, or adjustment of the prices of, the related contracts, subcontracts, or purchase orders benefiting from the use of the modernized or replacement equipment; or

(ii) payment to the Government through the Contracting Officer having cognizance of the Government production and research property; or

(iii) such other means as may be mutually agreed to.

(End of clause)

7-705.23 *Aircraft, Missile, and Space Vehicle Accident Reporting and Investigation.* In accordance with 7-104.81, insert the clause therein.

7-705.24 *Safety Precautions for Ammunition and Explosives.* In accordance with 7-104.79, insert the clause therein.

7-705.25 *Notice of Radioactive Materials.* In accordance with 7-104.80, insert the clause therein.

7-705.26 *Procurement of Miniature and Instrument Ball Bearings.* In accordance with 1-2207.3, insert the clause in 7-104.38.

7-705.27 *Payment of Interest on Contractors' Claims.* In accordance with 1-333, insert the clause in 7-104.82.

7-705.28 *Cost Accounting Standards.* In accordance with 3-1204, insert the clauses in 7-104.83.

7-705.29 *Term of Performance or Delivery Date.* When applicable, a clause in accordance with 7-104.92 may be used.

7-705.30 *Preference for United States Flag Air Carriers.* In accordance with 1-336.1(b), insert the clause in 7-104.95.

7-705.31 *Privacy Act.* In accordance with 1-327.1, insert the clause in 7-104.96.

7-705.32 *Preference for Domestic Specialty Metals.* In accordance with 7-104.93, insert the applicable clause therein.

7-705.33 *Use of Small Business Concerns as Subcontractors.* In accordance with the provisions of 13-601.1(f), insert the following clause.

USE OF SMALL BUSINESS CONCERNS AS SUBCONTRACTORS (1977 JAN)

Items of work which have been identified by the Contracting Officer as being capable of performance by small business concerns are listed in the schedule. The Contractor, in addition to his commitment under the clause, "*Utilization of Small Business Concerns*", agrees that, to the extent such items of work are to be performed by subcontract, he shall place such subcontracts with responsible small business concerns. In the event that responsible small business concerns are not available or are not able to perform the work within the time required or at a fair and reasonable price, the Contractor, with the prior written concurrence of the Contracting Officer, may place such subcontracts with other than small business concerns.

(End of clause)

7-705.34 *Geographic Distribution of Defense Subcontract Dollars.* In accordance with 1-340, insert the clause in 7-104.78.

7-705.35 *Contract Certification - Wage and Price Standards.* In accordance with 1-341(f), include the clause in 7-104.101.

7-902.35 *Cost Accounting Standards.* In accordance with 3-1204, insert the clauses in 7-104.83.

7-902.36 *Term of Performance or Delivery Date.* When applicable, a clause in accordance with 7-104.92 may be used.

7-902.37 *Availability of Funds.* In accordance with 1-318, insert one of the clauses in 7-104.91.

7-902.38 *Capture and Detention.* In accordance with 10-406, insert the clause in 7-104.94.

7-902.39 *Warranty of Technical Data.* In accordance with 1-324.6, insert the clause in 7-104.9(o).

7-902.40 *Preference for United States Flag Air Carriers.* In accordance with 1-336.1(b), insert the clause in 7-104.95.

7-902.41 *Privacy Act.* In accordance with 1-327.1, insert the clause in 7-104.96.

7-902.42 *Preference for Domestic Specialty Metals.* In accordance with 7-104.93, insert the applicable clause therein.

7-902.43 *Exclusionary Policies and Practices of Foreign Governments.* In accordance with 6-1312, insert the clause in 7-104.97.

7-902.44 *Hazardous Material Identification and Material Safety Data.* In accordance with 1-323.2(b), insert the clause in 7-104.98.

7-902.45 *Geographic Distribution of Defense Subcontract Dollars.* In accordance with 1-340, insert the clause in 7-104.78.

7-902.46 *Contract Certification - Wage and Price Standards.* In accordance with 1-341(f), include the clause in 7-104.101.

Part 10—Stevedoring Contracts

7–1000 Scope of Part. This Part sets forth uniform contract clauses for use in stevedoring contracts as defined in 22–401. These clauses are to be used in addition to other required or applicable clauses set forth in Part 19 of this Section.

7–1001 Technical Provisions. The following clauses or appropriate revisions in accordance with 22–404 shall normally be included in all stevedoring contracts.

7–1001.1 *Scope of Contract.*

SCOPE OF CONTRACT (1964 AUG)

(a) *General.* The Contractor shall load and discharge cargoes and in connection therewith shall perform all the duties of a stevedore on any vessel which the Contracting Officer may designate at ..... upon the terms and conditions hereinafter set forth for the term of this contract, beginning ..... and ending.....; *provided*, however, that any work started before and not completed by the expiration of this contract shall be governed by the terms of this contract unless otherwise directed by the Contracting Officer.

(b) *Contractor's Duties.*

(1) *Loading.* In loading vessel, the Contractor shall remove and handle cargo from place of rest on pier or in pier shed or within the cargo assembly area; also from open-top railroad cars, trucks and trailers alongside ship; also from barges, lighters, scows, car floats and open-top railroad cars on car floats alongside ship. The Contractor shall stow said cargo in any space in the vessel, including bunker space, holds, 'tween decks, on deck, and deep tanks, in the order directed by and in a manner satisfactory to the Contracting Officer.

(2) *Discharging.* In discharging vessel, the Contractor shall remove and handle cargo from any space in the vessel, including bunker space, holds, 'tween decks, on deck, and deep tanks. The Contractor shall land said cargo at place of rest on pier or in pier shed or within the cargo assembly area; also on open-top railroad cars, trucks and trailers alongside ship; also on barges, lighters, scows, car floats and open-top railroad cars on car floats alongside ship. The Contractor shall perform such discharging in the order directed by and in a manner satisfactory to the Contracting Officer.

(3) *Handling Explosives.* In addition to (1) and (2) above, the following provisions are applicable to the loading and discharging of explosives:

(*a*) In loading explosives the Contractor shall perform all the stevedoring services necessary for the breaking-out and discharging from railroad cars, trucks and/or lighters alongside ship or from place of rest on pier, transporting to the vessel, and properly loading, stowing and normal securing and chocking in the vessel in a manner directed by applicable U.S. Coast Guard, Army, or Navy regulations.

(*b*) In discharging explosives the Contractor shall perform all stevedoring services necessary for discharging cargo from the vessel to place of rest on pier or the transporting to and loading into railroad cars, trucks and/or lighters. The Contractor shall also prepare and line the cars for handling the cargo (except the laying of new flooring) and shall brace, secure, cut bands, and lash the cargo in the cars in accordance with applicable regulations and shall place "explosive" placards on the cars prior to release, and shall close and seal all doors.

(*c*) The furnishing and preparation of gates, studs, new flooring, etc., for blocking railroad cars, as well as prefabrication of blocking in the vessel's hold, will be at the expense of the Government.

(*d*) The Contractor shall not be compensated for standby time when caused by slow-up or delay of one of his operations, which delay directly affects the other operations, such as delay in loading railroad cars, or in discharging from ship's hatches, unless such slow-up or delay was beyond the control and without the fault or negligence of the Contractor. This does not include the time required for shifting railroad cars. No standby time will be allowed unless previously approved by the Contracting Officer.

(b) The Government shall order the quantity of supplies or services specified in the Schedule, and the Contractor shall furnish those supplies or services when ordered by the Government. Delivery or performance shall be made to locations to be designated by the Government in orders issued in accordance with the clause entitled "Ordering" set forth in the Schedule. There shall be no limitation as to the number of orders which may be issued, subject to any limitations on quantities set forth in the clause of this contract entitled "Delivery Order Limitations," if any, or in the Schedule.

(c) Any order issued during the effective period of this contract and not completed within that period shall be completed by the Contractor within the time specified in the order, and the rights and obligations of the Contractor and the Government respecting that order shall be governed by the terms of this contract as fully and to the same extent as if completed during the effective period of this contract, *provided* that the Contractor shall not be required to make any deliveries under this contract after .....(*date*).

(d) The Government may issue orders which require delivery to or performance at multiple destinations.

(End of clause)

7–1102.2 *Requirements Contracts.*

(a) *Delivery Order Limitations.* Insert substantially the clause in 7–1102.1(a), adding the following paragraph:

(d) The Government is not required to order a part of any one requirement from the Contractor when such requirement exceeds the maximum order limitations set forth in (b) above.

(b) *Requirements.*

REQUIREMENTS (1966 OCT)

(a) This is a requirements contract for the supplies or services specified in the Schedule, and for the period set forth therein. Delivery of supplies or performance of services shall be made only as authorized by orders issued in accordance with the clause entitled "Ordering." The quantities of supplies or services specified herein are estimates only, and are not purchased hereby. Except as may be otherwise provided herein, in the event the Government's requirements for supplies or services set forth in the Schedule do not result in orders in the amounts or quantities described as "estimated" or "maximum" in the Schedule, such event shall not constitute the basis for an equitable price adjustment under this contract.

(b) Except as otherwise provided in this contract, the Government shall order from the Contractor all the supplies or services set forth in the Schedule which are required to be purchased by the Government activity identified in the "Ordering" clause.

(c) The Government shall not be required to purchase from the Contractor, requirements in excess of the limit on total orders under this contract, if any.

(d) Orders issued during the effective period of this contract and not completed within that time shall be completed by the Contractor within the time specified in the order, and the rights and obligations of the Contractor and the Government respecting those orders shall be governed by the terms of this contract to the same extent as if completed during the effective period of this contract, *provided* that the Contractor shall not be required to make any deliveries under this contract after .....(date).....

(e) If delivery of any quantity of an item covered by the contract is required by reason of urgency prior to the earliest date that delivery may be specified under this contract and if the Contractor will not accept an order providing for the accelerated delivery, the Government may procure this requirement from another source.

(f) The Government may issue orders which provide for delivery to or performance at multiple destinations.

(g) Subject to any limitations elsewhere in this contract, the Contractor shall furnish to the Government all supplies and services set forth in the Schedule which are called for by delivery orders issued in accordance with the "Ordering" clause of this contract.

(End of clause)

(1) When it is desired to use a requirements contract for nonpersonal services and supplies incidental thereto, covering requirements estimated to be in excess of a specific activity's internal capabilities of performance, the following shall be inserted in paragraph (a) of the clause after the third sentence:

These quantities are not the total requirements of the activity named in the Schedule; they are estimates of requirements in excess of the quantities which such activity may itself furnish within its own capabilities.

Delete paragraph (b) of the clause and substitute the following:

(b) Except as otherwise provided in this contract, the Government shall order from the Contractor all the requirements for supplies and services of the Government activity named in the Schedule in excess of the quantities which the activity may itself furnish within its own capabilities.

(2) When subsistence requirements for both troop issuance and resale have been included in the same Schedule and it is contemplated that similar products will be procured on a "brand name" basis, include the following paragraph (h) in the clause set forth above:

(h) The requirements referred to in this contract are for items to be manufactured according to Government specifications, and notwithstanding anything to the contrary stated herein, the Government may procure similar products by "brand name" for resale purposes from other sources.

(3) When a requirement type contract is used to procure work (*e.g.*, repair, modification, overhaul) on existing items of Government property, it shall be specifically stated in the Schedule that failure of the Government to furnish such items in the amounts or quantities described as "estimated" or "maximum" in the Schedule will not entitle the contractor to any equitable adjustment in price under the "Government Property" clause of such contract.

(4) When a requirements contract involves a partial small business set-aside or a labor surplus area set-aside, substitute the following for paragraph (b) of the above clause.

(b) Since the Government's requirements for each item or sub-item of supplies or services described in the Schedule are being procured through one non-set-aside contract and one set-aside contract, the Government shall order from each Contractor approximately one half of the total of such supplies or services set forth in the Schedule which are required to be purchased by the Government activity identified in the "Ordering" clause of this contract. The Government may choose between the set-aside Contractor and the non-set-aside Contractor in placing any particular order. However, the Government shall so allocate successive orders, in accordance with its delivery requirements, as to maintain as close a balance as is reasonably practicable between the total quantities ordered from the two Contractors.

(5) Under a multiyear acquisition using a modified requirements-type contract pursuant to 1-322.8, in the event the contract is awarded on the alternative multiyear basis, the following will be substituted for paragraph (a) of the clause.

(a) This is a requirements contract for the supplies or services specified in the schedule, and for the currently effective period set forth therein. Delivery of supplies or performances of services shall be made only as authorized by orders issued in accordance with the clause entitled "Ordering." The quantities of supplies or services specified herein are estimates only, and are not purchased hereby. Except as may be otherwise provided herein, in the event the Government's actual total requirements for each contract item for all program years do not result in orders in the amounts or quantities described in the schedule as the aggregate Best Estimated Quantity, such event shall constitute the basis for the payment of cancellation charges in accordance with the clause entitled "Cancellation of Items." However, such event shall not otherwise constitute the basis for price adjustment under this contract.

(c) *Area Requirements.* A clause similar to the following may be used when it is not known where the supplies or services will be required.

AREA REQUIREMENTS (1965 AUG)

Each item is divided into two (2) sub-items. Sub-item A is for delivery of the item to destinations East of the Mississippi River within the continental United States. Sub-item B is for delivery of the item to destinations West of the Mississippi River within the continental United States, excluding Alaska. With respect to each item, the Government shall order, except as hereinafter set forth, all the purchase requirements of .....(*activity*) which are for delivery to any destination East of the Mississippi River, from the Contractor awarded sub-item A, and shall order all of its purchase requirements for delivery to any destination West of the Mississippi River from the Contractor awarded sub-item B.

(End of clause)

7–1102.3 *Indefinite Quantity Contract.*

(a) *Delivery Order Limitations.* Insert the clause in 7–1102.1(a).

(b) *Indefinite Quantity.*

INDEFINITE QUANTITY (1965 AUG)

(a) This is an indefinite quantity contract for the supplies or services specified in the Schedule and for the period set forth therein. Delivery or performance shall be made only as authorized by orders issued in accordance with the "Ordering" clause of this contract. The quantities of supplies or services specified herein are estimates only and are not purchased hereby.

(b) The Contractor shall furnish to the Government, when and if ordered, the supplies or services set forth in the Schedule up to and including the quantity designated in the Schedule as the "maximum." The Government shall order the quantity of supplies or services designated in the Schedule as the "minimum."

(c) Orders issued during the effective period of this contract and not completed within that time shall be completed by the Contractor within the time specified in the order, and the rights and obligations of the Contractor and the Government respecting those orders shall be governed by the terms of the contract to the same extent as if completed during the effective period of this contract, *provided* that the Contractor shall not be required to make any deliveries under this contract after .....(*date*).

(d) The Government may issue orders which provide for delivery to or performance at multiple destinations.

(End of clause)

7–1102.4 *Material Inspection and Receiving Report.* Insert the clause in 7–104.62 except in negotiated subsistence procurements and contracts for tanker/barge shipments of bulk petroleum products.

Part 12—Mortuary Services Contracts

7–1200 Scope of Part. This Part sets forth uniform contract clauses for mortuary services (care of remains) contracts (see Section XXII, Part 5). These clauses are to be used in addition to other required or applicable clauses set forth in Part 19 of this Section.

7–1201 Required Clauses for Other Than Port of Entry Requirements Contracts. The following clauses shall be inserted in all care of remains contracts except those for port of entry requirements.

7–1201.1 *Requirements.*

REQUIREMENTS (1965 OCT)

(a) This is a requirements contract for the supplies or services specified in the Schedule, and for the period set forth in this contract. Delivery of supplies or performance of services shall be made only as authorized by orders issued in accordance with the clause entitled "Delivery Orders and Invoices". The quantities of supplies or services specified herein are estimates only and are not purchased hereby. Except as may be otherwise provided herein, in the event the Government's requirements for supplies or services set forth in the Schedule do not result in orders in the amounts or quantities described as "estimated" or "maximum" in the Schedule, such event shall not constitute the basis for an equitable price adjustment under this contract.

(b) The Government shall order from the Contractor all the supplies, services, and transportation set forth in the Schedule which are required to be purchased by the Government activity named herein, and the Contractor shall furnish to the Government such supplies, services, and transportation as may be ordered by the Contracting Officer. The Government, however, reserves the right not to order supplies and services under this contract in instances where the body is removed from the area for medical, scientific, or other cogent reason. In the event of an epidemic or other emergency, the Contractor shall not be required to provide services in excess of the capacity of his facilities.

(End of clause)

7–1201.2 *Contract Period.*

CONTRACT PERIOD (1965 OCT)

Any contract awarded as a result of bids submitted under this Invitation for Bids shall extend from ..... through .....

(End of clause)

7–1201.3 *Area of Performance.*

AREA OF PERFORMANCE (1974 APR)

(a) The area of performance is specified in Attachment 1 to this contract. This contract includes taking possession of the remains at the place where they are located, transporting them to the Contractor's place of preparation and transporting them thereafter to a place designated by the Contracting Officer. The Contractor shall not be entitled to reimbursement for transportation when both the place where the remains were located and the delivery point are within the area of performance.

(b) If remains are located outside the area of performance, the Government may call on the Contractor or obtain the services elsewhere. If the Government calls on the Contractor, the Contractor shall be paid the amount per mile indicated in the Schedule for the number of miles required to transport the remains by a reasonable route from the point where located to the boundary of the area of performance. If the Government elects to have the remains brought into the area of performance by some other means, it may require the Contractor to perform after the remains are within the area of performance.

7-1702.17 *Rights in Data.* In accordance with 7-104.9, insert the appropriate clause, or clauses, therein.

7-1702.18 *Cost Accounting Standards.* In accordance with 3-1204, insert the clauses in 7-104.83.

7-1702.19 *Privacy Act.* In accordance with 1-327.1, insert the clause in 7-104.96.

7-1702.20 *Preference for Domestic Specialty Metals.* In accordance with 7-104.93, insert the applicable clause therein.

7-1702.21 *Exclusionary Policies and Practices of Foreign Governments.* In accordance with 6-1312, insert the clause in 7-104.97.

7-1702.22 *Contract Certification - Wage and Price Standards.* In accordance with 1-341(f), include the clause in 7-104.101.

7-1703 Clauses To Be Used When Special Construction Charges Are Expected. Insert the following clauses in contracts with common carriers whenever it is expected that in order to secure the services and facilities it will be necessary for the Government to reimburse the contractor for, or to assume a contingent termination liability for, all or part of the costs of constructing or providing the facilities or equipment. If the necessity of paying such charges or of assuming such a liability arises subsequent to the execution of the contract, these clauses shall be included in the contract by supplemental agreement. With the exception of the clauses prescribed by 7-1703.1 and 7-1703.2, the clauses prescribed by this paragraph may be varied to meet specific requirements of an appropriate governmental regulatory body or when the basic intent is not changed.

7-1703.1 *Labor Standards for Construction Work.* Except as provided in 18-703.3 and 18-703.4 when the special construction involves construction (as defined in 18-101.1) of a public building or public work, and under 12-106 the construction labor standards are applicable (see 22-1010.2), insert the clause in 7-705.5.

7-1703.2 *Buy American — Construction Contracts.* In accordance with 7-602.20 and 7-602.24, insert the clauses therein whenever the contract involves construction (as defined in 18-101.1).

7-1703.3 *Special Construction and Equipment Charges.*

SPECIAL CONSTRUCTION AND EQUIPMENT CHARGES (1971 APR)

(a) Except to the extent provided in the clause of this contract entitled "Cancellation or Termination of Orders," the Government shall not directly reimburse the Contractor for charges based on the cost of constructing any facilities or providing any equipment unless such direct reimbursement is specifically authorized by the Contracting Officer. If, at any time, facilities or equipment for which the Government has directly reimbursed the Contractor in whole or in part are discontinued, the Contractor shall allow the Government such credit as may be appropriate for the value of the facilities or equipment attributable to the Government's contribution. The value of the facilities and equipment shall be determined on the basis of the foreseeable reuse of the facilities and equipment by the Contractor at the time their use is discontinued or on the basis of the net salvage value, whichever is greater. The Contractor shall promptly pay the Government the amount of any such credit.

(b) The amount of any direct special construction charge shall not exceed the actual costs to the Contractor, properly allocable to the services to be provided to the Government, of specially constructing or providing the facilities or equipment involved. In no event shall the amount of any direct special construction charge include costs incurred by the Contractor which are covered by a cancellation or termination liability or by the Contractor's recurring or other nonrecurring charges. The Contractor represents that in establishing his recurring charges for the services, facilities and equipment involved, he has not included in his rate base any costs for which he has been reimbursed by the Government and that depreciation charges are based only on the cost of facilities and equipment paid by the Contractor and not reimbursed by the Government. If, due to circumstances beyond the control and without the fault of the Contractor, it becomes necessary for the Contractor to incur costs for the replacement of any facilities or equipment for which direct special construction charges were assumed by the Government or for which the Contractor was reimbursed by the Government beyond that provided as a part of the Contractor's recurring charges, the Government shall assume such costs or reimburse the Contractor for such replacement costs at rates mutually acceptable to both the Government and the Contractor. Prior to incurring such costs, the Government shall have the right to terminate such service in accordance with the clause entitled "Cancellation or Termination of Orders."

(End of clause)

7-1703.4 *Title to Communication Facilities and Equipment.*

TITLE TO COMMUNICATION FACILITIES AND EQUIPMENT (1971 APR)

Notwithstanding payment by the Government of any of the Contractor's costs of constructing communication facilities and equipment, title to all contractor furnished facilities and equipment used in providing communication services ordered under this contract shall remain in the Contractor except as may be specifically provided in a CSA issued and accepted hereunder, and the Contractor shall operate and maintain all such communication facilities and equipment.

(End of clause)

7-1703.5 *Subcontracts.* In accordance with the requirements of 23-201, insert an appropriate clause entitled Subcontracts.

7-1703.6 *Equal Opportunity Pre-Award Clearance of Subcontracts.* In accordance with 23-201.4, insert the clause in 7-104.22.

7-1703.7 *Minority Business Enterprises.* In accordance with 1-332, insert the appropriate clause or clauses in 7-104.36.

and charge to the Contractor any cost occasioned to the Government that is directly related to the performance of such services; or (ii) terminate this contract for default as provided in the clause of this contract entitled "Default."

(c) The Contractor shall provide and maintain an inspection system acceptable to the Government covering the services to be performed hereunder. Records of all inspection work by the Contractor shall be kept complete and available to the Government during the term of this contract and for such longer period as may be specified elsewhere in this contract.

(End of clause)

7-1902.5 *Payments.* In accordance with 7-103.7, insert the clause therein.

7-1902.6 *Assignment of Claims.* In accordance with 7-103.8, insert the clause therein.

7-1902.7 *Federal, State, Local and Foreign Taxes.* In accordance with 7-103.10, insert the appropriate clause therein.

7-1902.8 *Default.* In accordance with 7-103.11, insert the clause therein.

7-1902.9 *Disputes.* In accordance with 7-103.12, insert the appropriate clause therein.

7-1902.10 *Reserved.*

7-1902.11 *Discounts.*

DISCOUNTS (1971 NOV)

In connection with any discount offered, time will be computed from the date of completion of performance of the services or from the date correct invoice or voucher is received in the office specified by the Government, if the latter is later than date of completion of performance. Payment is deemed to be made for the purpose of earning the discount on the date of mailing of the Government check.

(End of clause)

When SF 33A is used, the above clause will be substituted for subparagraph (b) of clause 9, *Discounts* (see 16-101.1(ii)).

7-1902.12 *Contract Work Hours and Safety Standards Act—Overtime Compensation.* In accordance with 12-301, 12-302, and 12-306, insert the clauses in 7-103.16.

7-1902.13 *Equal Opportunity.* In accordance with 12-807.1, insert the applicable clause in 7-103.18.

7-1902.14 *Officials Not To Benefit.* Insert the clause in 7-103.19.

7-1902.15 *Covenant Against Contingent Fees.* Insert the clause in 7-103.20.

7-1902.16 *Termination for Convenience of the Government.*

(a) Except in stevedoring contracts and except as provided in (b) below, insert the appropriate clause in 7-103.21.

(b) If it has been reasonably determined that termination for convenience would not result in a claim for anything but the services rendered, the following clause may be used, regardless of contract amount, in lieu of any other termination for convenience clause. See 8-705.1(b).

TERMINATION FOR CONVENIENCE OF THE GOVERNMENT (1968 FEB)

The Contracting Officer, by written notice may terminate this contract, in whole or in part, when it is in the best interests of the Government. If this contract is so terminated, the Govern-

ment shall be liable only for payment in accordance with the payment provisions of this contract for services rendered prior to the effective date of termination.

(End of clause)

7-1902.17 *Authorization and Consent.* Except in contracts for stevedoring services and in accordance with 7-103.22, insert the clause therein.

7-1902.18 *Notice and Assistance Regarding Patent and Copyright Infringement.* Except in contracts for stevedoring services and in accordance with 7-103.23, insert the clause therein.

7-1902.19 *Minority Business Enterprises.* In accordance with 1-332, insert the appropriate clause or clauses in 7-104.36.

7-1902.20 *Equal Opportunity Pre-Award Clearance of Subcontracts.* In accordance with 23-201.4, insert the clause in 7-104.22.

7-1902.21 *Affirmative Action for Disabled Veterans and Veterans of the Vietnam Era.* Insert the clause in 7-103.27.

7-1902.22 *Pricing of Adjustments.* Insert the clause in 7-103.26.

7-1902.23 *Time of Delivery.* Insert a delivery clause in accordance with 7-104.92.

7-1902.24 *Affirmative Action for Handicapped Workers.* Insert the clause in 7-103.28.

7-1902.25 *Clean Air and Water.* In accordance with 1-2302.2, insert the clause in 7-103.29.

7-1903 Clauses To Be Used When Applicable in Fixed-Price Service Contracts.

7-1903.1 *Clauses for Fixed-Price Service Contracts Involving Construction Work.*

(a) In accordance with 12-106 and 18-703, insert the clauses in 7-602.23.

(b) In accordance with 7-602.20 and 7-602.24, insert the clauses therein in addition to the clause in 7-104.3.

7-1903.2 *Workmen's Compensation and War Hazard Insurance Overseas.* In accordance with 10-403, insert the appropriate clause(s) in 7-104.2.

7-1903.3 *Notice to the Government of Labor Disputes.* In accordance with 7-104.4, insert the clause therein.

7-1903.4 *Notice of Radioactive Materials.* In accordance with 7-104.80, insert the clause therein.

7-1903.5 *Filing of Patent Applications.* In accordance with 9-106, insert the clause in 7-104.6.

7-1903.6 *Additional Bond Security.* If the contract will require the contractor to furnish a bond in connection therewith, insert the clause in 7-103.9.

7-1903.7 *Reporting and Refund of Royalties.* In accordance with 7-104.8, insert the appropriate clause or clauses therein.

7-1903.8 *Rights in Data.* In accordance with 7-104.9, insert the appropriate clause, or clauses, therein.

7-1903.9 *Ground and Flight Risk.* In accordance with 10-404, insert the clause in 7-104.10.

7-1903.10 *Military Security Requirements.* In accordance with 7-104.12, insert the clause therein.

7-1903.11 *Utilization of Small Business Concerns.* In accordance with 1-707.3(a) and (b), insert one or both of the clauses in 7-104.14.

7-1903.12 *Examination of Records by Comptroller General.* Pursuant to 10 U.S.C. 2313(b), the clause in 7-104.15 shall be inserted in all negotiated contracts in excess of $10,000 including contracts awarded under a total (Small Business Restricted Advertising) or partial set aside, except (i) as provided in 6-704 and 6-1001; and (ii) in contracts or purchase orders for public utility services at rates not in excess of those established for uniform applicability to the general public or at such rates plus reasonable connection charges incident to such services.

7-1903.13 *Gratuities.* Insert the clause in 7-104.16 except in contracts and purchase orders with foreign governments obligating solely funds other than those contained in Department of Defense Appropriation Acts.

7-1903.14 *Convict Labor.* In accordance with 7-104.17, insert the clause therein.

7-1903.15 *Ocean Transport of Government Owned Supplies.* In accordance with 7-104.19(a), insert the clause therein.

7-1903.16 *Utilization of Labor Surplus Area Concerns.* In accordance with 7-104.20, insert the appropriate clause or clauses therein.

7-1903.17 *Limitation on Withholding of Payments.* In accordance with 7-104.21, insert the clause therein.

7-1903.18 *Subcontracts.* In accordance with 23-201.1, insert the appropriate clause in 7-104.23.

7-1903.19 *Government Property.* In accordance with 7-104.24, insert the appropriate clause therein.

7-1903.20 *Special Tooling.* In accordance with 7-104.25, insert the clause therein.

7-1903.21 *Special Test Equipment.* In accordance with 7-104.26, insert the clause therein.

7-1903.22 *Options.* When it is intended to extend the services described in the schedule, insert a clause substantially as follows:

OPTION TO EXTEND SERVICES

The Government may require the Contractor to continue to perform any or all items of services under this contract within the limits stated in the Schedule. The Contracting Officer may exercise this option, at any time within the period specified in the Schedule, by giving written notice to the Contractor. The rates set forth in the Schedule shall apply to any extension made pursuant to this option provision unless provision for appropriate price adjustment has been made elsewhere in this contract.

(End of clause)

Other examples of option clauses appear in 7-104.27. See Section I, Part 15, for specific instructions, prohibitions and procedures.

7-1903.23 *Quality Program.* In accordance with 7-104.28, insert the clause therein.

7-1903.24 *Price Reduction for Defective Cost or Pricing Data.* In accordance with 7-104.29, insert the appropriate clause therein.

7-1903.25 *Advance Payments.* in accordance with Appendix E, Part 4, insert the appropriate clause in 7-104.34.

7-1903.26 *Progress Payments.* In accordance with E-510.1, insert the appropriate clause in 7-104.35.

7-1903.27 *Interest.* In accordance with E-620, insert the clause in 7-104.39.

7-1903.28 *Competition in Subcontracting.* In accordance with 7-104.40, insert the clause therein.

7-1903.29 *Audit by Department of Defense.* In accordance with 7-104.41, insert the clause therein.

7-1903.30 *Subcontractor Cost and Pricing Data.* In accordance with 7-104.42, insert the appropriate clause therein.

7-1903.31 *Reserved.*

7-1903.32 *Communist Areas.* In accordance with 7-103.15, insert the clause therein.

7-1903.33 *Multiyear Contracting.* In accordance with 1-322.5, 1-322.6(c), or 1-322.7(c), insert the appropriate clause set forth below.

(a) *Limitation of Price and Contractor Obligations.* (See 7-104.47(a)).

(b) *Cancellation of Items—Service Contracts.* Insert the following clause.

CANCELLATION OF ITEMS—SERVICE CONTRACTS (1974 APR)

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

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

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

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

(e) The cancellation charge is intended to cover only expenses incurred by the Prime Contractor or his subcontractor which would have been equitably amortized in the unit prices for the entire multi-year contract period, but which, because of the cancellation are not so amortized. The cancellation charge shall be computed and the claim therefor made as would be applicable under the "Termination for Convenience of the Government" clause of this contract. The Contractor shall submit the claim promptly but in no event later than one year (i) from the date of notification of the nonavailability of funds, if issued pursuant to paragraph (b)(i), or (ii) from the date specified in the schedule by which notification of the availability of additional funds for the next succeeding program year is required to be issued, whichever is earlier, unless one or more extensions in writing are granted by the Contracting Officer, upon request of the Contractor made in writing within such one year period or authorized extension thereof. The claim may include reasonable start-up and other nonrecurring costs such as plant or equipment relocation costs; the costs of special tooling and special equipment; allocable portions of the costs of facilities acquired or established for the conduct of the work, *provided* such costs have not been charged to the contract through overhead, or otherwise depreciated, and to the extent that it is impracticable for the Contractor to utilize such facilities in the conduct of his commercial work; costs incurred for the assembly training and transportation of a specialized work force to and from the job site; and costs not amortized by the level contract unit price solely because the cancellation had precluded anticipated benefits of Contractor or subcontractor learning. The claim shall not include any amount for:

(i) labor, material, or other expenses incurred by the Contractor or its subcontractor for performance of the canceled work;

(ii) any item of cost for which payment has already been made to the Contractor;
(iii) anticipated profit on the canceled work;
(iv) the remaining useful commercial life of facilities. Useful commercial life, for this purpose, means the commercial utility of the facilities rather than the physical life thereof, with due consideration given to such factors as location of facilities, specialized nature thereof, and obsolescence.

(f) If this contract includes an option to increase quantities in which the period for exercise of the option is limited to the date set forth in the contract for notifying the Contractor that funds are available for the requirement of the next succeeding program year, the Contractor agrees not to include in the price for option quantities any costs of a startup or nonrecurring nature, which costs have been fully provided for in the unit prices of the firm quantities of the Program Years, and further agrees that the prices offered for option quantities will reflect only those recurring costs, and a reasonable profit thereon, which are necessary to furnish the additional option quantites. Therefore, any quantities added to the original contract quantities through exercise of the Government option in the "Option to Increase Quantities" clause of this contract shall not be subtracted from what would otherwise be considered the quantity canceled for the purpose of computing allowable cancellation charges.

(End of clause)

(c) *Limitation of Price and Contractor Obligations—Service Contracts Under Public Law 90-378 or 91-142.* In accordance with 1-322.6 and 1-322.7, insert the following clause.

LIMITATION OF PRICE AND CONTRACTOR OBLIGATIONS—SERVICE CONTRACTS UNDER PUBLIC LAW 90-378 OR 91-142 (1976 JUL)

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

(b) Funds are available for performance of this contract in the amount specifically described in the Schedule, as available for contract performance. The funds so described at the time of award are not available for contract performance required by and described in the Schedule for any fiscal year (1 October — 30 September) other than the first fiscal year. Upon availability to the Contracting Officer of funds for performance of requirements in the next succeeding fiscal year, the Contracting Officer shall notify the Contractor in writing of the amount of funds available for contract performance in the next succeeding fiscal year and the contract shall be modified accordingly. This procedure shall apply for each successive fiscal year.

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

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

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

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

(End of clause)

(d) *Cancellation of Items—Service Contracts under Public Law 90-378 or 91-142.* In accordance with 1-322.6 and 1-322.7, insert the following clause.

CANCELLATION OF ITEMS—SERVICE CONTRACTS UNDER PUBLIC LAW 90-378 OR 91-142 (1976 JUL)

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

(b) As used herein, the term "cancellation" means that the Government is canceling, pursuant to this clause, its requirements for items as set forth in the Schedule for all fiscal years (1 October — 30 September) subsequent to that in which notice of cancellation is provided. Such cancellation shall occur only if the Contracting Officer (i) notifies the Contractor that funds will not be available for contract performance for the next succeeding fiscal year and any subsequent fiscal year; or (ii) fails to notify the Contractor prior to beginning of the next succeeding fiscal year that funds have been made available for performance in the succeeding fiscal year.

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

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

(e) The cancellation charge is intended to cover only expenses incurred by the Prime Contractor or his subcontractor which would have been equitably amortized in the unit prices for the entire multi-year contract period, but which, because of the cancellation are not so amortized. The cancellation charge shall be computed and the claim therefor made as would be applicable under the "Termination for Convenience of the Government" clause of this contract. The claim may include reasonable startup and other nonrecurring costs such as plant or equipment relocation costs; the costs of special tooling and special equipment; allocable portions of the costs of facilities acquired or established for the conduct of the work, *provided* such costs have not been charged to the contract through overhead, or otherwise depreciated, and to the extent that it is impracticable for the Contractor to utilize such facilities in the conduct of his commercial work; costs incurred for the assembly, training, and transportation of a specialized work force to and from the job site; and costs not amortized by the level contract unit price solely because the cancellation had precluded anticipated benefits of Contractor or subcontractor learning. The claim shall not include any amount for:

(i) labor, material, or other expenses incurred by the Contractor or its subcontractor for performance of the canceled work;
(ii) any item of cost for which payment has already been made to the Contractor;
(iii) anticipated profit on the canceled work;
(iv) the remaining useful commercial life of facilities. Useful commercial life, for this purpose, means the commercial utility of the facilities rather than the physical life thereof, with due consideration given to such factors as location of facilities, specialized nature thereof, and obsolescence.

(End of clause)

7-1903.34 *Order of Precedence.* In accordance with 3-501(b)Sec.C(xxxi), insert the clause in 7-2003.41.

7-1903.35 *United States Products and Services (Balance of Payments Program).* In accordance with 6-806.4, insert the clause in 7-2003.53.

7-1903.36 *Identification of Expenditures in the United States.* In accordance with 7-104.58, insert the clause therein.

7-1903.37 *Frequency Authorization.* In accordance with 7-104.61, insert the clause therein.

7-1903.38 *Protection of Government Buildings, Equipment and Vegetation.* In accordance with 7-104.63, insert the clause therein.

7-1903.39 *Insurance.* In accordance with 10-405, insert the clause in 7-104.65.

7-1903.40 *Acquisition and Use of Excess and Near Excess Currency.* In accordance with 6-1110, insert the clause in 7-104.66.

7-1903.41 *Service Contract Act of 1965, as Amended.*

(a) *Service Contracts in Excess of $2,500.* The following clause shall be included in each contract in excess of $2,500, the principal purpose of which is to furnish services in the United States (see (p)(8) of the clause below) through use of service employees and which is not otherwise exempted by the provisions of the Service Contract Act of 1965, as amended, the clause below, and Part 10 of Section XII.

SERVICE CONTRACT ACT OF 1965, AS AMENDED (1979 SEP)

This contract, to the extent that it is of the character to which the Service Contract Act of 1965, as amended (41 U.S.C. 351 et seq.) (hereafter referred to as the "Act"), applies, is subject to the following provisions of the Act and to the regulations of the Secretary of Labor thereunder (29 CFR Part 4).

(a) *Compensation.* Each service employee employed in the performance of this contract by the Contractor or any subcontractor shall be paid no less than the minimum monetary wage and shall be furnished fringe benefits determined by the Secretary of Labor or the Secretary's authorized representative, as specified in any attachment to this contract. If there is such an attachment, any class of service employees which is not listed therein, but which is to be employed under this contract, shall be classified by the Contractor so as to provide a reasonable relationship between such classifications and those listed in the attachment and shall be paid such monetary wages and furnished such fringe benefits as are determined by agreement of the interested parties, who shall be deemed to be the contracting agency, the Contractor, and the employees who will perform on the contract or their representatives. If the interested parties do not agree on a classification or reclassification which is, in fact, conformable, the Contracting Officer shall submit the question, together with recommendation, to the Administrator of the Wage and Hour Division, Employment Standards Administration, of the Department of Labor for final determination. Failure to pay such employees the compensation agreed upon by the

interested parties or finally determined by the Administrator or the Administrator's authorized representative shall be a violation of this contract. No employee engaged in performing work on this contract shall be paid, in any event, less than the minimum wage specified under section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended.

(b) *Obligation to Furnish Fringe Benefits.* The Contractor or subcontractor can only discharge the obligation to furnish fringe benefits specified in the attachment or conformed thereto either by (i) furnishing any equivalent combinations of fringe benefits, or (ii) making equivalent or differential payments in cash pursuant to the applicable rules set forth in subparts B and C of 29 CFR Part 4.

(c) *Adjustment of Compensation.* If, as authorized pursuant to section 4(d) of the Act, the term of this contract is more than 1 year, the minimum monetary wages and fringe benefits required to be paid or furnished thereunder to service employees shall be subject to adjustment after 1 year and no less than once every 2 years, pursuant to wage determinations to be issued by the Wage and Hour Division, Employment Standards Administration, Department of Labor, as provided in the Act.

(d) *Minimum Wage.* In the absence of a minimum wage attachment for this contract, neither the Contractor nor any subcontractor under this contract shall pay any employees performing work under this contract (regardless of whether they are service employees) less than the minimum wage specified by section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended. Nothing in this provision shall relieve the Contractor or any subcontractor of any other obligation under law or contract for the payment of a higher wage to any employee.

(e) *Successorship.* If this contract succeeds a contract subject to the Act, under which substantially the same services were furnished and service employees were paid wages and fringe benefits provided for in a collective bargaining agreement, then in the absence of a minimum wage attachment for this contract neither the Contractor nor any subcontractor under this contract shall pay any service employee performing any of the contract work less than the wages and fringe benefits provided for in such collective bargaining agreements, to which such employee would be entitled if employed under the predecessor contract, including accrued prospective wages and fringe benefits provided for under such agreement. No Contractor or subcontractor under this contract may be relieved of the

foregoing obligation unless the limitations of 29 CFR 4.1c(b) apply or unless the Secretary of Labor or the Secretary's representative (i) determines that the collective bargaining agreement applicable to service employees employed under the predessor contract was not entered into as a result of arms-length negotiations, or (ii) after a hearing, as provided in 29 CFR 4.10, finds that the wages and fringe benefits provided for in such agreement are substantially at variance with those which previal for services of a character similar in the locality.

(f) *Notification to Employees.* The Contractor and any subcontractor under this contract shall notify each service employee commencing work on this contract of the minimum monetary wage and any fringe benefits required to be paid pursuant to this contract, or shall post a notice of such wages and benefits in a prominent and accessible place at the worksite, using such poster as may be provided by the Department of Labor.

(g) *Safe and Sanitary Working Conditions.* The Contractor or subcontractor shall not permit any part of the services called for by this contract to be performed in buildings or surroundings or under working conditions provided by or under the control or supervision of the Contractor or subcontractor that are unsanitary or dangerous to the health or safety of service employees engaged to furnish these services, and the Contractor or subcontractor shall comply with the safety and health standards applied under 29 CFR Part 1925.

(h) *Records.* The Contractor and each subcontractor performing work subject to the Act shall make and maintain for 3 years from the completion of the work, records containing the information specified below for each employee subject to the Act and shall make them available for inspection and transcription by authorized representatives of the Administrator of the Wage and Hour Division, Employment Standards Administration, Department of Labor.

(1) Employee's name and address.

(2) Employee's work classification or classifications, rate or rates of monetary wages and fringe benefits provided, rates or rates of fringe benefit payments in lieu thereof, and total daily and weekly compensation.

(3) Employee's daily and weekly hours worked.

(4) Any deductions, rebates, or refunds from employee's total daily or weekly compensation.

(5) A list of monetary wages and fringe benefits for those classes of service employees not included in the minimum wage attachment to this contract, but for which

such wage rates or fringe benefits have been determined by the Administrator or the Administrator's authorized representative, pursuant to the labor standards in paragraph (a) of this clause. A copy of the report required by paragraph (m) of this clause shall be deemed to be such a list.

(i) *Withholding of Payments and Termination of Contract.* The Contracting Officer shall withhold or cause to be withheld from the Government Prime Contractor under this or any other Government contract with the Prime Contractor such sums as the Contracting Officer, or an appropriate officer of the Labor Department, decides may be necessary to pay underpaid employees. Additionally, any failure to comply with the requirements of this clause relating to the Act may be grounds for termination of the right to proceed with the contract work. In such event, the Government may enter into other contracts or arrangements for completion of the work, charging the Contractor in default with any additional cost.

(j) *Subcontractors.* The Contractor agrees to insert this clause relating to the Act in all subcontracts. The term "Contractor," as used in this clause, in any subcontract shall be deemed to refer to the subcontractor, except in the term "Government Prime Contractor."

(k) *Service Employee.* As used in this clause, relating to the Act, the term "service employee" means any person employed in connection with a contract entered into by the United States and not exempted under section 7 of the Act (41 U.S.C. 356), whether negotiated or advertised, the principal purpose of which is to furnish services in the United States (other than any person employed in a bona fide executive, administrative, or professional capacity, as those terms are defined in 29 CFR Part 541 and in any subsequent revisions of these regulations); and shall include all such persons, regardless of any contractual relationship that may be alleged to exist between a Contractor or subcontractor and such persons.

(l) *Federal Wage Board (Blue Collar) and General Schedule (White Collar) Wages and Fringe Benefits Applicable to Service Employee Classifications.* Classes of service employees expected to be employed under this contract with the Government would be subject, if employed by the contracting agency, to the provisions of 5 U.S.C 5341 and 5332 and, if so employed, would be paid the rates of wages and fringe benefits stated in the solicitation for this contract.

(m) *Contractor's Report.* If there is a wage determination attachment to this contract and one or more classes of service employees that are not listed thereon are to be employed under the contract, the Contractor shall report to the Contracting Officer the monetary wages to be paid and the fringe benefits to be provided each such class of service employee. This report shall be made promptly, as soon as such compensation has been determined, as provided in paragraph (a) of this clause.

(n) *Collective Bargaining Agreements Applicable to Service Employees.* If wages to be paid or fringe benefits to be furnished any service employees employed by the Government Prime Contractor or any subcontractor under the contract are provided for in a collective bargaining agreement that is or will be effective during any period in which the contract is being performed, the Government Prime Contractor shall report such fact to the Contracting Officer. The Prime Contractor also shall provide full information as to application and accrual of such wages and fringe benefits, including any prospective increases, to service employees engaged in work on the contract, and a copy of the collective bargaining agreement. Such report shall be made upon commencing performance of the contract in the case of collective bargaining agreements effective at such time, and, in the case of such agreements or provisions or amendments thereof effective at a later time during the period of contract performance, the agreements shall be reported promptly after negotiation thereof.

(o) *Regulations Incorporated by Reference.* All interpretations of the Act expressed in subpart C of 29 CFR 29 CFR Part 4 are hereby incorporated by reference in this contract.

(p) *Exemptions and Limitations.* This clause shall not apply to the following:

(1) Any contract of the United States or District of Columbia for construction, alteration, and/or repair, including painting or decorating of public buildings or public works.

(2) Any work required to be done in accordance with the provisions of the Walsh-Healey Public Contracts Act (49 Stat. 2036);

(3) Any contract for the carriage of freight or personnel by vessel, airplane, bus, truck, express, railway line, or oil or gas pipeline where published tariff rates are in effect, or where such carriage is subject to rates covered by section 22 of the Interstate Commerce Act;

(4) Any contract for the furnishing of services by radio, telephone, telegraph, or cable companies, subject to the Communications Act of 1934;

(5) Any contract for public utility services, including electric light and power, water, steam, and gas;

(6) Any employment contract providing for direct services to a Federal agency by an individual or individuals; and

(7) Any contract with the Post Office Department, the principal purpose of which is the operation of postal contract stations;

(8) Any services to be furnished outside the United States. For geographic purposes, the "United States" is defined in section 8(d) of the Act to include any State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, the Outer Continental Shelf Lands, as defined in Outer Continental Shelf Lands Act, American Samoa, Guam, Wake Island, Eniwetok Atoll, Kwajalein Atoll, Johnston Island, and Canton Island. It does not include any other territory under the jurisdiction of the United States or any U.S. base or possession within a foreign country.

(9) Any of the following contracts exempted from all provisions of the Act, pursuant to section 4(b) of the Act, which exemptions the Secretary of Labor, prior to amendment of such section by Public Law 92-473, found to be necessary and proper in the public interest or to avoid serious impairment of the conduct of Government business:

(i) Contracts entered into by the United States with common carriers for the carriage of mail by rail, air (except air star routes), bus, and ocean vessel, where such carriage is performed on regularly scheduled runs of trains, airplanes, buses, and vessels over regularly established routes and accounts for an insubstantial portion of the revenue therefrom; and

(ii) Any contract entered by the U.S. Postal Service with an individual owner-operator for mail service where it is not contemplated at the time the contract is made that such owner-operator will hire any service employee to perform the services under the contract except for short periods of vacation time or for unexpected contingencies or emergency situations such as illness or accident.

(q) *Variations, Tolerances, and Exemptions Involving Employment.* Notwithstanding any of the provisions in paragraphs (a) through (o) of this clause relating to the Act, the following employees may be employed in accordance with the following variations, tolerances, and exemptions, which the Secretary of Labor, pursuant to section 4(b) of the Act (prior to its amendment by Public Law 92-473), found to be necessary and proper in the public interest or to avoid serious impairment of the conduct of Government business:

(1) (i) Apprentices, student-learners, and workers whose earning capacity is impaired by age, physical or mental deficiency or injury may be employed at wages lower than the minimum wages otherwise required by section 2(a)(1) or 2(b)(1) of the Act without diminishing any fringe benefits or cash payments in lieu thereof required under section 2(a)(2) of the Act, in accordance with the procedures prescribed for the employment of apprentices, student-learners, handicapped persons, and handicapped clients of sheltered workshops under section 14 of the Fair Labor Standards Act of 1938, in the regulations issued by the Administrator of the Wage and Hour Division of the Department of Labor (29 CFR Parts 520, 521, 524, and 525).

(ii) The Administrator will issue certificates under the Act for the employment of apprentices, student-learners, handicapped persons, or handicapped clients of sheltered workshops not subject to the Fair Labor Standards Act of 1938, or subject to different minimum rates of pay under the two acts, authorizing appropriate rates of minimum wages (but without changing requirements concerning fringe benefits or supplementary cash payments in lieu thereof), and applying procedures prescribed by the applicable regulations issued under the Fair Labor Standards Act of 1938 (29 CFR Parts 520, 521, 524, and 525).

(iii) The Administrator will also withdraw, annul, or cancel such certificates in accordance with the regulations in 29 CFR Parts 525 and 528.

(2) An employee engaged in an occupation in which the employee customarily and regularly receives more than $20 a month in tips may have the amount of such tips credited

by the employer against the minimum wage required by section 2(a)(1) or section 2(b)(1) of the Act, in accordance with the regulations in 29 CFR Part 531: *Provided, however,* That the amount of such credit not exceed one half of the minimum rate specified in section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended. Note: This paragraph may not be operable where section 4(c) of the Act applies.

(End of clause)

(b) *Service Contracts Not in Excess of $2,500.* Insert the following clause in every contract not in excess of $2,500 that has as its principal purpose the furnishing of services through the use of service employees, except those transactions identified in paragraph (p) of the clause in (a) above.

SERVICE CONTRACT ACT OF 1965, AS AMENDED (1979 SEP)

Except to the extent that an exemption, variation, or tolerance would apply, pursuant to 29 CFR 4.6, if this were a contract in excess of $2,500, the Contractor and any subcontractor hereunder shall pay all employees engaged in performing work on the contract no less than the minimum wage specified under section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended. All regulations and interpretations of the Service Contract Act of 1965, as amended, expressed in 29 CFR Part 4, are hereby incorporated by reference in this contract.

(End of clause)

(c) *Basic Ordering Agreements and Blanket Purchase Agreements.* In the case of the basic ordering agreement or blanket purchase agreement, the dollar amount thereof for purposes of (a) and (b) above shall be the aggregate amount of all orders estimated to be placed thereunder for 1 year after the effective date of the agreement. If an agreement continues or is extended, such estimate shall be made annually for each year after the first, and the agreement modified accordingly.

(d) *Price Adjustment Clauses.*

(1) In fixed price-type service contracts with options to renew and fixed price-type multiyear service contracts which contain the clause in (a) above, insert the Fair Labor Standards Act and Service Contract Act—Price Adjustment (Multiyear and Option Contracts) clause in 7-1905(b).

(2) In fixed price service contracts other than those covered by (1) above, which contain the clause in (a) above, insert the Fair Labor Standards Act and Service Contract Act—Price Adjustment clause in 7-1905(c).

(e) *Potential Application Clause.* The following clause is to be included in solicitations and resulting contracts for overhaul and modification of equipment, which are considered by the contracting officer to be subject to the Walsh-Healy Public Contracts Act rather than the Service Contract Act, as amended. In paragraph (c) of the clause, "60 days" may be substituted for "30 days."

POTENTIAL APPLICATION OF THE SERVICE CONTRACT ACT, AS AMENDED (FIXED PRICE) (1979 SEP)

(a) The Contractor warrants that the prices set forth in this contract do not include any allowance for any contingency to cover increased costs for which adjustment is provided under this clause.

(b) In the event that during the performance of this contract, it is determined by appropriate authority that the provisions of the Service Contract Act of 1965, as amended, apply to any of the work covered by this contract, the Contracting Officer may unilaterally implement such determination by requiring payment of the appropriate wage and fringe benefit scale, and the Contractor agrees to comply with such implementation. In the event that compliance with the Contracting Officer's direction results in any increase in the labor rates paid under this contract, the Contractor agrees to enter promptly into negotiations to reflect such an increase. Such contract adjustment shall be limited to increases in wages or fringe benefits affected by the above determination, and the concomitant increases in social security and unemployment taxes and workmen's compensation insurance, but shall not otherwise include any amount for profit, or for general administrative costs or overhead.

(c) Within 30 days of receipt of the applicable wage and fringe benefit scale, the Contractor will submit a proposal for any contract price change to the Contracting Officer. With the submission of his proposal for adjustment, the Contractor shall also submit, if requested by the Government, all necessary and pertinent data used by him in preparing the proposal upon which he received the original award of this contract. The Contracting Officer or his authorized representative shall have access to and the

right to examine any directly pertinent books, documents, papers, and records of the Contractor until the expiration of 3 years after final payment under this contract.

(d) This clause shall be deemed to constitute the exclusive contractual remedy of the Contractor for adjustment arising out of the decision to apply the Service Contract Act, as amended, to the work covered by this contract. Failure of the parties to reach an understanding as to such adjustment shall be considered a dispute subject to the Disputes clause of the contract.

(End of clause)

7-1903.42 *Patent Rights.* When experimental, developmental, or research work may be performed under the contract, insert the appropriate clause in 7-203.23.

7-1903.43 *Government Delay of Work.* The clause in 7-104.77 may be inserted.

7-1903.44 *Safety Precautions for Ammunition and Explosives.* In accordance with 7-104.79, insert the clause therein.

7-1903.45 *Accident Reporting and Investigation Involving Aircraft, Missiles, and Space Launch Vehicles.* In accordance with 7-104.81, insert the clause therein.

7-1903.46 *Management Systems Requirements.* In accordance with 16-827.1, insert the clause in 7-104.50.

7-1903.47 *Payment of Interest on Contractor's Claims.* In accordance with 1-333, insert the clause in 7-104.82.

7-1903.48 *Cost Accounting Standards.* In accordance with 3-1204, insert the clauses in 7-104.83.

7-1903.49 *Availability of Funds.* In accordance with 1-318, insert one of the clauses in 7-104.91.

7-1903.50 *Capture and Detention.* In accordance with 10-406, insert the clause in 7-104.94.

7-1903.51 *Value Engineering.*

(a) In accordance with 1-1702, insert the appropriate clauses in 7-104.44 modified, as required, to suit the particular procurement involved.

(b) Insert additional paragraph as follows:

( ) Contractor proposals which eliminate, modify or substitute new procedures for contractually required work procedures shall qualify for instant contract savings sharing. If this is a time and material or labor-hour contract, the "effect of the proposal on the Contractor's cost of performance," for purposes of the instant contract sharing paragraph (e)(1) of the clause, shall be determined by (i) multiplying the time per item saved by the elimination, modification, or substitution by the labor-hour rate agreed upon for the workers involved, and then (ii) multiplying the result by the number of items over which the task has been deleted, and (iii) taking into account in the usual manner the Contractor's cost of developing the proposal and of implementing the change, and increased Government costs related to implementing the proposal. (The result under (i) would be the unit cost reduction for purposes of determining future acquisition savings.)

(End of clause paragraph)

7-1903.52 *Buy American Act.* In accordance with 7-104.3, insert the clause therein.

7-1903.53 *Preference for United States Flag Air Carriers.* In accordance with 1-336.1(b), insert the clause in 7-104.95.

7-1903.54 *Privacy Act.* In accordance with 1-327.1, insert the clause in 7-104.96.

7-1903.55 *Preference for Domestic Specialty Metals.* In accordance with 7-104.93, insert the applicable clause therein.

7-1903.56 *Exclusionary Policies and Practices of Foreign Governments.* In accordance with 6-1312, insert the clause in 7-104.97.

7-1903.57 *Hazardous Material Identification and Material Safety Data.* In accordance with 1-323.2(b), insert the clause in 7-104.98.

7-1903.58 *Contract Certification - Wage and Price Standards.* In accordance with 1-341(f), include the clause in 7-104.101.

7-1904 Additional Clauses for Use in Fixed-Price Service Contracts. The following clauses may be inserted in fixed price service contracts in accordance with Departmental procedures when it is appropriate to do so.

7-1904.1 *Alterations in Contract.* The clause in 7-105.1(a) may be inserted.

7-1904.2 *Approval of Contract.* The clause in 7-105.2 may be inserted.

7-1904.3 *Stop Work Orders.* In accordance with 7-105.3, the clause therein may be inserted.

7-1904.4 *Liquidated Damages.* In accordance with 1-310, where a liquidated damages provision is to be used in a service contract, the provision in 7-105.5 shall be inserted as paragraph (f) of the Default clause (see 7-1902.8) and the present paragraph (f) of that clause shall be redesignated (g).

7-1904.5 *Warranties.*

(a) *Use of Clauses.* A decision on whether to include a warranty clause shall be made after careful consideration of the policy and guidelines in 1-324.

(b) In addition to the clauses in 7-105.7, the following is an example for use in fixed-price type services contracts:

WARRANTY OF SERVICES

Notwithstanding inspection and acceptance by the Government or any provision concerning the conclusiveness thereof, the Contractor warrants that all services performed under this contract will, at the time of acceptance, be free from defects in workmanship and conform to the requirements of this contract. The Contracting Officer shall give written notice of any such defect or nonconformance to the Contractor *..... Such notice shall state either (i) that the Contractor shall correct or re-perform any defective or nonconforming services, or (ii) that the Government does not require correction or re-performance. If the Contractor is required to correct or re-perform, it shall be at no cost to the Government, and any services corrected or re-performed by the Contractor pursuant to this clause shall be subject to all provisions of this clause to the same extent as work initially performed. If the Contractor fails or refuses to correct or re-perform, the Contracting Officer may, by contract or otherwise, correct or replace with similar services and charge to the Contractor the cost occasioned to the Government thereby or obtain an equitable adjustment in the contract price. If the Government does not require correction or re-performance, the Contracting Officer shall make an equitable adjustment in the contract price.

(End of clause)

* Insert the specific period of time in which notice shall be given to the Contractor, *e.g.*, "within .....(insert period of time) from the date of acceptance by the Government," "within .....(insert number of hours) of use by the Government," or other specified event whose occurrence will terminate the period of notice, or combination of any applicable events or periods of time.

7-1905 Price Adjustment Clauses.

(a) When fluctuations in costs not provided for in (b) and (c) below are likely to be included as contingencies in the contract price, the contracting officer may include a provision for economic price adjustment authorized by 3-404.3(c). The clauses set forth in (b) and (c) below provide coverage for situations in which revised minimum wage rates are applied to contracts by operation of law, or by revision of a wage determination prior either to exercise of a contract option, or to extension of a multi-year contract into a new program year. Care should be taken to insure that an economic price adjustment clause authorized by this paragraph (a) does not conflict with, or overlap, the clauses set forth in (b) or (c).

(b) The following clause shall be inserted in fixed price type multi-year service contracts (see 1-322) and fixed price type service contracts with options to renew which contain the clause in 7-1903.41(a). It is to be noted that the adjustments under (c)(ii) and (iii) of the clause may be applicable to the base period as well as to subsequent periods.

FAIR LABOR STANDARDS ACT AND SERVICE CONTRACT ACT — PRICE ADJUSTMENT (MULTI YEAR AND OPTION CONTRACTS) (1979 SEP)

(a) The Contractor warrants that the prices set forth in this contract do not include any allowance for any contingency to cover increased costs for which adjustment is provided under this clause.

(b) The minimum prevailing wage determination, including fringe benefits, issued pursuant to the Service Contract Act of 1965, as amended (41 U.S.C. 351 et seq.), by the Administrator, Wage and Hour Division, U.S. Department of Labor, current at the beginning of each renewal option period, shall apply to any renewal of this contract. When no such determination has been made as applied to this contract, then the Federal minimum wage, as established by section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 201 et seq.), current at the beginning of each renewal option period, shall apply to any renewal of this contract.

(c) When, as a result of (i) the Department of Labor determination of minimum prevailing wages and fringe benefits applicable at the beginning of the renewal option period, or (ii) an increased or decreased wage determination otherwise applied to the contract by operation of law, or (iii) an amendment to the Fair Labor Standards Act enacted subsequent to award of this contract, affecting the minimum wage, which becomes applicable to this contract under law, the Contractor increases or decreases wages or fringe benefits of employees working on this contract to comply therewith, the contract price or contract unit price labor rates will be adjusted to reflect such increases or decreases. Any such adjustment will be limited to increases or decreases in wages or fringe benefits as described above, and the concomitant increases or decreases in social security and unemployment taxes and workmen's compensation insurance, but shall not otherwise include any amount for general and administrative costs, overhead, or profits.

(d) The Contractor shall notify the Contracting Officer of any increases claimed under this clause within thirty (30) days after the effective date of the wage change, unless this period is extended by the Contracting Officer in writing. In the case of any decrease under this clause, the Contractor shall promptly notify the Contracting Officer of such decrease but nothing herein shall preclude the Government from asserting a claim within the period permitted by law. The notice shall contain a statement of the amount claimed and any other relevant data in support thereof, which may reasonably be required by the Contracting Officer. Upon agreement of the parties, the contract price or contract unit price labor rates shall be modified in writing. Pending agreement on or determination of, any such adjustment and its effective date, the Contractor shall continue performance.

(e) The Contracting Officer or his authorized representative shall, until the expiration of three (3) years after final payment under the contract, have access to and the right to examine any directly pertinent books, documents, papers and records of the Contractor.

(End of clause)

(c) The following clause shall be inserted in fixed-price service contracts, other than those covered by (b) above, which contain the clause in 7-1903.41(a).

FAIR LABOR STANDARDS ACT AND SERVICE CONTRACT ACT - PRICE ADJUSTMENT (1979 SEP)

(a) The Contractor warrants that the prices set forth in this contract do not include any allowance for any contingency to cover increased costs for which adjustment is provided under this clause.

(b) When, as a result of an increased or decreased wage determination applied to this contract by operation of law or an amendment to the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 201 et seq.), enacted subsequent to award of this contract, affecting the minimum wage, which becomes applicable to this contract under law, the Contractor increases or decreases wages or fringe benefits of employees working on this contract to comply therewith the contract price or contract unit price labor rates will be adjusted to reflect such increases or decreases. Any such adjustment will be limited to increases or decreases in wages or fringe benefits as described above, and the concomitant increases or decreases in social security and unemployment taxes and workmen's compensation insurance, but shall not otherwise include any amount for general and administrative costs, overhead, or profits.

proposed contractor and his known first-tier subcontractors with proposed subcontracts of $1,000,000 or more shall be subject to an EEO compliance review as follows:

PRE-AWARD ON SITE EQUAL OPPORTUNITY COMPLIANCE REVIEW (1970 AUG)

In accordance with regulations of the Office of Federal Contract Compliance, 41 CFR 60.1, effective 1 July 1968, an award in the amount of $1,000,000 or more will not be made under this solicitation unless the bidder and each of his known first-tier subcontractors (to whom he intends to award a subcontract of $1,000,000 or more) are found, on the basis of a compliance review, to be able to comply with the provisions of the Equal Opportunity clause of this solicitation.

(b) *Representations.* Insert the following provisions as applicable.

(1) When not contained on the solicitation form, the following:

7-2003.14(b)(1)(A)

(A) Certification of Nonsegregated Facilities

CERTIFICATION OF NONSEGREGATED FACILITIES (1970 AUG)

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

NOTICE TO PROSPECTIVE SUBCONTRACTORS OF REQUIREMENT FOR CERTIFICATIONS OF NONSEGREGATED FACILITIES. A Certification of Nonsegregated Facilities must be submitted prior to the award of a subcontract exceeding $10,000 which is not exempt from the provisions of the Equal Opportunity clause. The certification may be submitted either for each subcontract or for all subcontracts during a period (i.e., quarterly, semiannually, or annually).

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

(End of provision)

7-2003.14(b)(1)(B)

(B) Previous Contracts and Compliance Reports.

CONTRACT CLAUSES AND SOLICITATION PROVISIONS

PREVIOUS CONTRACTS AND COMPLIANCE REPORTS (1973 APR)

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

7-2003.14(b)(2)

(2) Except for construction contracts, include the following provision when the contract includes the Equal Opportunity clause, if the provision is not already included on the solicitation form:

AFFIRMATIVE ACTION COMPLIANCE (1979 SEP)

The bidder (or offeror) represents that (1) he ☐ has developed and has on file, ☐ has not developed and does not have on file, at each establishment, affirmative action programs required by the rules and regulations of the Secretary of Labor (41 CFR 60-1 and 60-2) or (2) he ☐ has not previously had contracts subject to the written affirmative action programs requirement of the rules and regulations of the Secretary of Labor.

(End of provision)

7-2003.14(b)(3)

(3) When the contract is not exempt from the Equal Employment Opportunity clause, the following:

EQUAL EMPLOYMENT COMPLIANCE (1978 SEP)

By submission of this offer, the offeror represents that, to the best of his knowledge and belief, except as noted below, up to the date of this offer no written notice such as a show cause letter, a letter indicating probable cause, or any other written notification citing specific deficiencies, has been received by the offeror from any Federal Government agency or representative thereof that the offeror or any of its divisions or affiliates or known first-tier subcontractors is in violation of any of the provisions of Executive Order 11246 of September 24, 1965, as amended, or rules and regulations of the Secretary of Labor (41 CFR, Chapter 60), and specifically as to not having an acceptable affirmative action compliance program or being in noncompliance with any other aspect of the Equal Employment Opportunity Program. It is further agreed that should there be any change (i) in the offeror's status or circumstances between this date and the date of expiration of this offer or any extension thereof, or (ii) during any contract or extension thereof resulting from this solicitation, the Contracting Officer will be notified promptly.

(End of provision)

(c) *Foreign Employment.* Insert the following clause in all nonexempt (see 12-808) solicitations when a contractor is required to perform in or on behalf of a foreign country.

CONTRACT CLAUSES AND SOLICITATION PROVISIONS

NOTIFICATION OF VISA DENIAL (1978 SEP)

It is a violation of Executive Order 11246, as amended, for a Contractor to refuse to employ any applicant or not to assign any person hired in the United States on the basis that such individual's race, color, religion, sex, or national origin is not compatible with the policies of the country where the work is to be performed or for whom the work will be performed (41 CFR 60-1.10). Therefore, the Contractor agrees to notify the Department of State, Washington, D.C., Attention: Director, Bureau of Politico-Military Affairs, and the Director, OFCCP, when it has knowledge of any employee or potential employee being denied an entry visa to a country in which the Contractor is required to perform this contract and it believes such denial is attributable to race, religion, sex, or national origin of the employee or potential employee.

(End of provision)

(d) *Notice of Requirement for Affirmative Action to Ensure Equal Employment Opportunity.* In accordance with 12-807.1 regarding affirmative action compliance requirements, insert the following provisions in all applicable solicitations involving construction in excess of $10,000. Follow this provision's parenthetical instructions by inserting the applicable construction trade(s), percentage goals and geographical description of the covered area as provided in Departmental instructions.

NOTICE OF REQUIREMENT FOR AFFIRMATIVE ACTION TO ENSURE EQUAL EMPLOYMENT OPPORTUNITY (1978 SEP)

(a) The Offeror's or Bidder's attention is called to the "Equal Opportunity" and the "Affirmative Action Compliance Requirements for Construction" clauses set forth herein.

(b) The goals and timetables for minority and female participation, expressed in percentage terms for the Contractor's aggregate workforce in each trade on all construction work in the covered area, are as follows:

Timetables	Goals for minority participation for each trade	Goals for female participation in each trade
	(Insert goals for each year)	(Insert goals for each year)

These goals are applicable to all the Contractor's construction work (whether or not it is Federal or Federally assisted) performed in the covered area.

The Contractor's compliance with the Executive Order and the regulations in 41 CFR Part 60-4 shall be based on its implementation of the Equal Opportunity clause, specific affirmative action obligations required by the clause entitled "Affirmative Action Compliance Requirements for Construction" and its efforts to meet the goals established for the geographical area where the contract resulting from this solicitation is to be performed. The hours of minority and female employment and training must be substantially uniform throughout the length of the contract, and in each trade, and the contractor shall make a good faith effort to employ minorities and women evenly on each of its projects. The transfer of minority or female employees or trainees from Contractor to Contractor or from project to project for the sole purpose of meeting the Contractor's goals shall be a violation of the contract, the Executive Order and the regulations in 41 CFR Part 60-4. Compliance with the goals will be measured against the total work hours performed.

(c) The Contractor shall provide written notification to the Director, OFCCP, within 10 working days of award of any construction subcontract in excess of $10,000 at any tier for construction work under the contract resulting from this solicitation. The notification shall list the name, address and telephone number of the subcontractor; employer identification number; estimated dollar amount of the subcontract; estimated starting and completion dates of the subcontract; and the geographical area in which the contract is to be performed.

(d) As used in this Notice, and in the contract resulting from this Solicitation, the "covered area" is (insert description of the geographical areas where the contract is to be performed giving the state, county, and city, if any).

(End of Provision)

7-2003.15 *Patents - Government Licensee.* In accordance with 2-201(a)Sec.B(ix), 2-201(b)(xxviii), 3-501(b)Sec.B(xix), or 3-501(c)(xliv) as appropriate, insert the following provision.

PATENTS - GOVERNMENT LICENSEE (1974 APR)

The Government is obligated to pay a royalty applicable to the proposed procurement because of a license agreement between the Government and the patent owner. The patent number is ..... and the royalty rate is ..... If the offeror is the owner of, or a licensee under, the patent, he shall indicate below:

( ) Owner

( ) Licensee

If an offeror does not indicate that he is the owner or a licensee of the patent, his offer will be evaluated by adding thereto an amount equal to the royalty.

(End of provision)

7-2003.30 *Bid Samples.*

(a) In accordance with 2-202.4(e), insert the following provision.

BID SAMPLES (1974 APR)

(a) Bid samples, in the quantities, sizes, etc., required for the items so indicated in this Invitation for Bids, must be furnished as a part of the bid and must be received before the time set for opening bids. Samples will be tested or evaluated to determine compliance with all characteristics listed for such test or evaluation in this Invitation for Bids.

(b) Failure of samples to conform to all such characteristics will require rejection of the bid. Failure to furnish samples by the time specified in the Invitation for Bids will require rejection of the bid, except that a late sample transmitted by mail may be considered under the provision for considering late bids, as set forth elsewhere in this Invitation for Bids.

(c) Products delivered under any resulting contract shall conform to the approved sample as to the characteristics listed for test or evaluation and shall conform to the specifications as to all other characteristics.

(End of provision)

(b) When bid samples are to be waived in accordance with 2-202.4(f), insert the following provision.

WAIVER OF BID SAMPLES (1974 APR)

The requirement for furnishing samples may be waived as to a bidder if (i) the bidder states in his bid that the product he is offering to furnish is the same as a product he has offered to the purchasing office on a previous procurement and (ii) the Contracting Officer determines that such product was previously procured or tested by the purchasing office and found to comply with specification requirements conforming in every material respect to those in this Invitation for Bids.

(End of provision)

The contracting officer may designate in lieu of purchasing office, an alternate activity or office. When considered necessary because of the nature of the products, the provision above may be limited to provide for waiving the requirement only if the product offered is produced at the same plant at which the product previously procured or tested was produced.

7-2003.31 *Requirement for Descriptive Literature.*

(a) In accordance with 2-202.5(d)(2), insert the following provision.

REQUIREMENT FOR DESCRIPTIVE LITERATURE

(a) Descriptive literature as specified in this Invitation for Bids must be furnished as a part of the bid and must be received before the time set for opening bids. The literature furnished must be identified to show the item in the bid to which it pertains. The descriptive literature is required to establish, for the purposes of bid evaluation and award, details of the products the bidder proposes to furnish as to (*).

(b) Failure of descriptive literature to show that the product offered conforms to the specifications and other requirements of this Invitation for Bids will require rejection of the bid. Failure to furnish the descriptive literature by the time specified in the Invitation for Bids will require rejection of the bid, except that if the material is transmitted by mail and is received late, it may be considered under the provisions for considering late bids, as set forth elsewhere in this Invitation for Bids.

(End of provision)

(See footnote on following page)

*The contracting officer shall insert significant elements such as design, materials, components, or performance characteristics, or methods of manufacture, construction, assembly, or operation, as appropriate.

(b) When requirements for descriptive literature are to be waived in accordance with 2-202.5(e), the provision in (a) above shall be modified by adding the following at the end of the clause paragraph (b):

The requirements for furnishing descriptive literature may be waived as to a bidder if (i) the bidder states in his bid that the product he is offering to furnish is the same as a product he has previously furnished to the purchasing office under a prior contract and the bidder identifies the contract, and (ii) the Contracting Officer determines that such product meets the requirements of this Invitation for Bids. (1974 APR)

The contracting officer may designate in lieu of purchasing office, an alternate activity or office. A bidder may submit his bid either on the basis of the descriptive literature to be furnished or on the basis of a previously procured product. If he elects to submit his bid on one basis, he is precluded from having his bid considered on the alternative basis after bids are opened.

7-2003.32 *Reserved.*

7-2003.33 *Reserved.*

7-2003.34 *Reserved.*

7-2003.35 *Discounts.* In accordance with 2-407.3(a), insert the following clause.

DISCOUNTS (1968 SEP)

In accordance with subparagraph (a) of the clause entitled "Discounts" in the Solicitation Instructions and Conditions (Standard Form 33-A), prompt payment discounts will be considered in the evaluation of bids, *provided* the minimum period for the offered discounts is:

* (i) ..... days from date of delivery of the supplies to carrier when acceptance is at point of origin, or

* (ii) ..... days where delivery and acceptance are at destination.

The offered discount of a successful Bidder will form a part of the award whether or not such discount was considered in the evaluation of his bid and such discount will be taken if payment is made within the discount period.

(End of clause)

*The Contracting Officer shall delete (i) or (ii) from the clause, whichever is inapplicable, when "origin only" or "destination only" delivery acceptance is solicited.

7-2003.36 *Multiple Technical Proposals.* In accordance with 2-503.1(a)(x), insert the following clause.

MULTIPLE TECHNICAL PROPOSALS (1974 APR)

In the first step of this two-step procurement, offerors are authorized and encouraged to submit multiple technical proposals presenting different basic approaches. Each technical proposal submitted will be separately evaluated and the offeror will be notified as to its acceptability.

(End of clause)

7-2003.80 *Woman-Owned Business.* In accordance with 2-201(a)Sec.B(xx), 2-201(b)(lviii), or 3-501(b)Sec.B(xxv), insert the following provision in all solicitations except those made outside the United States.

WOMAN-OWNED BUSINESS (1978 SEP)

The offeror represents that the firm submitting this offer ( ) is, ( ) is not, a woman-owned business. A woman-owned business is a business which is, at least, 51 percent owned, controlled and operated by a woman or women. Controlled is defined as exercising the power to make policy decisions. Operated is defined as actively involved in the day-to-day management. For the purposes of this definition, businesses which are publicly owned, joint stock associations, and business trusts are exempted. Exempted businesses may voluntarily represent that they are, or are not, women-owned if this information is available.

(End of provision)

7-2003.81 *Percent Foreign Content.* In accordance with 2-201(a)Sec.B(xxi), 2-201(b)(lix), or 3-501(b)Sec.B(xxvi), insert the following provision in all solicitations except those made outside the United States.

PERCENT FOREIGN CONTENT (1978 SEP)

Approximately ---------- percent of the proposed contract price represents foreign content or effort.

(End of provision)

7-2003.82 Recovered Material. The following certification shall be inserted in solicitations as required by 1-2500.5(b):

RECOVERED MATERIAL (1979 MAR)

The Contractor certifies by signing this bid/proposal/quotation that recovered materials, as defined in DAR 1-2500.4, will be used as required by the applicable specifications.

7-2003.83 *Bid/Proposal Certification - Wage and Price Standards.* In accordance with 1-341(f)(1), insert the following provision.

BID/PROPOSAL CERTIFICATION - WAGE AND PRICE STANDARDS (1979 SEP)

(Applicable to contracts in excess of $5 million, and indefinite delivery-type contracts under which cumulative orders are expected to exceed $5 million.)

(a) By submission of this bid or offer, the bidder or offeror certifies to be in compliance with the Wage and Price Standards issued by the Council on Wage and Price Stability (6 CFR Part 705, Appendix, and Part 706).

(b) The clause entitled "Contract Certification - Wage and Price Standards," set forth elsewhere in this solicitation, shall be incorporated in any resulting contract except when waived by the Secretary.

(End of provision)

7-2003.84 *Statement of Equivalent Rates for Federal Hires.* In accordance with 12-1005.2(b)(3), insert the following provision in all solicitations for the acquisition of services to which the clause at 7-1903.41(a) applies:

RATES FOR EQUIVALENT FEDERAL HIRES (1979 SEP)

In compliance with the Service Contract Act of 1965, as amended, and the regulations of the Secretary of Labor (29 CFR Part 4), this solicitation incorporates a statement of Federal employee classes, incorporating wages paid and fringe benefits provided to each class. These Federal classes are comparable to the service employee classes expected to be employed under the contract resulting from this acquisition. (THE STATEMENT IS FOR INFORMATION ONLY).

(End of provision)

7-2003.85 *SCA Minimum Wages and Fringe Benefits Applicable to Successor Contract Pursuant to Predecessor Contractor Collective Bargaining Agreement (CBA).* In accordance with 12-1005.2(b)(5), insert the following provision in all solicitations for the acquisition of services to which—

(i) the clause at 7-1903.41(a) applies;

(ii) the contract resulting from this solicitation succeeds an ongoing contract for substantially the same services;

(iii) the incumbent contractor has negotiated or is negotiating a CBA with some or all of its service employees; and

(iv) all applicable Department of Labor wage determinations have been requested but not received.

SERVICE CONTRACT ACT (SCA) MINIMUM WAGES AND FRINGE BENEFITS (1979 SEP)

An SCA wage determination applicable to this work has been requested from the U.S. Department of Labor. If an SCA wage determination is not incorporated herein, the bidders/offerors shall consider the economic terms of the collective bargaining agreement (CBA) between the incumbent contractor _____ and the _____(union). Copies of the agreement can be obtained from the contracting officer. Pursuant to DOL Regulation, 29 CFR 4.1c, the economic terms of that agreement (or any new CBA negotiated 10 or more days prior to the opening of bids, or the commencement of the contract in the case of negotiated contracts, exercise of options, or extensions) will apply to the contract resulting from this solicitation, notwithstanding the absence of a wage determination reflecting such terms, unless it is determined, after a hearing pursuant to section 4(c) of the SCA, that they are substantially at variance with the wages prevailing in the area.

(End of provision)

CONTRACT CLAUSES AND SOLICITATION PROVISIONS

7-2102.5 *Misplaced Material.* If the contract involves work on or adjacent to a navigable stream, insert the clause in 7-603.32.

7-2102.6 *Signal Lights.* If the contract involves the use of marine equipment, insert the clause in 7-603.33.

7-2102.7 *Military Security.* In accordance with 7-104.12, insert the clause set forth therein in contracts involving classified facilities except in those contracts to be performed outside the United States, its possessions and Puerto Rico.

7-2102.8 *Identification of Employees.* In accordance with 7-603.34, insert the clause set forth therein where identification is required for security or other reasons.

7-2102.9 *Interest.* In accordance with E-620, insert the clause in 7-104.39.

7-2102.10 *Examination of Records by Comptroller General.* In accordance with 7-104.15, insert the clause therein in negotiated contracts in excess of $10,000.

7-2102.11 *Utilization of Small Business Concerns.* In accordance with 1-707.3(a), insert the clause in 7-104.14(a).

7-2102.12 *Small Business Subcontracting Program.* In contracts which may exceed $500,000 and which contain the clause in 7-104.14(a), insert the following clause:

SMALL BUSINESS SUBCONTRACTING PROGRAM (1976 OCT)

(a) The Contractor agrees to establish and conduct a small business subcontracting program which will enable small business concerns to be considered fairly as subcontractors, including suppliers, under this contract. In this connection, the Contractor shall designate an individual to (i) maintain liaison with the Government on small business matters, and (ii) administer the Contractor's Small Business Subcontracting Program.

(b) Notwithstanding the instructions on DD Form 1140-1, prior to completion of the contract and as soon as the final information is available, the Contractor shall submit a one-time completed DD Form 1140-1 to the Government addressees prescribed thereon. The DD Form 1140-1 shall show the prime contract number in lieu of identifying a quarterly report period. This subparagraph (b) is not applicable if the Contractor is a small business concern.

(c) The Contractor further agrees (i) to insert the "*Utilization of Small Business Concerns*" clause in subcontracts which offer substantial subcontracting opportunities, and (ii) to insert in each such subcontract exceeding $500,000 a clause conforming substantially to the language of this clause except that subcontractors shall submit DD Form 1140-1 direct to the Government addressees prescribed on the Form. The Contractor will notify the Contracting Officer of the name and address of each subcontractor that will be required to submit a report on DD Form 1140-1.

(End of clause)

7-2102.13 *Utilization of Minority Business Enterprises.* In accordance with 1-332.2, insert the clause in 7-104.36(a).

7-2102.14 *Minority Business Enterprises Subcontracting Program.* In accordance with 1-332.2, insert the clause in 7-104.36(b).

7-2102.15 *Payment of Interest on Contractors' Claims.* In accordance with 1-333, insert the clause in 7-104.82.

7-2102.16 *Gratuities.* In accordance with 7-104.16, insert the clause therein.

7-2102.17 *Convict Labor.* In accordance with Section XII, Part 2, insert the clause in 7-104.17.

7-2102.18 *Price Reduction for Defective Cost or Pricing Data.* In accordance with 7-104.29, insert the appropriate clause therein.

CONTRACT CLAUSES AND SOLICITATION PROVISIONS

7-2102.19 *Audit by Department of Defense.* In accordance with 7-104.41, insert the clause therein.

7-2102.20 *Subcontractor Cost or Pricing Data.* In accordance with 7-104.42, insert the appropriate clause therein.

7-2102.21 *Clean Air and Water.* In accordance with 1-2302.2, insert the clause in 7-103.29.

7-2102.22 *Privacy Act.* In accordance with 1-327.1, insert the clause in 7-104.96.

7-2102.23 *Contract Certification - Wage and Price Standards.* In accordance with 1-341(f), include the clause in 7-104.101.

SECTION X

BONDS, INSURANCE, AND INDEMNIFICATION

PART 1—Bonds

10–101 Definitions. As used in this Part 1 of Section X, the following terms shall have the meanings set forth below:

10–101.1 *Advance payment bond* means a bond which secures the performance and the fulfillment of a contractual provision for the making of advance payments.

10–101.2 *Annual bid bond* means a single bond (in lieu of separate bid bonds), without limitation as to penal amount, which secures all bids (on other than construction contracts) requiring bonds submitted by a contractor during a specific fiscal year of the Government in response to formal advertising.

10–101.3 *Annual performance bond* means a single bond (in lieu of separate performance bonds for each contract) which secures the performance of contracts (other than construction contracts) which require bonds and are entered into by a contractor during a specific fiscal year of the Government. Such bonds may be in different forms, including the following three: the first providing for penal sums separately applicable to each covered contract, regardless of the total amount of covered contracts; the second providing a gross penal sum cumulatively applicable to the total amount of all covered contracts but without a separate limit applicable to each contract; and the third providing both, separate contract and cumulative limits.

10–101.4 *Bid guarantee* means a form of security accompanying a bid or proposal as assurance that the bidder (i) will not withdraw his bid within the period specified therein for acceptance, and (ii) will execute a written contract and furnish such bonds as may be required within the period specified in the bid (unless a longer period is allowed) after receipt of the specified forms.

10–101.5 *Consent of surety* means an acknowledgement by a surety that its bond given in connection with a contract continues to apply to the contract as modified.

10–101.6 *Construction contract or subcontract* means any contract or subcontract for the construction as defined in 18–101.1.

10–101.7 *Fidelity bond* means a bond which secures an employer up to an amount stated in the bond for losses caused by dishonesty on the part of an employee. A blanket fidelity bond covers all employees, except those expressly excluded by written endorsement on the bond.

10–101.8 *Forgery bond or policy* (Depositors Form) means a bond or policy which secures the person or persons named therein up to the amount stated for losses caused by the forging or altering of a check, draft, or similar instrument issued by or purporting to have been issued by any of the insureds, and for losses resulting from a check or draft having been obtained from the insureds through impersonation.

10–101.9 *Reserved.*

10–101.10 *Payment bond* means a bond which is executed in connection with a contract and which secures the payment of all persons supplying labor and material in the prosecution of the work provided for in the contract.

10–101.11 *Penal sum or amount* means the dollar amount shown in a bond and represents the maximum payment for which the surety is obligated.

10–101.12 *Performance bond* means a bond which is executed in connection with a contract and which secures the performance and fulfillment of all the undertakings, covenants, terms, conditions, and agreements contained in the contract.

10–102 Bid Guarantees.

10–102.1 *Applicability.* This paragraph 10–102 applies to both negotiated and formally advertised procurements. The term "bid" includes "proposal."

10–102.2 *Limitations.* Bid guarantees shall not be required unless the solicitation specifies that the contract must be supported by a performance bond or performance and payment bonds. In connection with supply and services contracts, the bidder may furnish either an individual bid bond (Standard Form 24) or an annual bid bond (Standard Form 34). A bid guarantee will not be requested unless the bid exceeds $25,000 (see 10–102.4(a)(i)). In connection with construction contracts, only the individual bid bond will be accepted.

10–102.3 *Amount Required.*

(a) When a bid guarantee is deemed necessary, the contracting officer shall determine the percentage (or amount) which in his best judgment, when applied to the bid price, will produce a bid guarantee amount adequate to protect the Government from loss should the successful bidder fail to execute such further contractual documents and bonds as may be required. The percentage determined shall be not less than 20 percent of the bid price except that the maximum amount required shall be $3,000,000.

(b) The penal sum of a bid bond may be expressed as a specified percentage of the bid price. In this fashion, the bid bond may be written by the surety before the bidder's final determination of his bid price.

10–102.4 *Solicitation Provisions.*

(a) When a bid guarantee is determined to be necessary, the solicitation shall contain (i) a statement requiring that a bid guarantee be submitted with any bid in excess of $25,000 and containing such details as are necessary to enable bidders to determine the proper amount of bid guarantee to be submitted; and (ii) the provision in 7–2003.25.

(b) The requirement for the provision in 7–2003.25 is met when Standard Form 22 (Instructions to Bidders (Construction Contracts)) is used in accordance with 16–401.1(v) and 16–401.2(a).

(c) The provision required by (a)(ii) above may be appropriately modified in negotiated contracts.

10–102.5 *Noncompliance with Bid Guarantee Requirements.* Absent either (i) the existence of one of the following situations or (ii) a written determination by the contracting officer that, notwithstanding the existence of one of the following situations, acceptance of the bid would be detrimental to the Government's best interests, noncompliance with a solicitation requirement that the bid be supported by a bid guarantee will require rejection of the bid (See 2–404.2(h)):

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(b) The specific provisions described in (a) above shall be used only with the approval of the officials designated in 11-000(b) except in the case of the Air Force, approval may be given by the Department of the Air Force, Office of the General Counsel.

(c) (1) Whether State or local taxes are applicable to a purchase of supplies by the Government may depend upon the place and terms of delivery. For example, if the legal incidence of a State tax is on the vendor, and performance of the contract and delivery to the Government are in that State, the tax may apply. If, however, the contract requires delivery to the Government outside that State, the tax may not apply because the transaction is in interstate commerce. The form of bill of lading used (*i.e.*, Government bill, commercial bill, commercial bill convertible to Government bill at destination) may also affect the taxability of the transaction.

(2) When a contract will be in a substantial amount, available alternative places and terms of delivery should be considered in the light of possible tax consequences.

(d) When Government property is provided under a facilities contract, the contracting officer shall review the facilities contract when negotiating a subsequent supply contract to assure that the contractor is not reimbursed twice for the same taxes.

11-402 Cost-Reimbursement Type Contracts. No specific tax clause is required in any cost-reimbursement type contract. In all such contracts the problem of Federal, State, and local taxes, which presents solely a question of allowability of costs in connection with the performance of cost-reimbursement type contracts is covered in the contract clause in 7-203.4 and is treated in Section XV.

11-403 Foreign Tax Clauses.

11-403.1 *General.*

(a) *Use of Clauses.* Agreements have been made with various foreign countries, including, but not necessarily limited to, Australia, Bahrain, the Bahamas, Barbados, Belgium, Canada, Republic of China, Denmark (including Greenland), Ethiopia, France, Federal Republic of Germany (including West Berlin), Greece, Iceland, Iran, Italy, Japan, Republic of Korea, Luxembourg, the Netherlands, New Zealand, Norway, Panama, the Philippines, Portugal (including the Azores), Saudi Arabia, Spain, Thailand, Trinidad and Tobago, Turkey, the United Kingdom (including Anegada Island, Antigua Island, Ascension Island, Bermuda, British Indian Ocean Territories (Diego Garcia), Mahe Island, and Turks and Caicos Islands), and Yugoslavia, under which tax relief is provided for certain United States defense activities and expenditures. Countries which have not executed such an agreement with the United States may nevertheless grant relief from certain taxes or duties. Accordingly, the appropriate clause of those required by 11-403.2 shall be included in all contracts to be performed by contractors or by foreign governments in foreign countries.

(b) *Exclusion of Specific Taxes from the Contract Price.* The contracting officer shall not attempt to provide to a contractor or prospective contractor information as to foreign taxes or duties normally applicable to the transaction. The contracting officer shall, however, at the time of negotiation of a contract that is

to be performed in a country or area listed in Q-301 (*Appendix Q*), obtain from the appropriate Designated Commanding Officer detailed information concerning the taxes and duties from which the Government of the United States is exempt under the provisions of applicable international agreements or foreign law. Information obtained by the contracting officer regarding exemptions shall be made available to the contractor or prospective contractor and retained as part of the contract file.

(c) *Tax Exemption Certificates and Other Assistance.* During the administration of the contract the contracting officer shall, as appropriate, issue tax exemption certificates or use other procedures, if available, to assist the contractor in obtaining relief from foreign taxes and duties which were excluded from the contract price. If, in accordance with the appropriate clause of those contained in 11-403.2, the contractor notifies the contracting officer that a tax or duty has been assessed by a foreign government on the contractor under circumstances which could result in an increase in the contract price, the contracting officer shall immediately seek advice and assistance regarding the availability of tax relief from the appropriate Designated Commanding Officer listed in Q-301 (*Appendix Q*). If the tax or duty is being assessed by a foreign country or area not listed in Q-301, the contracting officer shall seek such advice and assistance from either the appropriate Unified Command (*see Q-202*), or the cognizant office of the appropriate Military Department or Defense Agency (*see Q-201*).

11-403.2 *Contract Clauses.*

(a) *Fixed-Price Contracts, Other Than With Foreign Governments.* The clause in 7-103.10(d)(1) shall be included in all fixed-price contracts (other than contracts with foreign governments and into-plane fuel contracts at overseas locations) to be performed wholly or partly in a foreign country, regardless of whether a tax agreement is in effect between the United States and the foreign country. All into-plane fuel contracts at overseas locations shall include a clause substantially as shown in 7-103.10(d)(2).

(b) *Fixed-Price Contracts With Foreign Governments.* The clause in 7-103.10(e) shall be inserted in all fixed-price contracts to be performed by foreign governments.

(c) *Cost-Reimbursed Contracts, Other Than With Foreign Governments.* The clause in 7-204.24(a) shall be inserted in all cost-reimbursement contracts (other than contracts with foreign governments) to be performed wholly or partly in a foreign country.

(d) *Cost-Reimbursement Contracts With Foreign Governments.* The clause in 7-204.24(b) shall be inserted in all cost-reimbursement contracts with foreign governments.

CONTRACTOR INDUSTRIAL LABOR RELATIONS

Part 7—Fair Labor Standards Act of 1938

12–701 Basic Statute. The Fair Labor Standards Act of 1938 (Act of June 30, 1938; 29 U.S.C. 201–219), as amended, provides for the establishment of minimum wage and maximum hour standards, creates a Wage and Hour Division in the Department of Labor for purposes of interpretation and enforcement (including investigations and inspections of Government contractors), and prohibits oppressive child labor. Said Act applies to all employees, unless otherwise exempted, who are engaged in (i) interstate commerce or foreign commerce or (ii) the production of goods for such commerce or (iii) any closely related process or occupation essential to such production.

12–702 Suits Against Government Contractors. Payments made pursuant to the provisions of the Fair Labor Standards Act are usually reimbursable under cost or cost-plus-a-fixed-fee contracts. Consequently, each Department has a direct interest in claims and suits under said Act which are made or brought in connection with such contracts. In this connection, procedures have been established, by agreement between the Department of Justice on the one hand and the Departments on the other hand, governing the defense of such Fair Labor Standards Act suits. These procedures in general contemplate the defense of Fair Labor Standards Act suits by private counsel employed by the contractor, the employment of whom is approved by the Department concerned. These procedures must be followed if contractors are to be reimbursed for the amount of any judgment under said Act, or for any litigation expenses (including the reasonable fees of such private counsel).

12–703 Rulings on Applicability or Interpretation. Contractors or contractor employees who inquire concerning applicability or interpretation of the Fair Labor Standards Act shall be advised that rulings concerning such matters fall within the jurisdiction of the Department of Labor and shall be given the address of the appropriate Regional Director of the Wage and Hour and Public Contracts Divisions of the Department of Labor.

CONTRACTOR INDUSTRIAL LABOR RELATIONS

Part 8—Equal Employment Opportunity

12–800 Scope of Part. This Part sets forth policies and procedures for carrying out the requirements of Executive Order No. 11246 of September 24, 1965 (30 F.R. 12319) as amended, Executive Order No. 11375 of October 13, 1967 (32 F.R. 14303) as amended, and the rules and regulations of the Secretary of Labor (41 CFR, Chapter 60).

12–801 Policy.

(a) Executive Orders 11246 and 11375 require that all Government contracting agencies shall include the Equal Opportunity clause in all non-exempt Government contracts and shall act to insure compliance with the clause and the regulations of the Secretary of Labor to promote the full realization of equal employment opportunity for all persons, regardless of race, color, religion, sex, or national origin. Therefore, it is the policy of DoD that one of the equal opportunity clauses set forth at 7–103.18 shall be included in all contracts regardless of dollar amount, including Government bills of lading, indefinite delivery type contracts, and other types of agreements (*i.e.*, basic agreements and basic ordering agreements), except as exempted in 12–808(b) through (f).

(b) Contractor disputes related to the Order shall be handled pursuant to the provisions of the appropriate equal opportunity clause, which specifies that the contractor shall comply with the rules, regulations, and relevant orders of the Secretary of Labor. Those rules, regulations, and relevant orders prescribe particular procedures for handling disputed matters.

(c) No contract or modification involving new acquisition shall be entered into and no subcontract shall be approved with a company which has been found ineligible by the Director, OFCCP, for reasons of noncompliance.

(d) All exemptions from this Part 8 shall be processed in accordance with 12–808, rather than 1–109.

12–802 Applicability of Executive Order. In the event the applicability of the Executive Order and implementing regulations is questioned, the contracting officer shall forward the matter for resolution through procurement channels in accordance with 12–606.

12–803 Definitions. As used in this Part, the following terms have the meanings stated below:

(a) "*Administering Agency*" as used in the clause means any Department, Agency and establishment in the Executive Branch of the Government, including any wholly-owned Government corporation, which administers a program involving Federally-assisted construction contracts.

(b) "*Affirmative Action Compliance Program*" (AACP) means a contractor's program to assure equal opportunity in employment to minorities and women which complies with Department of Labor regulations.

(c) "*Affirmative Action Plan*" means a set of goals and timetables for the employment of minorities and women which has been approved by the Department of Labor.

(d) "*Applicant*" means an applicant for Federal assistance involving a construction contract, or other participant in a program involving a Federally-assisted

construction contract as determined by regulations of an administering agency. The term also includes such persons after they become recipients of such Federal assistance.

(e) "*Construction work*" means the construction, rehabilitation, alteration, conversion, extension, demolition, or repair of buildings, highways, or other changes or improvements to real property, including facilities providing utility services. The term also includes the supervision, inspection and other onsite functions incidental to the actual construction.

(f) "*Contract*" means any Government contract or any Federally assisted construction contract.

(g) "*Contracting Agency*" means any Department, Agency, establishment, or instrumentality in the Executive Branch of the Government, including any wholly-owned Government corporation which enters into contracts.

(h) "*Contractor*" means, unless otherwise indicated, a prime contractor or subcontractor.

(i) "*Director, OFCCP*" means the Director, Office of Federal Contract Compliance Programs, United States Department of Labor, or any person to whom the Director delegates authority.

(j) "*Equal Opportunity Clause*" means the contract provisions as set forth in 7-103.18(a) or (b), as appropriate.

(k) "*Federally assisted construction contract*" means any agreement or modification thereof between any applicant and a person for construction work which is paid for in whole or in part with funds obtained from the Government or borrowed on the credit of the Government pursuant to any Federal program involving a grant, contract, loan, insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee, or any application or modification thereof approved by the Government for a grant, contract, loan, insurance, or guarantee under which the applicant itself participates in the construction work.

(l) "*Government contract*" means any agreement or modification thereof between any contracting officer of the Department of Defense and any person for the furnishing of supplies or services or for the use of real or personal property, including lease arrangements. The term "*services*," as used in this paragraph includes, but is not limited to the following services: utility, construction, transportation, research, insurance, and fund depository. The term "*Government contract*" does not include (i) agreements in which the parties stand in the relationship of employer and employee, and (ii) Federally assisted construction contracts, and (iii) contracts for the sale of personal property by the Government, and for the sale or purchase of real property by the Government.

(m) "*Order*" means Parts II, III, and IV of Executive Order No. 11246 of September 24, 1965 (30 F.R. 12319), and any Executive Order amending such Order, and any other Executive Order superseding such Order.

(n) "*Prime contractor*" means any person holding a contract and any person who has held a contract subject to the Order.

(o) "*Recruiting and training agency*" means any person who refers workers to any contractor or subcontractor, or who provides or supervises apprenticeship or training for employment by any contractor or subcontractor.

(p) "*Site of construction*" means the general physical location of any building, highway, or other change or improvement to real property which is undergoing construction, rehabilitation, alteration, conversion, extension, demolition, or repair and any temporary location or facility at which a contractor, subcontractor or other participating party meets a demand or performs a function relating to the contract or subcontract.

(q) "*Subcontract*" means any agreement or arrangement between a contractor and any person (in which the parties do not stand in the relationship of an employer and an employee): (i) for the furnishing of supplies or services or for use of real or personal property, including lease arrangements, which, in whole or in part, is necessary to the performance of any one or more contracts; or (ii) under which any portion of the contractor's obligation under any one or more contracts is performed, undertaken, or assumed.

(r) "*Subcontractor*" means any person holding a subcontract and any person who has held a subcontract subject to the Order. The term "first-tier subcontractor" refers to a subcontractor holding a subcontract with a prime contractor.

(s) "*United States*" as used herein shall include the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Panama Canal Zone, and the possessions of the United States.

12-804 Program Responsibilities.

(a) The Secretary of Labor is responsible for the administration of Parts II and III of Executive Order No. 11246, as amended, and for the adoption of such rules and regulations and the issuance of such orders as the Secretary deems necessary and appropriate to achieve the purposes thereof. The Secretary of Labor has established within the Department of Labor an Office of Federal Contract Compliance Programs (OFCCP) under a Director who has been delegated authority and assigned responsibility for carrying out the responsibilities assigned to the Secretary under the Order, except the power to issue rules and regulations of a general nature.

(b) Heads of Departments or Agencies which award or administer contracts are responsible for assuring that the provisions of this Regulation are carried out within their respective components and for cooperating with and assisting the OFCCP in fulfilling its responsibilities. As used in this Part, "*Head of Department or Agency*" means the Secretary, the Under Secretary, or any Assistant Secretary of any Military Department, the Director of the National Security Agency, the Director and Deputy Director of the Defense Logistics Agency, the Director of the Defense Communications Agency, the Director of the Defense Civil Preparedness Agency, or the Director of the Defense Mapping Agency.

12-805 Contract Clauses and Solicitation Provisions. Clause and solicitation provisions implementing the EEO program are contained at:

(i) 7-103.18(a) - Equal Opportunity clause, used with other than Federally assisted construction;
(ii) 7-103.18(b) - Equal Opportunity (Federally Assisted Construction);
(iii) 7-104.22 - Equal Opportunity Preaward Clearance of Subcontracts;
(iv) 7-603.60 - Affirmative Action Compliance Requirements for Construction;
(v) 7-607.13 - Equal Opportunity clause, used with architect - engineer services;
(vi) 7-2003.14(a) - Preaward On-Site Equal Opportunity Compliance Review;
(vii) 7-2003.14(b)(1)(A) - Certification of Nonsegregated Facilities;
(viii) 7-2003.14(b)(1)(B) - Previous Contracts and Compliance Reports;
(ix) 7-2003.14(b)(2) - Affirmative Action Compliance, used with nonconstruction affirmative action compliance programs;
(x) 7-2003.14(b)(3) - Equal Opportunity Compliance;
(xi) 7-2003.14(d) - Notice of Requirement for Affirmative Action to Ensure Equal Opportunity; and
(xii) 7-2003.14(e) - Notification of Visa Denial.

12-806 Affirmative Action Compliance Programs (AACPs).

12-806.1 *Nonconstruction.* Except as provided in 12-808, each prime contractor and each subcontractor with 50 or more employees and (i) a contract or subcontract of $50,000 or more, or (ii) Government bills of lading which, in any 12-month period, total or can reasonably be expected to total $50,000 or more is required to develop a written AACP for each of its establishments within 120 days from the commencement of its first such Government contract or subcontract.

12-806.2 *Construction*

(a) Construction contractors are required to meet (i) the contract provision citing affirmative action requirements covering specified geographical areas or projects and (ii) applicable requirements of 41 CFR Part 60-1.

(b) Departments shall maintain a listing of specific geographical areas that are subject to affirmative action requirements which specify goals for minorities and women in covered construction trades. Information concerning this lising and additions thereto will be provided to the principally affected contracting offices in accordance with departmental procedures. Any contracting office contemplating a construction project in excess of $10,000 within a geographical area not known to be covered by specific affirmative action goals shall request instructions prior to issuance of a solicitation. Such a request shall be forwarded through contracting channels to: Labor Advisor, OASA(RDA), for the Army; the cognizant field office of the Naval Facilities Engineering Command, for the Navy; Director of Contracting and Acquisition Policy, Headquarters USAF, for the Air Force; Executive Director for Procurement, for the Defense Logistics Agency; Director of Procurement,

for the National Security Agency; the Counsel, for the Defense Communications Agency; Director, Acquisition Management, for the Defense Nuclear Agency; Staff Director of Logistics, for the Defense Mapping Agency; and the Assistant Director for Administrative Services, for the Defense Civil Preparedness Agency.

(c) Contracting officers shall give written notice to the appropriate Assistant Regional Administrator, OFCCP, within 10 working days of award of the contract subject to these affirmative action requirements. The notification shall include the name, address and telephone number of the contractor, employer identification number, dollar amount of the contract, estimated starting and completion dates of the contract, the contract number, and geographical area in which the contract is to be performed. When requested by the appropriate compliance office, the contracting office shall arrange a conference among contractor, contracting activity, and compliance personnel to discuss the contractor's compliance responsibilities (see 18-704.1(b)(2).

12-807 Contracting Officer Responsibilities.

12-807.1 *Contract Provisions.* In all solicitations and contracts, except those exempted by 12-808(b) (1), the contracting officer shall include the applicable clause(s) and solicitation provisions referenced in 12-805. (Note: By operation of the Executive Order, the equal opportunity clause shall be considered to be a part of every contract and subcontract required by the Order and this Part to include such a clause whether or not it is physically incorporated in such contracts.)

12-807.2 *Determinations (Excluding Construction).*

(a) *Preaward Clearances for Contracts and Subcontracts of $1 Million or More.* Except as provided in (2)*c.* below, the contracting officer shall request the appropriate OFCCP regional office (see (1)*a.* below) to determine whether a prospective contractor is awardable prior to award of any contract, modification of an existing contract for new effort that would constitute a contract award, issuance of any basic ordering agreement, award of any indefinite delivery contract or letter contract, the estimated amount of which is or is expected to aggregate $1 million or more or to increase the aggregate value of an existing contract to $1 million or more.

(1) *Procedure for Requesting Clearances.*

a. Preaward clearance for each proposed prime contract and for each known proposed first tier subcontract of $1 million or more shall be requested by the contracting officer directly from the OFCCP Regional Office(s), as will be listed from time to time in Defense Acquisition Circulars. Verbal requests shall be confirmed in writing.

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b. When contract work is to be performed outside the United States with employees recruited within the United States, the preaward review should be requested from the OFCCP regional office serving the area where the contractor's corporate home or branch office is located within the United States, or the corporate location where personnel recruiting is handled, if different from the foregoing. In cases where the proposed contractor has no corporate office or location within the United States, the preaward action should be based on the location of the recruiting agency, as defined in 12-803(o), in the United States.

c. In making a request for preaward clearance, the contracting officer shall furnish the following information:

(i) name, telephone number, and address of the prospective prime contractor, any corporate affiliate thereof at which work is to be performed, and each known first tier subcontractor with a proposed subcontract estimated at $1 million or more;

(ii) anticipated date of award;

(iii) information as to whether the prime contractor and known first tier subcontractors have previously held any Government contracts or subcontracts or Federally assisted construction contracts (7-2003.14(b)(1)(B));

(iv) place or places of performance of the prime and first tier subcontract estimated at $1 million or more, if known; and

(v) the anticipated dollar amount for the prime and each first tier subcontract, if known.

(2) *Time Limitations for Requesting Preaward Clearances.*

a. As much time as feasible shall be provided prior to award for the conduct of necessary reviews. As soon as the successful contractor can be determined, the contracting officer shall process a preaward clearance request in accordance with procedures established at 12-807.1(a)(1), assuring, where possible, that the preaward clearance request is submitted to the OFCCP regional office at least 30 calendar days prior to the proposed award date.

b. In the event that the Director, OFCCP has not made a final preaward clearance determination within 30 calendar days from submission of the clearance request, the contracting officer shall withhold award of the contract for an additional 15 calendar days or until clearance is received, whichever occurs first. If the additional 15 calendar days expire, and the Director, OFCCP, has not found the contractor

to be in compliance or made a final written determination declaring the contractor ineligible for reasons of noncompliance, the award may be made to the contractor in question. The contracting officer shall notify the OFCCP regional office of the award and, through the head of the contracting activity, the departmental labor advisor listed at 12-606.

c. When the procedures specified in *a.* and *b.* above would delay award of an urgent and critical contract beyond the time necessary for the Government to make awards or beyond the time specified in the bid or proposal or extension thereof, the contracting officer shall immediately inform the servicing OFCCP regional office as to the expiration date of the bid or proposal or the required date of award, and request clearance be provided prior to that date. If the OFCCP regional office advises that a clearance review cannot be completed by the required date, the contracting officer shall submit written justification for the award to the head of the contracting activity who, after informing the servicing OFCCP regional office, may then approve the award without the preaward clearance. If an award is made under this authority, the contracting officer shall immediately request a postaward review from the appropriate OFCCP regional office.

d. If, under the provisions of *c.* above, a postaward review determines the contractor to be nonawardable, the Director, OFCCP, may authorize the use of the enforcement procedures at 12-810 against the noncomplying contractor.

(b) *Reserved.*

12-807.3 *Processing Ineligibility Determinations.* Where a determination of ineligibility by reason of EEO deficiencies has been made, the contracting officer shall follow the notification procedures set forth in 12-810(b).

12-807.4 *Contractor Inquiries.* Any contractor inquiring in regard to its compliance status and rights of appeal under 41 CFR 60-2.2(b) shall be referred to the OFCCP regional office.

12.807.5 *Labor Union Inquiries.* Inquiries from organized labor which concern revision of a collective bargaining agreement in order to comply with the Executive Order and with the Equal Opportunity clause shall be referred to the Director, OFCCP. The departmental labor advisor (12-606) shall be advised in writing of all such referrals.

12-807.6 *Other Matters.* Matters requiring the attention of OFCCP national headquarters shall be referred to the departmental labor advisor (see 12-606) in accordance with departmental procedures.

12-807.7 *Equal Opportunity Posters.* The contracting officer shall furnish to the contractors appropriate quantities of the poster entitled "Equal Opportunity Is the Law." These notices shall be obtained in accordance with departmental procedures.

12-808 Exemptions.

(a) *Transactions of $10,000 or Less.* The equal opportunity clause is required to be included in contracts in accordance with 12-801(a). Individual contracts or subcontracts of $10,000 or less are exempt from application of the Equal Opportunity clause, unless the aggregate value of all contracts and subcontracts awarded to a contractor or subcontractor in any 12-month period exceeds, or can reasonably be expected to exceed $10,000. (Note: Government bills of lading regardless of amount are not exempt). In determining the applicability of this exemption to any Federally assisted construction contract, or subcontract thereunder, the amount of such contract or subcontract rather than the amount of the Federal financial assistance shall govern. No contracting officer, contractor or subcontractor shall procure supplies or services in a manner so as to avoid applicability of the equal opportunity clause.

(b) *Work Outside the United States.* Contracts and subcontracts are exempt from the requirements of the Equal Opportunity clause with regard to work performed outside the United States by employees who were not recruited within the United States. See 12-807.2(a)(1)b for procedures in cases where employees are recruited in the United States.

(c) *Contracts with State or Local Governments.* The requirements of the clause in any contract or subcontract with a State or local government (or any agency, instrumentality or subdivision thereof) shall not be applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract or subcontract.

(d) *Work on or near Indian Reservations.* It shall not be a violation of the equal opportunity clause for a construction or nonconstruction contractor to extend a publicly announced preference in employment to Indians living on or near an Indian reservation in connection with employment opportunities on or near an Indian reservation. The use of the word "near" includes all that area where a person seeking employment could reasonably be expected to commute to and from in the course of a work day. Contractors or subcontractors extending such a preference shall not, however, discriminate among Indians on the basis or religion, sex, or tribal affiliation, and the use of such preference shall not excuse a contractor from complying with the Executive Order, rules and regulations of the Secretary of Labor and the equal opportunity clauses and provisions in Section VII.

(e) *Contracts Exempted by the Secretary of Defense in the Interest of National Security.*

(1) Any requirement set forth in this Part shall not apply to any contract or subcontract whenever the Secretary of Defense determines that such contract or subcontract is essential to the national security and that its award without complying with such requirement is necessary to the national security.

(2) *Request for Exemption.* The contracting officer shall prepare a detailed justification for such determination, which shall be submitted through contracting channels to the labor advisor (see 12-606), for departmental coordination and submission, as appropriate, to the Deputy Under Secretary of Defense for Research and Engineering (DUSDRE), who shall submit the request for exemption to the Secretary of Defense for approval and shall notify the Director, OFCCP, within 30 days of such a determination.

(f) *Specific Contracts and Facilities Exempted by the Director, OFCCP.*

(1) *Specific Contracts.* The Director, OFCCP, may exempt an agency or person from requiring the inclusion of any or all of the Equal Opportunity clause in any specific contract or subcontract when the Director deems that special circumstances in the national interest so require. Groups or categories of contracts or subcontracts of the same type may also be exempted where the Director finds it impracticable to act upon each request individually or where group exemptions will contribute to convenience in the administration of the Order.

(2) *Facilities Not Connected with Contracts.* The Director, OFCCP, may exempt from the requirements of the clause, any of a prime contractor's or subcontractor's facilities which the Director finds to be in all respects separate and distinct from activities of the prime contractor or subcontractor related to the performance of the contract or subcontract, *provided* that the Director also finds that such an exemption will not interfere with or impede the effectuation of the Order.

(3) *Special Circumstances.* The Director, OFCCP, may exempt a contract or subcontract when the Director finds that special circumstances indicate that use of either of the clauses in 7-103.18 in the contract or subcontract would not be in the national interest.

(4) *Request for Exemption.* The contracting officer shall submit a detailed justification for omitting or modifying the clause under (1), (2), or (3) above through contracting channels to the labor advisor (see 12-606), for departmental coordination and submission, as appropriate. The DUSDRE shall submit the request for exemption to the Director, OFCCP.

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(5) *Withdrawal of Exemption by the Director, OFCCP.* When any contract or subcontract is of a class exempted under this paragraph 12-808, the Director, OFCCP, may withdraw the exemption for a specific contract, subcontract, or group of contracts or subcontracts when, in his judgment, such action is necessary or appropriate to achieve the purposes of the Executive Order. Such withdrawal shall not apply to contracts or subcontracts awarded prior to the withdrawal. In contracts entered into by formal advertising or the various forms of restricted formal advertising, such withdrawal shall not apply unless the withdrawal is made more than 10 calendar days before the date set for the opening of the bids.

12-809 Complaints.

(a) Complaints received alleging violation of the Equal Opportunity clause shall be referred immediately to the appropriate regional office of the OFCCP. Complainant shall be advised in writing of the referral.

(b) The contractor shall not be advised in any manner or for any reason of the complainant's name, the nature of the complaint or the fact that the complaint was received.

12-810 Enforcement.

(a) At written direction of the Director, OFCCP, one or more of the following actions, including administrative sanctions and penalties, may be exercised against contractors found to be in violation of the Executive Order, the regulations of the Secretary of Labor, or the clauses and provisions in Section VII:

(i) publication of the names of such contractors or their unions;

(ii) cancellation, termination, or suspension of the contractor's contracts or portions thereof; and

(iii) debarment from future Government contracts, or extensions or modifications of existing contracts until such contractors have established and carried out personnel and employment policies in compliance with the Executive Order and the regulation of the Secretary of Labor; and

(iv) referral by the Director, OFCCP, of any matter arising under the Executive Order to the Department of Justice or to the Equal Employment Opportunity Commission (EEOC) for the institution of appropriate civil or criminal proceedings.

(b) Upon receipt of written notification from the Director, OFCCP, that a specific contractor is ineligible, the deparmental labor advisor (see 12-606) shall be immediately informed by the most expeditious means and provided a copy of the notification. The departmental labor advisor shall inform HCAs of the contractor's ineligible status.

CONTRACTOR INDUSTRIAL LABOR RELATIONS

Part 9—Nondiscrimination Because of Age

12-901 Policy Regarding Nondiscrimination Because of Age. It is the policy of the Executive Branch of the Government (i) that contractors and subcontractors engaged in the performance of Federal contracts shall not, in connection with the employment, advancement, or discharge of employees or in connection with the terms, conditions, or privileges of their employment, discriminate against persons because of their age except upon the basis of a bona fide occupational qualification, retirement plan, or statutory requirement; and (ii) that contractors and subcontractors, or persons acting on their behalf, shall not specify, in solicitations or advertisements for employees to work on Government contracts, a maximum age limit for such employment unless the specified maximum age limit is based upon a bona fide occupational qualification, retirement plan, or statutory requirement. This policy is stated in Executive Order No. 11141 dated 12 February 1964. Any complaint regarding a concern's compliance with the foregoing policy should be brought to the attention of the concern by a communication (in writing, if appropriate) which states the policy, indicates that the concern's compliance with the policy has been questioned, and requests that the concern take any appropriate steps which may be necessary to comply with the policy.

CONTRACTOR INDUSTRIAL LABOR RELATIONS

Part 10—Service Contract Act of 1965, As Amended

12-1000 Scope of Part. This part sets forth policies and procedures for implementing the provisions of the McNamara-O'Hara Service Contract Act of 1965, as amended (41 U.S.C. 351 et seq.) and the provisions of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 201 et seq.), as they pertain to service contracts, and the regulations prescribed in 29 CFR, Parts 4 and 1910, and instructions issued by the Secretary of Labor.

12-1001 Statutory Requirements. The Service Contract Act, referred to in this part as the "Act," includes the following general requirements with respect to service contracts entered into by Federal agencies.

(i) Regardless of contract amount, no contractor or subcontractor holding a Federal service contract shall pay any of its employees engaged in such work less than the minimum wage specified in the Fair Labor Standards Act of 1938, as amended;

(ii) Successor contractors performing on contracts in excess of $2,500 must pay wages and fringe benefits at least equal to those agreed upon for substantially the same services in any bona fide collective bargaining agreement entered into by the predecessor contractor (unless such wages and fringe benefits are determined to be substantially at variance with those which prevail for services of a similar character in the locality);

(iii) Service contractors performing on contracts in excess of $2,500, to which no predecessor contractor's collective bargaining agreement applies, shall pay their employees at least the wages and fringe benefits found by the Department of Labor to prevail in the locality or, in the absence of a wage determination, the minimum wage set forth in the Fair Labor Standards Act; and

(iv) See 12-1002.4 for statutory exemptions and 12-1002.5 for regulatory exemptions.

12-1002. Applicability.

12-1002.1 *General.* Subject to statutory exemptions or administrative exemptions by the Secretary of Labor under section 4(b) of the Act (41 U.S.C. 353), the Act applies to all Federal contracts, the principal purpose of which is to furnish services in the United States through the use of service employees. (Note: In contracts having separate and severable requirements for supplies and services, the principal purpose test is applied to the service requirement,

thereby possibly bringing it within the Act's coverage.)

12-1002.2 *Geographical Coverage of the Act.* The Act applies to service contracts performed within the United States (see 12-1002.3(ii)). The Act does not apply to contracts performed outside the United States.

12-1002.3 *Definitions.* For the purpose of this part, unless otherwise indicated, terms used here are defined as follows:

(i) "Service employee" means any person employed in connection with a contract entered into by the United States and not exempted under section 7 of the Act (41 U.S.C. 356), whether negotiated or advertised, the principal purpose of which is to furnish services in the United States (other than any person employed in a bona fide executive, administrative, or professional capacity, as those terms are defined in 29 CFR, Part 541); and shall include all such persons regardless of any contractual relationship that may be alleged to exist between a contractor or subcontractor and such persons.

(ii) "United States" shall include any State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, Outer Continental Shelf Lands, as defined in the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.), American Samoa, Guam, Wake Island, Eniwetok Atoll, Kwajalein Atoll, Johnston Island, and Canton Island, but shall not include any other territory under the jurisdiction of the United States or any U.S. base or possession within a foreign country.

(iii) "Administrator" means the Administrator of the Wage and Hour Division, United States Department of Labor, or the Administrator's authorized representative.

(iv) "Contract" includes any contract subject wholly or in part to provisions of the Act and any subcontract at any tier thereunder.

(v) "Contractor" includes a subcontractor whose subcontract is subject to provisions of the Act.

(vi) "Wage Determination" includes any determination of minimum wage rates or fringe benefits made pursuant to the provisions of section 2(a) and 4(c) of the Act (41 U.S.C. 351 and 353) for application to the employment in a locality of any class or classes of service employees in the performance of any contract in excess of $2,500 that is subject to the provisions of the Act.

12-1002.4 *Statutory Exemptions.* Statutory exemptions are set forth in paragraph (p) of the clause at 7-1903.41(a).

12-1002.5 *Administrative Limitations, Variations, Tolerances, and Exemptions.* The Secretary of Labor, only in special circumstances, may provide such reasonable limitations

and may make such rules and regulations allowing reasonable variations, tolerances, and exemptions to and from any or all provisions of the Act as the Secretary may find necessary and proper in the public interest or to avoid serious impairment of the conduct of Government business (41 U.S.C. 353(b)). Requests for variations, tolerances, and exemptions from the Act shall be submitted in writing through contracting channels to the departmental labor advisor (12-1002.6).

12-1002.6 *Questions Concerning Applicability of the Act.* In the event the contracting officer questions the applicability of the Act to an acquisition, the matter shall be forwarded for resolution, prior to issuance of the solicitation, as follows:

For the Army: Assistant Secretary of the Army (RDA)
Attn: Labor Advisor
For the Navy: Chief of Naval Material
Attn: Labor Relations Advisor
For the Air Force: Chief, Air Force Labor Relations
HQ USAF/RDC
For DCA: Defense Communications Agency Headquarters
Attn: Counsel
For DMA: Staff Director of Logistics
For DNA: Deputy Director of Operations and Administration
For DLA: Deputy Director (Contract Administrative Services)
Attn: DLA-HP

12-1003 Department of Labor Regulations. The Department of Labor has issued 29 CFR, Parts 4 and 1910, providing for the administration and enforcement of the Act. The regulations include coverage of the following matters relating to the requirements of the Act:

(i) Service Contract Labor Provisions and Procedures (see 29 CFR, Subpart A, Part 4);
(ii) Equivalents of Determined Fringe Benefits (see 29 CFR, Subpart B, Part 4);
(iii) Application of the Act of 1965 (Rulings and Interpretations) (see 29 CFR, Subpart C, Part 4);
(iv) Safe and Sanitary Working Conditions (see 29 CFR, Part 1910); and
(v) Rules of Practice for Administrative Proceedings Enforcing Service Contract Labor Standards (see 29 CFR, Part 6).

12-1004 Contract Clauses and Solicitation Provisions. Clauses, solicitation provisions, and guidance as to their use are contained at:

(i) 7-1903.41(a) - Service Contracts in Excess of $2,500;
(ii) 7-1903.41(b) - Service Contracts Not in Excess of $2,500;
(iii) 7-1903.41(c) - Basic Ordering Agreements and Blanket Purchase Agreements;
(iv) 7-1903.41(d) - Price Adjustment Clause;
(v) 7-1903.41(e) - Potential Application of the Act to Overhaul and Modification Work;
(vi) 7-2003.84 - Statement of Rates for Federal Hires;
(vii) 7-2003.85 - SCA Minimum Wages and Fringe Benefits Applicable to Successor Contractor Pursuant to Predecessor Contractor Collective Bargaining Agreement (CBA).

12-1005 Administration and Enforcement.

12-1005.1 *Responsibilities of the Department of Labor.* The Secretary of Labor is authorized and directed to administer and enforce the provisions of the Act, to make rules and regulations, issue orders, make decisions, and take other appropriate action under the Act.

12-1005.2 *Contracting Officer Responsibilities—Preparation of Solicitations and Contracts.*

(a) As to solicitations and contracts of $2,500 or less, to which the Act applies, the contracting officer shall include the clause set forth in 7-1903.41(b).

(b) As to solicitations and contracts that are or may be in excess of $2,500, to which the Act applies, the contracting officer shall insert the applicable clause(s) at 7-1903.41 and solicitation provision(s) at 7-2003.84 and 7-2003.85, and shall take the following appropriate actions:

(1) *Issuance of Notice of Intention to Make a Service Contract—Standard Forms 98 and 98a.*

a. No less than 30 days prior to issuance of any solicitation or commencement of negotiations for any new contract, contract extension, bilateral modification adding significant new work, or exercise of an option exceeding $2,500, which may be subject to the Act, the contracting office shall file with the Wage and Hour Division, Employment Standards Administration, Department of Labor, its notice of intention to make a service contract. To avoid delays because of late issuance of wage determinations by the Department of Labor in response to the notice, the contracting office shall make every effort to file its notice as early as possible. This notice shall be submitted on SF 98/98a (see Appendix F-100.98) in accordance with the forms' instructions and shall be supplemented by the information required under *b.* and *c.* below. Care should be taken to insure that all required

information is provided to avert return without action by the Department of Labor.

b. The contracting office shall file SF 98a with SF 98. SF 98a shall contain the following information concerning the service employees expected to be employed by the contractor and any subcontractors in performing the contract:

(i) classes of service employees;
(ii) the number of service employees in each class; and
(iii) the wage rate that would be paid each class if employed by the agency and subject to the wage provisions of 5 U.S.C. 5341 or 5332 (see (3) below).

c. If the services to be furnished under the proposed contract will be substantially the same as services being furnished for the same location by an incumbent contractor whose contract the proposed contract will succeed, and if the incumbent contractor is furnishing such services through the use of service employees whose wages and fringe benefits are the subject of one or more collective bargaining agreements, the contracting officer shall obtain from the contractor (see paragraph (n) of 7-1903.41(a)) a copy of each such collective bargaining agreement, together with any related documents specifying the wage rates and fringe benefits currently or prospectively payable under such agreement, and submit them with the SF 98/98a, retaining a copy for the contract file. If such services are being furnished for more than one location and the collectively bargained wage rates and fringe benefits are different for different locations or do not apply to all locations, the contracting officer shall identify the locations to which the agreements have application. See (2) below for notice to interested parties, which is required at least 30 days prior to issuance of the solicitation. See also (4)*b.* below, concerning collective bargaining agreements that are considered not to be entered into as a result of arms-length negotiations or that are at substantial variance with the wages and fringe benefits prevailing in the locality.

d. If exceptional circumstances prevent the filing of the notice of intention and the supplemental information required by *b.* above, the notice shall be submitted to the Wage and Hour Division as soon as practicable, with a detailed explanation justifying the need for expeditious action on the SF 98.

e. Requests to expedite issuance of wage determinations or to check the status of a particular request

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should be made in accordance with departmental procedures through the offices listed in 12-1002.6. Direct contact with Department of Labor officials for this purpose is not authorized.

(2) *Notice to Interested Parties.* If, pursuant to paragraph (n) of the clause set forth at 7-1903.41(a) or through other means, the contracting officer is aware or has reason to believe that the incumbent contractor or a subcontractor is negotiating or has consummated a collective bargaining agreement with a bargaining agent representing service employees performing on the contract, both the contractor and bargaining agent(s) shall be notified of the pending acquisition at least 30 days prior to (i) issuance of the solicitation, or (ii) the commencement of performance of contract modification extending the initial period of performance or affecting the scope of effort or of an option. Such notification shall be made by registered letter, return receipt requested, and shall set forth all pertinent dates.

(3) *Statement of Equivalent Rates for Federal Hires.*

a. The provision at 7-2003.84 shall be inserted in each solicitation for the acquisition of services to which the clause at 7-1903.41(a) applies. In accordance with this provision, the solicitation shall contain a statement of rates for equivalent Federal hire, setting forth those wage rates and fringe benefits that would be paid by the contracting activity to the various classes of service employees expected to be utilized under the contract if 5 U.S.C. 5332 (General Schedule—white collar) and/or 5 U.S.C. 5341 (Wage Board—blue collar) were applicable.

b. Procedures for computation of these rates are as follows:

1. Wages paid blue collar employees shall be the basic hourly rate for each class. The rate shall be Wage Board pay schedule step two for nonsupervisory service employees and step three for supervisory service employees. Determinations of applicable Wage Board rates are as follows:

i. Where the place of performance is known, the rates applicable to that location shall be used; or

ii. Where the place of performance is not known, the rates applicable to the contracting activity's location shall be used.

2. Wages paid white collar employees shall be an hourly rate for each class. The rate shall be obtained by dividing the general pay schedule step one biweekly rate by 80.

3. Local civilian personnel offices can assist in determining and providing grade and salary data.

4. The Department of Labor develops standardized fringe benefits. The approved standard and any subsequent modification thereto shall be published in the Defense Acquisition Circular.

(4) *Applicability of Wage Determinations Prior to Award.*

a. Solicitations and contracts for more than $2,500 shall contain an attachment (wage determination or appropriate revisions thereto) issued by the Administrator in response to the notice required under (1) above, setting forth the minimum wages and fringe benefits for service employees to be employed thereunder. However, wage determinations and revisions thereto shall not apply—

(i) where no collective bargaining agreement exists and wage determinations or revisions are received by the Federal agency less than 10 days before the opening of bids or date established for the initial receipt of proposals, unless the contracting officer finds that there is a reasonable time to notify bidders or offerors thereof; or

(ii) where a collective bargaining agreement does exist and (A) the contracting agency has received notice of the existence thereof less than 10 days before bid opening or commencement of performance of a negotiated contract, option, or contract extension, and (B) the contracting officer determines that there is not reasonable time to incorporate a new wage determination in the solicitation, and (C) the notices required by (1) and (2) above have been given.

b. Review of Collective Bargaining Agreements and Wage Determinations.

1. If a contracting officer believes that an incumbent contractor's collective bargaining agreement under section 4(c) of the Act was not entered into as a result of arms-length negotiations, procedures in accordance with *4.* below shall be followed.

2. Immediately upon receipt of a wage determination not predicated upon a collective bargaining agreement, the contracting officer shall examine the wage determination to ascertain whether it is correct and whether it conforms with the wages and fringe benefits prevailing for services of

a character similar in the locality. If the wage determination is at substantial variance with the prevailing rates, the contracting officer shall proceed in accordance with *3.* below.

3. A full statement of the facts shall be transmitted immediately to the departmental labor advisor (see 12-1002.6) through contracting channels for appropriate action.

4. If wages and fringe benefits provided for in a collective bargaining agreement are substantially at variance with those prevailing for services of a character similar in the locality, the contracting officer shall proceed as follows:

i. Review immediately the agreement to ascertain if a hearing (12-1006) is warranted.

ii. Submit a request for hearing, when warranted, to the departmental labor advisor (12-1002.6) through contracting channels. Sufficient payroll data shall accompany this request to support a *prima facie* showing that the bargained-for rates, in fact, are substantially at variance with those prevailing for services of a character similar in the locality. Except under extraordinary circumstances, as determined by the Administrator, a request for hearing shall not be considered by the Secretary unless received by the Department of Labor more than 10 days before the award of an advertised contract or prior to the commencement of a negotiated contract or contract extension, through option or otherwise.

(5) *Late Receipt of Wage Determinations.*

a. If the SCA wage determination requested in accordance with (1) above is not received in time for inclusion in the solicitation, and absent an incumbent contractor union agreement, the contracting officer should proceed using the latest wage determination included in the existing contract, if any. If a new wage determination is subsequently received 10 or more days prior to the opening of bids or the date established for the initial receipt of proposals, the solicitation must be amended accordingly. However, if a new wage determination is received less than 10 days before the opening of bids or the date established for the initial receipt of proposals, it shall be included in the solicitation only when there is a reasonable time to notify offerors thereof, pursuant to (4)*a.*(i) above.

b. In those cases involving an incumbent contractor operating under a collective bargaining agreement, the wage determination in the incumbent's contract shall not

be included in any solicitation that must be released without a new SCA wage determination. Instead, using the solicitation provisions at 7-2003.85, offerors shall be informed that—

(i) the economic terms of such agreement(s) will apply to the contract and should be considered in developing an offer; however,

(ii) pursuant to Department of Labor regulations at 29 CFR 4.1c, and subject to the conditions set forth in (2) and (4)*a.ii.* above, the economic terms of any agreement entered into subsequent to this solicitation might apply to the contract.

c. The contracting officer shall notify in writing the Administrator, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210, of each case when compelled to proceed without a new wage determination due to a delayed response from the Department of Labor. An information copy of each such notice shall be forwarded to the appropriate departmental labor advisor (see 12-1002.6).

12-1005.3 *Applicability of Wage Determinations—Subsequent to Award.* If a required wage determination is not included in the solicitation or contract due to failure to comply with 12-1005.2(b)(1) or (2), and if the contracting officer receives a wage determination from the Department of Labor within 30 days of the late filing of the SF 98/98a or the discovery by the Department of Labor of the failure to include a wage determination required by this part—

(i) the contracting officer shall attempt to negotiate a bilateral notification to—

(A) incorporate the appropriate clauses, if not previously included;

(B) incorporate the required wage determination, which shall be effective as of the date of issuance unless otherwise specified; and

(C) equitably adjust the contract price to compensate for any increased cost of performance under the contract by the wage determination; or

(ii) the contracting officer, if unable to negotiate a bilateral modification incorporating the wage determination, shall document the contract file to show the efforts made and provide a copy of this documentation through appropriate channels to the departmental labor advisor (see 12-1002.6).

12-1005.4 *Additional Classes of Service Employees (Conformable Rates).* Where additional classes of service employees are required, which were not set forth in the wage determination, the procedure described in paragraph (a) of the contract clause (7-1903.41(a) shall be followed after award.

12-1005.5 *Notice of Award.*

(a) *Notice of Award of Contract—Standard Form 99.* Two copies of SF 99 shall be prepared for (i) contracts of $2,500 or more but less than $10,000, containing the clause in 7-1903.41(a); (ii) the initial order (if less than $10,000) under an indefinite delivery-type contract or basic ordering agreement containing the clause in 7-1903.41(a); and (iii) the initial call under a blanket purchase agreement containing the clause in 7-1903.41(a). This form shall be forwarded to the Department of Labor, ATTN: Administrator, Wage and Hour Division, Washington, D.C. 20210. The form shall be completed as follows:

(i) Item 1 through 7 and 12 and 13: self-explanatory;
(ii) Item 8: enter the notation "Service Contract Act";
(iii) Item 9: leave blank;
(iv) Item 10: (A) enter the notation "Major Category" and indicate beside this entry the general service area into which the contract falls, and (B) enter the heading "Detailed Description" and, following this entry, describe in detail the services to be performed; and
(v) Item 11: enter the dollar amount of the contract or the estimated dollar value with the notation "estimated" (if the exact amount is not known). If neither the exact nor the estimated dollar value is known, enter "indefinite" or "not to exceed $_____."

(b) *Individual Procurement Action Report (DD Form 350).* Awards of service contracts of $10,000 or more and orders of $10,000 or more under indefinite delivery-type contracts and basic ordering agreements are reported to the Department of Labor by the Office of the Secretary of Defense from information contained in this form (see 21-114). Therefore, the contracting officer shall not report such awards directly to the Department of Labor.

12-1005.6 *Inquiries Concerning the Act.* Contractors or contractor employees who inquire concerning the administration and enforcement of the Act shall be advised that such matters fall within the jurisdiction of the Department of Labor and shall be given the address of the appropriate

Assistant Regional Administrator of the Wage and Hour Division of the Department of Labor (see 12-607).

12-1005.7 *Contract Modifications.*

(a) *Bilateral Contract Modifications.* Generally, a bilateral contract modification affecting the scope of the work is regarded as a new contract for purposes of the Act. (Bilateral contract modifications not related to the contract's labor requirements or containing insignificant changes to the contract's labor requirements shall not be deemed to create a new contract for purposes of the Act.) Prior to entering into such modification, the contracting officer shall forward SF 98/98a to the Administrator in accordance with the procedure set forth in 12-1005.2(b)(1), except that—

(i) in the "Estimated Solicitation Date" block, enter the date the wage determination is needed; and
(ii) in block 6, enter "Modification of Existing Contract for (describe type of service) Services."

(b) *Extension of Contract Through Exercise of Option or Otherwise.* A new contract shall be deemed entered into for purposes of the Act when the period of performance of an existing contract is extended pursuant to an option clause or otherwise. Prior to extending the period of performance of the contract, the contracting officer shall forward SF 98/98a as provided in 12-1005.2(b)(1) and in (a) above.

12-1005.8 *Multiyear Contracts.* After the initial submission of the SF 98/98a, the contracting officer shall submit an SF 98/98a on an annual basis at least 30 days prior to the anniversary date on all multiyear contracts subject to the Act (see paragraph (c) of 7-1903.41(a)).

12-1005.9 *Withholding of Contract Payments.*

(a) As provided by the Act, any violation of the stipulations required by the clauses (7-1903.41) renders the party responsible therefor liable for a sum equal to the amount of any deductions, rebates, refunds, or underpayment of compensation due to any employee engaged in the performance of the contract. Upon the written request of the Department of Labor, at a level no lower than an Assistant Regional Administrator, so much of the accrued payment due on the contract under which the violations occurred shall be withheld as is necessary to pay such employees under that contract or under any other contract between the Government prime contractor and the Federal Government, provided such other contract is not assigned pursuant to 31 U.S.C. 203 or 41 U.S.C. 15. Generally, such sums withheld shall be forwarded immediately to the Department of Labor for payment to employees unless otherwise directed by the Department of Labor.

12-1005.10 *Termination.* See paragraph (i) of 7-1903.41(a).

12-1005.11 *Cooperation With the Department of Labor.* The contracting officer shall cooperate with representatives of the Department of Labor in the examination of records, interviews with service employees, and all other aspects of investigations undertaken by the Department of Labor. When requested, agencies shall furnish to the Administrator any available information with respect to contractors, subcontractors, their contracts, and the nature of the contract services. Violations apparent to the contracting agency and complaints received shall be promptly referred in writing to the appropriate regional office of the Department of Labor. In no event shall complaints by employees be disclosed to the employer.

12-1006 Hearings. A successor contractor's obligation (see 12-1001(ii) cannot be avoided unless it is found after a hearing that such bargaining for wages and fringe benefits are substantially at variance with those which prevail for services of a character similar in the locality. Such hearings may be requested by any interested party, including the contractor, a union, or the contracting agency.

12-1007 Procedures for Evaluating Professional Employee Compensation for Service Contracts.

12-1007.1 *Purpose.* The Service Contract Act of 1965, as amended, was enacted to ensure that blue collar and some white collar workers are fairly compensated by contractors providing contract services to the Government. It does not apply, however, to professional employees. This subpart provides policies and procedures to be used when contracting for services which include a meaningful number of professional employees not covered under the Service Contract Act.

12-1007.2 *Policy.* It is the policy of the Federal Government that all service employees, including professional employees, employed by contractors providing services to the U.S. Government be fairly and properly compensated.

12-1007.3 *Applicability.* The provisions in 7-2003.78 and 7-2003.79 shall apply when all of the following conditions are present:

(i) the principal purpose of the proposed contract is to furnish services in the United States;
(ii) the proposed contract will be negotiated;
(iii) there are a meaningful number of professional employees who will be employed by the contractor to perform the service; and
(iv) the proposed contract will be in excess of $250,000.

12-1007.4 *Definition of Professional Employee.* The term "professional" is not restricted to the traditional professions of law, medicine, and theology. It includes those professions that have a recognized status and that are based on the acquirement of professional knowledge through prolonged study. Title 29, Part 541, Code of Federal Regulations, defines the term "professional employee" and provides a listing of occupations generally considered to be held by professionals.

Upon notification of availability by DIPEC, a DD Form 1419 will be submitted to DIPEC for each item accepted by the requestor. However, if DIPEC does not have the item available, or cannot furnish the item within the time specified by the requestor, DIPEC will furnish a statement of non-availability including a certificate number. This statement will be the official Certificate of Nonavailability and will confirm that the plant equipment item has been screened against the idle inventory.

(h) The proposed acquisition of automatic data processing equipment as defined in 1-201.29 shall be:

(i) submitted on DD Form 1419 through the Administrative Contracting Officer to Headquarters, Defense Supply Agency, ATTN: DSAH-LSR, Cameron Station, Alexandria, VA., 22314;

(ii) approved by the Senior ADP Policy Official of the Department or Agency which generated the requirement for the contract end item. The Senior ADP Policy Official may delegate approval authority except for non-competitive procurements when:

(1) the annual lease cost exceeds $200,000, or the purchase cost exceeds $500,000; or

(2) the total requirement exceeds the limitations prescribed in the Scope of Contract clause of the FSS as it relates to the Maximum Order Limitations; or

(3) referral of the procurement to GSA is required for any other reason pursuant to the FPMR.

13-302 Securing Approval for Facilities Projects.

(a) Requests for Government-owned facilities projects may be approved by the Secretaries of the Military Departments or their designees (no lower than the Assistant Secretary level) and the Directors of Defense Agencies provided:

(i) the total plant and equipment investment cost to support a specific major system or subsystem (including ammunition-related project requests) will not exceed $25 million during the projected procurement or maintenance effort.

(ii) other facilities projects funded from procurement appropriations will be approved on a location basis and shall not exceed $5 million for all property efforts (expansion, modernization, rehabilitation, etc.) during one fiscal year.

(ii) Government production and research property left in place or installed on contractor-owned property for mobilization or future production purposes of the Government; *provided*, that a rental charge computed in accordance with (a) shall apply to so much of such property or its capacity as may be used or authorized for use; or

(iii) such other Government production and research property as may be otherwise excepted by the Office of Emergency Preparedness.

13-405 Non-Government Use of Industrial Plant Equipment (IPE).

(a) The prior written approval of the contracting officer is required for any non-Government use of active Government-owned industrial plant equipment (see B-102.11). Before non-Government use exceeding 25% may be authorized, prior approval of the Assistant Secretary of the Army (RD&A), Assistant Secretary of the Navy (MRA&L), Assistant Secretary of the Air Force (RD&L), or Director of Defense Logistics Agency shall be obtained. This authority shall not be redelegated without formal OUSDR&E(AP) approval. Requests requiring Departmental level approval should be submitted by the contractor to the cognizant contract administration office at least six weeks in advance of the projected use and shall include:

(i) the total number of active IPE items involved and total acquisition cost thereof; and

(ii) an itemized listing of active equipment having an acquisition cost of $25,000 or more, showing for each such item the nomenclature, production equipment code, year of manufacture, and the acquisition cost.

(b) The percentage of non-Government use shall be computed on the basis of time available for use. For this purpose, the contractor's normal work schedule as represented by scheduled production shift hours shall be used. The base time period for determining percentages of non-Government use shall be neither less than three months nor more than one year. Non-Government use of industrial plant equipment located at a single plant may be averaged for all items used having a unit acquisition cost of less than $25,000. Equipment having a unit acquisition cost of $25,000 or more shall be considered on an item-by-item basis.

(c) The approvals under subparagraph (a) may be granted only when it is in the interest of the Government (i) to keep the equipment in a high state of operational readiness through regular usage; (ii) because substantial savings to the Government would accrue through overhead cost sharing and receipt of rental; or (iii) to avoid an inequity to the contractor who is required, at the Government's request, to retain the equipment in place, often intermingled with contractor-owned equipment required for commercial production. Approval for non-Government use shall be for a period of not more than one year. Approval for non-Government use in excess of 25% shall be for a period of not less than three months.

(d) Approving officials shall retain for periodic review, sufficient documentation of the circumstances justifying non-Government use approvals.

13-406 Use of Government Production and Research Property on Work for Foreign Governments or International Organizations.

(a) The Arms Export Control Act provides, in part, that the DoD Offer and Acceptance (DD Form 1513) for the sale of defense articles or defense services

to any foreign country or international organization shall include appropriate charges for any use of plant and production equipment in connection with such defense articles. It is the policy of the Department of Defense that charges for use of Government production and research property shall be assessed whether on a DOD Foreign Military Sale or a direct commercial sale, where such property is being used in the performance of services or the manufacture of articles for foreign countries or international organizations.

(b) The prior written approval of the contracting officer having cognizance of the property is required for the use of Government production and research property on work for foreign countries or international organizations. Such approval may be granted only if use will not interfere with foreseeable requirements of the United States, and if:

(i) the work is undertaken as a DoD Foreign Military Sale; or

(ii) in the case of a direct commercial sale, the foreign country or international organization would be authorized to place the contract with the Department concerned under the Arms Export Control Act.

(c) Charges for contractor use of Government production and research property on work for foreign governments or international organizations shall be collected as follows:

(i) rental charges shall be applied and computed in accordance with 13-404(a) and 7-702.12 and shall be included in the contractor's proposed price. However, rent shall not be assessed against special tooling and special test equipment when the recoupment thresholds established in 1-2402 and 6-1306 are met. Where the recoupment thresholds are not met, charges for special tooling and special test equipment shall be assessed by an equitable method when determined by the cognizant contracting officer to be administratively practicable. In the case of both direct commercial sales and FMS, the contractor shall pay the rental due the Government by check made payable to the office designated for contract administration; and

(ii) *Asset Use Charges* as required by DoD Instruction 2140.1 (*Pricing of Sales of Defense Articles and Defense Services to Foreign Countries and International Organizations*) shall be computed and assessed by the DoD officials responsible for presentation of the DD Form 1513, and shall be applied only to Government assets for which the Use and Charges clause set forth in 7-702.12 is not appropriate (see 13-303(b)). This computation and assessment is not the responsibility of the contracting officer.

(d) Requests for waivers or reduction of charges for the use of Government production and research property shall be submitted to the contracting officer who shall refer the matter through procurement channels. Such approval may be granted only by the Director, Defense Security Assistance Agency for particular sales which would, if made, significantly advance U. S. Government interests in North Atlantic Treaty Organization (NATO) standardization, or foreign procurement in the United States under coproduction arrangements.

(e) Rental charges for the use of U.S. Government production and research property on commercial sales of Defense items to the Government of Canada are waived through 31 July 1982.

13-407 Use of Government Production and Research Property Without Charge by Nonprofit Organizations. The contracting officer cognizant of Government production and research property in the possession of a nonprofit organization may authorize the use of such property by such organization without charge, for research, development or educational work, if:

(i) such use is directly or indirectly in the national interest;

(ii) such use is not for the direct benefit of a profit-making organization; and

(iii) the Government receives some direct benefit from such use (such benefit shall, at a minimum, include the furnishing of a report by the contractor on the work for which the property was provided, and may include rights to use the results of the work without charge, or any other benefit that may be appropriate).

13-408 Use of Government Production and Research Property on Independent Research and Development Programs. The contracting officer having cognizance of the property may authorize use of Government production and research property on a contractor's independent research and development (IR&D) (see 15-205.35) *provided* that:

(i) use does not conflict with the primary use of the property;

(ii) use does not result in retention by the contractor of property which could otherwise be released;

(iii) the contractor agrees not to include as a charge against any Government contract the rental value of such property used on his IR&D program; and

(iv) a rental charge for the portion of the contractor's IR&D program cost allocated to commercial work, computed in accordance with 13-404, is deducted from any agreed upon Government share of the contractor's IR&D costs.

GOVERNMENT PROPERTY

Part 5—Competitive Advantage

13–501 Policy. It is the policy of the Department of Defense to eliminate the competitive advantage that might otherwise arise from the acquisition or use of Government production and research property. This is accomplished by charging rental or by use of rental equivalents in evaluating bids and proposals as provided in 13–502 and 13–503. The only exception to this general policy is stated in 13–505, which provides that certain costs or savings to the Government related to providing such property to contractors shall be considered in such evaluation, regardless of any competitive advantage that may result from this exception.

13–502 Advertised Procurements—Use of Existing Government Production and Research Property.

13–502.1 *General.* In formally advertised procurements, the competitive advantage that might otherwise accrue to a contractor from the use of existing Government production and research property shall be eliminated by adding an evaluation factor to each bid for which such use is requested, or where the use of an evaluation factor is not practical, by charging rent for such use.

13–502.2 *Procedures for Use of Evaluation Factors.* Where an evaluation factor is used, it shall be equal to the rent, allocable to the contract, which would otherwise have been charged for such use. The invitation for bids shall set forth a description of the evaluation procedure to be followed, as required by 13–506, and it shall require all bidders to submit with their bids:

(i) a list or description of all Government production and research property which the bidder or his anticipated subcontractors propose to use on a rent-free basis, including property offered for use in the invitation for bids, as well as property already in possession of the bidder and his subcontractors under other contracts;

(ii) with respect to such property already in possession of the bidder and his proposed subcontractors, identification of the facilities contract or other instrument under which the property is held, and the written permission of the contracting officer having cognizance of the property for use of that property;

(iii) the months during which such property will be available for use, which shall include the first, last, and all intervening months, and with respect to any such property which will be used concurrently in performance of two or more contracts, the amounts of the respective uses in sufficient detail to support the proration required by 13–502.3(b); and

(iv) the amount of rent which would otherwise be charged for such use, computed in accordance with 13–404.

13–502.3 *Limitations.*

(a) The invitation for bids shall provide that no use of Government production and research property other than as described and permitted pursuant to 13–502.2 shall be authorized unless such use is approved in writing by the contracting officer cognizant of the property, and either rent calculated in accordance with 13–404 is charged, or the contract price is reduced by an equivalent amount.

CONTRACT COST PRINCIPLES AND PROCEDURES

(i) valuation placed on the stock transferred shall be the fair market value at the time of transfer, determined upon the most objective basis available; and

(ii) accruals for the cost of stock prior to the issuance of such stock to the employees shall be subject to adjustment according to the possibilities that the employees will not receive such stock and their interest in the accruals will be forfeited.

(e) *Stock Options.* (CWAS-NA) The cost of options to employees to purchase stock of the contractor or of an affiliate is unallowable.

(f) *Deferred Compensation.* (CWAS-NA)

(1) As used herein, deferred compensation includes all remuneration, in whatever form, for which the employee is not paid until after the lapse of a stated period of years or the occurrence of other events as provided in the plans, except that it does not include normal end of accounting period accruals. It includes (i) contributions to pension (including early retirement), annuity, stock bonus, and profit sharing plans, (ii) contributions to disability, withdrawal, insurance, survivorship, and similar benefit plans, and (iii) other deferred compensation, whether paid in cash or in stock.

(2) Deferred compensation is allowable only to the extent that:

(i) it is, together with all other compensation paid to the employee, reasonable in amount; and

(ii) it is paid pursuant to an agreement entered into in good faith between the contractor and employees before the services are rendered, or pursuant to a plan established and consistently applied thereafter by the contractor. Pension plans and other types of deferred compensation not covered by Part 415, Appendix O, are also subject to the provisions of (A), (B), and (C) below. Deferred compensation covered by Part 415, Appendix O, is not subject to the limitations of the Internal Revenue Code and regulations thereunder, but is subject to the provisions of (D) and (E) below.

(A) it is deductible for the same fiscal year for Federal income tax purposes under Section 404 (excluding subsection (a)(5)) of the Internal Revenue Code of 1954 as amended and the regulations of the Internal Revenue Service, *provided*, that

a. normal costs of pension plans incurred subsequent to the effective date of this paragraph, not funded in the year incurred, and pension costs or adjustments of previous years (past service) allocable to the current accounting period but not funded in such period shall not be allowable in subsequent years (except that a payment made to a fund by the time set for filing of the Federal income tax return for any taxable year shall be deemed to have been made during such taxable year). However, any portion of pension cost computed for a cost accounting period that is deferred pursuant to a waiver granted under the provisions of ERISA as set forth in CAS 412.50(C)(3) will be allowable in the future accounting period(s) in which the funding takes place.

The allowability of such deferred contributions will be limited to the amounts that would have been allowed, had the funding been made in the year the costs were incurred;

b. the determination of allowable costs shall take into consideration the method of valuing pension fund assets as provided for in CAS 413.50(b). Any significant adjustment resulting from the actuarial valuation falling outside of the market value corridors will be amortized (i) in equal amounts over a 15-year period when the immediate gain actuarial cost method is used, or (ii) over the remaining average lives of the workforce if the spread gain actuarial cost method is used;

c. under contracts not subject to Cost Accounting Standards, abnormal forfeitures due to significant reduction in the contractor's level of employment, which are foreseeable and which can be currently evaluated with reasonable accuracy, by actuarial or other sound computation, shall be reflected by an adjustment of costs otherwise allowable; where abnormal forfeitures were not taken into account previously, appropriate credit shall be given to the Government pursuant to 15-201.5;

d. any amount paid or funded and deductible in any year under Section 404 (excluding Section 404(a)(5)) of the Internal Revenue Code of 1954 as amended prior to the time it becomes allowable under this paragraph (A) shall be applied to future years, in order of time, as if actually paid and deductible in such years;

e. increased normal and past service costs caused by delay in funding the actuarial liability beyond 30 days after each quarter of the year to which such costs are assignable, are unallowable. If a composite rate is used to allocate pension liability between the segments of a company and if, because of differences in the timing of the funding by segments, an inequity exists, allowable normal cost and past service costs will be limited to that particular segment's calculation of pension costs as provided in CAS 413.50(c)(5). Determination of unallowable costs shall be made in accordance with the actuarial method used in calculating the normal and past service costs;

f. the allowability of the cost of indemnification of the Pension Benefit Guaranty Corporation (PBGC), pursuant to Section 4062 or 4064 of the Employee Retirement Income Security Act of 1974 (ERISA), because of the termination of an employee deferred compensation plan will be considered on a case-by-case basis; *providing* that if insurance was required by the PBGC pursuant to Section 4023 of ERISA, it was so obtained, and the indemnification payment is not recoverable thereunder. Consideration under the foregoing circumstances will be primarily for the purpose of appraising the extent to which the indemnification payment is allocable to Government work; and if a beneficial or other equitable relationship exists, the Government will participate, provisions of 15-205.16(a)(3) and 15-205.16(b) notwithstanding, in the indemnification payment to the extent of its fair share.

or

(B) It is deductible in the same fiscal year for Federal income tax purposes under Section 404(a)(5) of the Internal Revenue Code of 1954 as amended and the regulations of the Internal Revenue Service, except that the costs of unfunded pension and retirement benefits paid directly to, or on behalf of, former employees shall be allowable only to the extent the contractor demonstrates that such costs, together with any pension and retirement costs allowed pursuant to (A) above, do not exceed the amount that would be allowable under (A) above if the contractor were providing for equivalent benefits on an actuarial basis in the current period. Amounts paid to employees under pay-as-you-go plans as an inducement for early retirement should be treated as supplemental pension plans under this provision. To be allowable, these costs must be incurred under a well defined plan which the contractor consistently follows thereafter. The scale of payments to the retired employees should be reasonable, the costs should be computed in accordance with this provision, and the costs should be allocated according to the contractor's system of accounting for pension costs.

C) It complies with the provisions of Part 412 and Part 413, Appendix O, which are incorporated here in their entirety; and when any of the contractor's contracts are subject to Cost Accounting Standards, these provisions will apply, commencing with the contractor's fiscal year as prescribed by Part 412.80 and Part 413.80, Appendix O. The amount of deferred compensation costs which may be allowed shall not, however, exceed the amount determined under the provisions of the standard, subject to the cost limitations and exclusions set forth in subparagraphs (A) and (B) above.

(D) It complies with the provisions of Part 415, Appendix O, which are incorporated herein in their entirety; and when any of the contractor's contracts are subject to Cost Accounting Standards Board standards, these provisions will be applicable commencing with the contractor's fiscal year as prescribed by the terms of Part 415.80, Appendix O. The amount of deferred compensation cost which may be allowed shall not, however, exceed the amount determined under the provisions of Part 415, Appendix O, except that the cost of options to employees to purchase stock of the contractor or of an affiliate is unallowable.

(E) Deferred compensation payments to employees under awards made prior to the effective date of Part 415, Appendix O, are allowable to the extent they would have been allowable under 15-205.6, dated 1 July 1976.

(g) *Fringe Benefits.* (CWAS) Fringe benefits are allowances and services provided by the contractor to its employees as compensation in addition to regular wages and salaries. The cost of fringe benefits, including, but not limited to, the cost of vacations, sick leave, holidays, military leave, employee insurance, and supplemental unemployment benefit plans; is allowable, if reasonable and consistent with the following.

(1) On contracts subject to CAS, the costs of compensated personal absence must be measured and allocated in accordance with Part 408 of Appendix O (CAS 408, Accounting for the Cost of Compensated Personal Absence). For all fringe benefits not addressed by the provisions of CAS 408, the criteria in (2) below apply.

(2) On contracts not subject to CAS, the cost of all fringe benefits are allowable to the extent that they are required by law, employer-employee agreement, or an established policy of the contractor.

(h) *Severance Pay.* (CWAS) See 15-205.39.

(i) *Training and Education Expenses. (CWAS) See 15-205.44.*

(j) Costs which are unallowable under other paragraphs of this Part 2 of Section XV shall not be allowable under 15-205.6 solely on the basis that they constitute personal compensation.

(k) *Backpay Resulting from Violations of Federal Labor Laws.* (CWAS-NA) Backpay may result from a negotiated settlement, order or court decree which resolves a violation of Federal labor laws. Such backpay falls into two categories; one requiring the contractor to pay employees additional compensation for work performed for which they were underpaid, and the other resulting from other violations such as when the employee was improperly discharged, discriminated against or other circumstances for which the backpay was not additional compensation for work performed. Backpay resulting from underpaid work is compensation for the work performed and is allowable. All other backpay is unallowable.

15-205.7 *Contingencies.* (CWAS-NA)

(a) A contingency is a possible future event or condition arising from presently known or unknown causes, the outcome of which is indeterminable at a present time.

(b) In historical costing, contingencies are not normally present since such costing deals with costs which have been incurred and recorded on the contractor's books. Accordingly, contingencies are generally unallowable for historical costing purposes. However, in some cases, as for example, terminations, a contingency factor may be recognized which is applicable to a past period to give recognition to minor unsettled factors in the interest of expeditious settlement.

(c) In connection with estimates of future costs, contingencies fall into two categories:

(i) Those which may arise from presently known and existing conditions, the effects of which are foreseeable within reasonable limits of accuracy; *e.g.*, anticipated costs of rejects and defective work; in such situations where they exist, contingencies of this category are to be included in the estimates of future cost so as to provide the best estimate of performance costs; and

(ii) those which may arise from presently known or unknown conditions, the effect of which cannot be measured so precisely as to provide equitable results to the contractor and to the Government; *e.g.*, results of pending litigation, and other general business risks. Contingencies of this category are to be excluded from cost estimates under the several items of cost, but should be disclosed separately, including the basis upon which the contingency is computed in order to facilitate the negotiation of appropriate contractual coverage. (See, for example, 15-205.16, 15-205.20, and 15-205.39.)

15-205.8 *Contributions and Donations.* (CWAS-NA) Contributions and donations are unallowable.

15-205.9 *Depreciation.* (CWAS-NA)

(a) Depreciation is a charge to current operations which distributes the cost of a tangible capital asset, less estimated residual value, over the estimated useful life of the asset in a systematic and logical manner. It does not involve a process of valuation. Useful life has reference to the prospective period of economic usefulness in the particular contractor's operations as distinguished from physical life and shall be evidenced by the actual or estimated retirement and replacement practice of the contractor.

(b) Contractors having contracts subject to Cost Accounting Standard 409 of Appendix O (CAS 409, Depreciation of Tangible Capital Assets) must adhere to the provisions of that Standard for all CAS covered contracts, and may elect to adopt the Standard for all uncovered contracts. All provisions of CAS 409 are applicable if the election is made. When CAS 409 is applicable, its provisions supersede any conflicting provisions of this cost principle. Once electing to adopt CAS 409 for uncovered contracts, contractors must continue to follow its provisions until notification is received of final acceptance of all deliverable items on all open DoD negotiated contracts. The principles which follow are applicable to those contracts to which CAS 409 is not applied.

CONTRACT COST PRINCIPLES AND PROCEDURES

Part 3 - Principles for Determining Costs Applicable to Grants, Contracts, and Other Agreements With Educational Institutions

15-301 Purpose and Scope.

15-301.1 Objectives. This Part provides principles for determining the costs applicable to research and development, training, and other sponsored work performed by colleges and universities under grants, contracts, and other agreements with the Federal Government. These agreements are referred to as sponsored agreements.

15-301.2 Policy Guides. The successful application of these cost accounting principles requires development of mutual understanding between representatives of universities and of the Department of Defense as to their scope, implementation, and interpretation. It is recognized that-

(a) The arrangements for agency and institutional participation in the financing of a research, training, or other project are properly subject to negotiation between the agency and the institution concerned, in accordance with such Government-wide criteria or legal requirements as may be applicable.

(b) Each institution, posessing its own unique combination of staff, facilities and experience, should be encouraged to conduct research and educational activities in a manner consonant with its own academic philosophies and institutional objectives.

(c) The dual role of students engaged in research and the resulting benefits to sponsored agreements are fundamental to the research effort and shall be recognized in the application of these principles.

(d) Each institution, in the fulfillment of its obligations, should employ sound management principles.

(e) The application of these cost accounting principles should require no significant changes in the generally accepted accounting practices of colleges and universities. However, the accounting practices of indivudual colleges and universities must support the accumulation of costs as required by the principles, and must provide for adequate documentation to support costs charged to sponsored agreements.

(f) All agencies of the Department of Defense involved in negotiating indirect cost rates and auditing should assure that institutions are generally applying these cost accounting principles on a consistent basis. Where wide variations exist in the treatment of a given cost item among institutions, the reasonableness and equitableness of such treatments should be fully considered during the rate negotiation and audit.

CONTRACT COST PRINCIPLES AND PROCEDURES

15-301.3 Application. These principles shall be used in determining the allowable costs of work performed by colleges and universities under sponsored agreements. The principles shall also be used in determining the costs of work performed by such institutions under subgrants, cost-reimbursement subcontracts, and other awards made to them under sponsored agreements. They also shall be used as a guide in the pricing of fixed-price contracts and subcontracts where costs are used in determining the appropriate price. The principles do not apply to:

(a) Arrangements under which Federal financing is in the form of loans, scholarships, fellowships, traineeships, or other fixed amounts based on such items as education allowance or published tuition rates and fees of the institution.

(b) Capitation awards.

(c) Other awards under which the institution is not required to account to the Government for actual costs incurred.

15-302 Definition of Terms

15-302.1 Major functions of an institution refers to instruction (included departmental research), organized research, other sponsored activities, and other institutional activities as defined below:

(a) Instruction means the teaching and training activities of an institution. Except for research training as provided in (c) below, this term includes all teaching and training activities, whether they are offered for credits toward a degree or certificate or on a noncredit basis, and whether they are offered through regular academic departments or separate divisions, such as summer school division or an extension division.

(b) Departmental research means all research and development activities that are not organized research and, consequently, are not separately budgeted and accounted for. Departmental research, for purposes of this document, is not considered as a major function of an institution but as a part of the instruction function of the institution.

(c) Organized research means all research and development activities of an institution that are separately budgeted and accounted for. This term includes research and development activities that are sponsored by the Federal and non-Federal agencies and organizations, as well as those that are separately budgeted by the institution under an internal allocation of institutional funds. It also includes activities involving the training of individuals in research techniques (commonly called research training) where such activities utilize the same facilities as other research and development activities, and where such activities are not included in the instruction

function. The costs of organized research and development activities include all costs incurred by the institution in performing the activities.

(d) Other sponsored activities means programs and projects financed by Federal and non-Federal agencies and organizations which involve the performance of work other than instruction and organized research. Examples of such programs and projects are health service projects, and community service programs. However, when any of these activities are undertaken by the institution without outside support, they may be classified as institutional activities.

(e) Other institutional activities means all activities of an institution: (i) instruction, departmental research, organized research, and other sponsored activities, as defined above; (ii) indirect cost activities identified in 15-306; and (iii) specialized service facilities described in 15-309.38. Other institutional activities include operation of residence halls, dining halls, hospitals and clinics, student unions, intercollegiate athletics, bookstores, faculty housing, student apartments, guest houses, chapels, theaters, public museums, and other similar auxilary enterprises. This definition also includes any other categories of activities, costs of which are "unallowable" to sponsored agreements, unless otherwise indicated in the agreements.

15-302.2 Sponsored agreement means any grant, contract, or other agreement between the institution and the Federal Government.

15-302.3 Allocation means the process of assigning a cost, or a group of costs, to one or more cost objective, in reasonable and realistic proportion to the benefit provided or other equitable relationship. A cost objective may be a major function of the institution, a particular service or project, a sponsored agreement, or an indirect cost activity, as described in 15-306. The process may entail assigning a cost(s) directly to a final cost objective or through one or more intermediate cost objectives.

15-303 Basic Considerations.

15-303.1 Composition of Total Costs. The cost of a sponsored agreement is comprised of the allowable direct costs incident to its performance, plus the allocable portion of the allowable indirect costs of the institution, less applicable credits as described in 15-303.5.

15-303.2 Factors Affecting Allowability of Costs. The tests of allowability of costs under these principles are: (i) they must be reasonable; (ii) they must be allocable to sponsored agreements under the principles and methods provided

herein; (iii) they must be given consistent treatment through application of those generally accepted accounting principles appropriate to the circumstances; and (iv) they must conform to any limitations or exclusions set forth in these principles or in the sponsored agreement as to types or amounts of cost items.

15-303.3 Reasonable Costs. A cost may be considered reasonable if the nature of the goods or services acquired or applied, and the amount involved therefor, reflect the action that a prudent person would have taken under the circumstances prevailing at the time the decision to incur the cost was made. Major considerations involved in the determination of the reasonableness of a cost are: (i) whether or not the cost is of a type generally recognized as necessary for the operation of the institution or the performance of the sponsored aggrement; (ii) the restraints or requirements imposed by such factors as arm's length bargaining, Federal and State laws and regulations, and sponsored agreement terms and conditions; (iii) whether or not the individuals concerned acted with due prudence in the circumstances, considering their responsibilities to the institution, its employees, its students, the Government, and the public at large; and (iv) the extent to which the actions taken with respect to the incurrence of the cost are consistent with established institutional policies and practices applicable to the work of the institution generally, including sponsored agreements.

15-303.4 Allocable Costs.

(a) A cost is allocable to a particular cost objective (i.e., a specific function, project, sponsored agreement, department, or the like) if the goods or services involved are chargeable or assignable to such cost objective in accordance with relative benefits received or other equitable relationship. Subject to the foregoing, a cost is allocable to a sponsored agreement if (i) it is incurred solely to advance the work under the sponsored agreement; (ii) it benefits both the sponsored agreement and other work of the institution in proportions that can be approximated through use of reasonable methods; or (iii) it is necessary to the overall operation of the institution and, in the light of the principles provided in this Part, is deemed to be assignable in part to sponsored projects. Where the purchase of equipment or other capital items is specifically authorized under a sponsored agreement, the amounts thus authorized for such purchases are assignable to the sponsored agreement regardless of the use that may subsequently be made of the equipment or other capital items involved.

(b) Any costs allocable to a particular sponsored agreement under the standards provided in this Part may not be shifted to

other sponsored agreements in order to meet deficiencies caused by overruns or other fund considerations, to avoid restrictions imposed by law or by terms of the sponsored agreement, or for other reasons of convenience.

15-303.5 Applicable Credits.

(a) The term "applicable credits" refers to those receipt or negative expenditures that operate to offset or reduct direct cost items. Typical examples of such transactions are: purchase discounts, rebates, or allowances: recoveries or indemnities on losses; and adjustments of over-payments or erroneous charges. This term also includes "educational discounts" on products or services provided specifically to educational institutions, such as discounts on computer equipment, except where the arrangement is clearly and explicitly identified as a gift by the vendor.

(b) In some instances, the amounts received from the Federal Government to finance institutional activities or service operations should be treated as applicable credits. Specifically, the concept of netting such credit items against related expenditures should be applied by the institution in determining the rates or amounts to be charged to Government-sponsored agreements for services rendered whenever the facilities or other resources used in providing such services have been financed directly, in whole or in part, by Federal funds. (See 15-306.8, 15-309.9(a), and 15-309.38 for areas of potential application in the matter of direct Federal financing.)

15-303.6 Costs Incurred by State and Local Governments. Costs incurred or paid by State or local governments on behalf of their colleges and universities for fringe benefit programs, such as pension costs, FICA, and any other costs specifically incurred on behalf of and in direct benefit to the institutions, are allowable costs of such institutions whether or not these costs are recorded in the accounting records of the institutions, subject to the following:

(a) The costs meet the requirements of 15-303.1 through 15-303.5.

(b) The costs are properly supported by cost allocation plans in accordance with applicable Federal cost accounting principles.

(c) The costs are not otherwise borne directly or indirectly by the Federal Government.

15-303.7 Limitations on Allowance of Costs. Sponsored agreements may be subject to statutory requirements that limit tha allowance of costs. When the maximum amount allowable under a limitation is less than the total amount determined in accordance with the principles in this Part, the amount not recoverable under a sponsored agreement may not be charged to other sponsored agreements.

15-304 Direct Costs.

15-304.1 General. Direct costs are those that can be identified specifically with a particular sponsored project, an instructional activity or any other institutional activity or that can be directly assigned to such activities relatively easily with a high degree of accuracy.

15-304.2 Application to Sponsored Agreements. Identification with the sponsored work rather than the nature of the goods and services involved is the determining factor in distinguishing direct from indirect costs of sponsored agreements. Typical costs charged directly to a sponsored agreement are the compensation of employees for performance of work under the sponsored agreement, including related fringe benefit costs to the extent they are consistently treated, in like circumstances, by the institution as direct rather than indirect costs; the costs of materials consumed or expended in the performance of the work; and other items of expense incurred for the sponsored agreement, including extraordinary utility consumption. The cost of materials supplied from stock or services rendered by specialized facilities or other institutional service operations may be included as direct costs of sponsored agreements provided such items are consistently treated, in like circumstances, by the institution as direct rather that indirect costs, and are charged under a recognized method of computing actual costs, and conform to generally accepted cost accounting practices consistently followed by the institution.

15-305 Indirect Costs.

15-305.1 General. Indirect costs are those that are incurred for common or joint objectives and therefore cannot be identified readily and specifically with a particular sponsored project, an instructional activity, or any other institutional activity. At educational institutions such costs normally are classified under the following indirect cost categories: depreciation and use allowances; general administration and general expenses; sponsored projects administration expenses; operation and maintenance expenses; library expenses; Departmental administration expenses; and student administration and services.

15-305.2 Criteria for Distribution

(a) Base Period. A base period for distribution of indirect costs is the period during which the costs are incurred. The base period normally should coincide with the fiscal year established by the institution, but in any event the base period should be so selected as to avoid inequities in the distribution of costs.

(b) Need for Cost Groupings. The overall objective of the indirect cost allocation process is to distribute the indirect costs described in 15-306 to the major functions of the institution

in proportions reasonably consistent with the nature and extent of their use of the institution's resources. In order to achieve this objective, it may be necessary to provide for selective groupings of cost within one or more of the indirect cost categories referred to in 15-305.1 above. In general, the cost groupings established within a category should constitute, in each case, a pool of those items of expense that are considered to be of like nature in terms of their relative contribution to (or degree of remoteness from) the particular cost objectives to which distribution is appropriate. Cost groupings should be established considering the general guides provided in (c) below. Each such pool or cost grouping should then be distributed individually to the related cost objectives, using the distribution base or method most appropriate in the light of the guides set forth in (d) below.

(c) General Considerations on Cost Groupings. The extent to which separate cost groupings and selective distribution would be appropriate at an institution is a matter of judgement to be determined on a case by case basis. Typical situations which may warrant the establishment of two or more separate cost groups (based on account classification or analysis) within an indirect cost category include but are not limited to the following:

(i) Where certain items or categories of expense relate solely to one of the major functions of the institution or to less than all functions, such expense should be set aside as a separate cost grouping for direct assignment or selective allocation in accordance with the guides provided in 15-305.2(b) and (d).

(ii) Where any types of expense ordinarily treated as general administration or Departmental administration are charged to sponsored agreements as direct costs, expenses applicable to other activities of the institution when incurred for the same purposes in like circumstances must, through separate cost groupings, be excluded from the indirect costs allocable to those sponsored agreements and included in the direct cost of other activities for cost allocation purposes.

(iii) Where it is determined that certain expenses are for the support of a service unit or facility whose output is susceptible of measurement on a workload or other quantitative basis, such expenses should be set aside as a separate cost grouping for distribution on such basis to organized research, instructional, and other activities at the institution or within the department.

(iv) Where activities provide their own purchasing, personnel administration, building maintenance or similar service, the distribution of general administration and general expenses or operation and maintenance expenses to such activities should be accomplished through cost groupings which include only that portion of central indirect costs (such as for overall management) which are properly allocable to such activities.

(v) Where the institution elects to treat fringe benefits as indirect charges, such costs should be set aside as a separate cost grouping for selective distribution to related cost objectives.

(vi) The number of separate cost groupings within a category should be held within practical limits, after taking into consideration the materiality of the amounts involved and the degree of precision attainable through less selective methods of distribution.

(d) Selection of Distribution Method.

(1) Actual conditions must be taken into account in selecting the method or base to be used in distributing indivudual cost groupings. The essential consideration in selecting a base is that it be the one best suited for assigning the pool of costs to cost objectives in accordance with benefits derived; a traceable cause and effect relationship; or logic and reason, where neither benefit nor cause and effect relationship is determinable.

(2) Where the cost grouping can be identified directly with the cost objective benefited, it should be assigned to that cost objective.

(3) Where the expenses in a cost grouping are more general in nature, the distribution may be based on a cost analysis study which results in an equitable distrubution of the costs. Such cost analysis studies may take into consideration weighting factors, population or space occupied if appropriate. Cost analysis studies, however, must (i) be appropriately documented in sufficient detail for subsequent review by the cognizant Federal agency, (ii) distribute the costs to the related cost objectives in accordance with the relative benefits derived, (iii) be statistically sound, (iv) be performed specifically at the institution at which the results are to be used, and (v) be reviewed periodically, but not less frequently than every two years, updated if necessary, and used consistently. Any assumptions made in the study must be stated and explained.

The use of cost analysis studies and periodic changes in the method of cost distribution must be fully justified.

(4) If a cost analysis study is not performed, or if the study does not result in an equitable distuibution of the costs, the distribution shall be made in accordance with the appropriate base cited in 15-306, unless one of the following conditions is met: (i) It can be demonstrated that the use of a different base would result in a more equitable allocation of the costs, or that a more readily available base would not increase the costs charged to sponsored agreements or (ii) the institution qualifies for, and elects to use, the simplified method for computing indirect cost rates described in 15-308.7.

(e) Order of Distribution.

(1) Indirect cost categories consist of depreciation and use allowance, operation and maintenance, general administration and general expenses, departmental administration, sponsored projects administration, library, and student administration and services, as described in 15-306.

(2) Depreciation and use allowances, operation and maintenance expenses, and general administrative and general expenses should be allocated in that order to the remaining indirect cost categories as well as to the major functions and specialized service facilities of the institution. Other cost categories may be allocated in the order determined to be most appropriate by the institutions. When cross allocation of costs is made as provided in (3) below, this order of allocation does not apply.

(3) Normally an indirect cost category will be considered closed once it has been allocated to other cost objectives, and costs may not be subsequently allocated to it. However, a cross allocation of costs between two or more indirect cost categories may be used if such allocation will result in a more equitable allocation of costs. If a cross allocation is used, an appropriate modification to the composition of the indirect cost categories described in 15-306 is required.

15-306 Identification and Assignment of Indirect Costs.

15-306.1 Depreciation and Use Allowances.

(a) The expenses under this heading are the portion of the costs of the institution's buildings, capital improvements to land and buildings, and equipment which are computed in accordance with 15-309.

(b) In the absence of the alternatives provided for in 15-305.2(d), the expenses included in this category shall be allocated in the following manner:

(i) Depreciation or use allowances on buildings used exclusively in the conduct of a single function, and on capital improvements and equipment used in such buildings shall be assigned to that function.

(ii) Depreciation or use allowances on buildings, used for more than one function, and on capital improvements and equipment used in such buildings shall be allocated to the individual functions performed in each building on the basis of unusable square feet of space, excluding common areas such as hallways, stairwells, and restrooms.

(iii) Depreciation or use allowances on buildings and capital improvements where space is used jointly, and on equipment used jointly, shall be allocated to benefiting functions in proportion to the total salaries and wages applicable to the joint function.

(iv) Depreciation or use allowances on buildings, capital improvements, and equipment used predominantly for one function and only incidentally for other(s) may be assigned to the function in which it is used predominantly.

(v) Depreciation or use allowances on certain capital improvements to land, such as paved parking areas, fences, sidewalks, and the like, not included in the cost of buildings, shall be allocated to user categories of students and employees on a full-time equivalent basis. The amount allocated to the student category shall be assigned to the instruction function of the institution. The amount allocated to the employee category shall be further allocated to the major functions of the institution in proportion to the salaries and wages of all employees applicable to those functions.

15-306.2 Operation and Maintenance Expenses.

(a) The expenses under this heading are those that have been incurred by a central service organization or at the Departmental level for the administration, supervision, operation, maintenance, preservation and protection of the institution's physical plant. They include expenses normally incurred for such items as janitorial and utility services; repairs and ordinary or normal alterations of buildings, furniture and equipment; and care of grounds and maintenance and operation of buildings and other plant facilities. The operation and maintenance expense category should also include fringe benefits costs applicable to the salaries and wages included therein, and depreciation and use allowance.

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(b) In the absence of the alternatives provided for in 15-305.2(d), the expenses included in this category shall be allocated in tha same manner as described in 15-306.1(b) for depreciation and use allowances.

15-306.3 General Administration and General Expenses.

(a) The expenses under this heading are those that have been incurred for the general executive and administrative offices of educational institutions and other expenses of a general character which do not relate solely to any major function of the institution, i.e., solely to (i) instruction; (ii) organized research; (iii) other sponsored activities; or (iv) other institutional activities. The general administration and general expense category should also include the fringe benefit costs applicable to the salaries and wages included therein, and appropriate share of operation and maintenance expense, and depreciation and use allowances.

(b) In the absence of the alternatives provided for in 15-305.2(d), the expenses includes in this category shall be grouped first according to common major functions of the institution to which they render services or provide benefits. The aggregate expenses of each group shall then be allocated to serviced or benefited functions on the modified total cost basis. Modified total costs consist of salaries and wages, fringe benefits, materials and supplies, services, travel, and subgrants and subcontracts up to $25,000 each. When an activity included in this indirect cost category provides a service or product to another institution or organization, an appropriate adjustment must be made to either the expenses or the basis of allocation or both, to assure a proper allocation of costs.

15-306.4 Departmental Administration Expenses.

(a) The expenses under this heading are those that have been incurred for administrative and supporting services that benefit common or joint departmental activities or objectives in academic deans' offices, academic departments and divisions, and organized research institutes, study centers, and research center. Departmental administration expenses are subject to the following limitations.

(1) Academic deans' offices. Salaries and operating expenses are limited to those attributable to administrative functions.

(2) Academic departments:

a. The salaries of the heads of academic departments, divisions, and organized research units are limited to amounts attributable to their administrative duties. Salaries of professorial or professional staff, whose appointment or assignment

require administrative work that benefits sponsored projects, may also be included to the extent that the portion so charged is clearly and specifically supported as required in 15-309.6.

b. Other administrative and supporting expenses incurred within academic departments are allowable provided they are treated consistently in like circumstances. This would include expenses such as the salaries of secretarial and clerical staffs, the salaries of administrative officers and assistants, travel, office supplies, stockrooms, and the like.

(3) Other fringe benefit costs applicable to the salaries and wages included in (1) and (2) above are allowable, as well as an appropriate share of general administration and general expenses, and depreciation and/or use allowances.

(b) In the absence of the alternatives provided for in 15-305.2(d), the expenses included in this category shall be allocated as follows:

(1) The administrative expenses of the dean's office of each college and school shall be allocated to the academic departments within that college or school on the modified total cost basis.

(2) The administrative expenses of each academic department, and the department's share of expenses allocated in (1) above shall be allocated to the appropriate functions of the department on the modified total cost basis.

15-306.5 Sponsored Projects Administration

(a) The expenses under this heading are those that have been incurred by a separate organization(s) established primarily to administer sponsored projects, including such functions as grant and contract administration (Federal and Non-Federal), special security, purchasing, personnel administration, and editing and publishing of research and other reports. They include the salaries and expenses of the head of such organization, his assistants, and their immediate staff, together with the salaries and expenses of personnel engaged in supporting activities maintained by the orgainzation, such as stock rooms, stenographic pools, and the like. The salaries of professorial or professional staff whose appointments or assignments involve the performance of such administrative work may also be included to the extent that the portion so charged to sponsored agreements administration is clearly identified and supported as required by 15-309.6. This category should also include the fringe benefit costs applicable to the salaries and wages included therein, an appropriate share of general administration and general expenses, the operation and maintenance expenses, and depreciation and use allowance. Appropriate adjustments should be made for services provided to other functions or organizations.

(b) In the absence of the alternatives provided for in 15-305.2(d), the expenses included in this category shall be allocated to the major functions of the institution under which the sponsored projects are conducted on the basis of the modified total cost of sponsored projects.

(c) An appropriate adjustment shall be made to eliminate any duplicate charges to sponsored agreements when this category includes similar or identical activities as those included in the general administration and general expense category or other indirect cost items, such as accounting, procurement, or personnel administration.

15-306.6 Library Expenses.

(a) The expenses under this heading are those that have been incurred for the operation of the library, including the costs of books and library materials purchased for the library, less any items of library income that qualify as applicable credits under 15-303.5. The library expense category should also include the fringe benefits applicable to the salaries and wages included therein, an appropriate share of general administration and general expense, operation and maintenance expense, and depreciation and use allowances. Costs incurred in the purchases of rare books (museum-type books) with no value to sponsored agreements should not be allocated to them.

(b) In the absence of the alternatives provided for in 15-305.2(d), the expenses included in this category shall be allocated first on the basis of primary categories of users, including students, professional employees, and other users.

(1) The student category shall consist of full-time equivalent students enrolled at the institution, regardless of whether they earn credits toward a degree or certificate.

(2) The professional employee category shall consist of all faculty members and other professional employees of the institution, on a full-time equivalent basis.

(3) The other users category shall consist of all other users of library facilities.

(c) Amounts allocated in (b) above shall be assigned further as follows:

(1) The amount in the student category shall be assigned to the instruction function of the institution.

(2) The amount in the professional employee category shall be assigned to the major functions of the institution in proportion to the salaries and wages of all faculty members and other professional employees applicable to those functions.

(3) The amount in the other users category shall be assigned to the other institutional activities function of the institution.

15-306.7 Student Administration and Services.

(a) The expenses under this heading are those that have been incurred for the administration of student affairs and for services to students, including expenses of such activities as deans of students, admissions, registrar, counseling and placement services, student advisers, student health and infirmary services, catalogs, and commencements and convocations. The salaries of members of the academic staff whose academic appointments or assignments involve the performance of such administrative or service work may also be included to the extent that the portion so charged is supported pursuant to 15-309.6. This expenses category also includes the fringe benefit costs applicable to the salaries and wages included therein, an appropriate share of general administration and general expenses, operation and maintenance, and use allowances and/or depreciation.

(b) In the absence of the alternatives provided for in 15-305.2(d), the expenses in this category shall be allocated to the instruction function, and subsequently to sponsored agreements in that function.

15-306.8 Offset for Indirect Expenses Otherwise Provided for by the Government.

(a) The items to be accumulated under this heading are the reimbursements and other payments from the Federal Government which are made to the institution to support solely, specifically, and directly, in whole or in part, any of the administrative or service activities described in 15-306.1 through 15-306.7.

(b) The items in this group shall be treated as a credit to the affected individual indirect cost category before that category is allocated to benefiting functions.

15-307 Determination and Application of Indirect Cost Rate or Rates.

15-307.1 Indirect Cost Pools.

(a) Subject to (b) below, the separate categories of indirect costs allocated to each major function of the institution as prescribed in 15-306 shall be aggregated and treated as a a common pool for that function. The amount in each pool shall be divided by the distribution base described in 15-307.2 below to arrive at a single indirect cost rate for each function. The rate for each function is used to distribute indirect costs to individual sponsored agreements of that function. Since a common pool would be established for each major function of the institution, a separate indirect cost rate would be established for each of the major functions described in 15-302.1 under which sponsored agreements are carried out.

(b) In some instances a single rate basis for use across the board on all work within a major function at an institution may not be appropriate. A single rate for research, for example, might not take into account those different environmental factors and other conditions which may affect substantially the indirect costs applicable to a particular segment of research at the institution. A particular segment of research may be that performed under a single sponsored agreement or it may consist of research under a group of sponsored agreements in a common environment. The environmental factors are not limited to the physical location of the work. Other important factors are the level of the administrative support required, the nature of the facilities or other resources employed, the scientific disciplines or technical skills involved, the organizational arrangements used, or any combination thereof. Where a particular segment of a sponsored agreement is performed within an environment which appears to generate a significantly different level of indirect costs, provision should be made for a separate indirect cost pool applicable to such work. The separate indirect cost pool should be developed during the regular course of the rate determination process and the separate indirect cost rate resulting therefrom should be utilized provided it is determined that (i) such indirect cost rate differs significantly from that which would have been obtained under (a) above, and (ii) the volume of work to which such rate would apply is material in relation to other sponsored agreements at the institution.

15-307.2 The Distribution Base. Indirect costs shall be distributed to applicable sponsored agreements on the basis of modified total direct costs, consisting of salaries and wages, fringe benefits, materials and supplies, services, travel, and subgrants and subcontracts up to $25,000 each. For this purpose, an indirect cost rate should be determined for each of the separate indirect cost pools developed pursuant to 15-307.1, above. The rate in each case should be stated as the percentage which the amount of the particular indirect cost pool is of the modified total direct costs identified with such pool. Other bases may be used where it can be demonstrated that they produce more equitable results.

15-307.3 Negotiated Lump Sum for Indirect Costs. A negotiated fixed amount in lieu of indirect costs may be appropriate for self-contained, off-campus, or primarily subcontracted activities where the benefits derived from an institution's indirect services cannot be readily determined. Such negotiated

indirect costs will be treated as an offset before allocation to instruction, organized research, other sponsored activities, and other institutional activities. The base on which such remaining expenses are allocated should be appropriately adjusted.

15-307.4 Predetermined Fixed Rates for Indirect Costs. Public Law 87-638 (76 Stat. 437) authorized the use of predetermined fixed rates in determining the indirect costs applicable under research agreements with educational institutions. The stated objectives of the law are to simplify the administration of cost-type research and development contracts (including grants) with educational institutions, to facilitate the preparation of their budgets, and to permit more expeditious closeout of such contracts when the work is completed. In view of the potential advantages offered by this procedure, consideration should be given to the negotiation of predetermined fixed rates for indirect costs in those situations where the cost experience and other pertinent facts available are deemed sufficient to enable the parties involved to reach an informed judgement as to the probable level of indirect costs during the ensuing accounting period.

15-307.5 Negotiated Fixed Rates and Carryforward Provisions. When a fixed rate is negotiated in advance for a fiscal year (or other time period), the over- or under-recovery for that year may be included as an adjustment to the indirect cost for the next rate negotiation. When the rate is negotiated before the carryforward adjustment is determined, the carryforward amount may be applied to the next subsequent rate negotiation. When such adjustments are to be made, each fixed rate negotiated in advance for a given period will be computed by applying the expected indirect costs allocable to sponsored agreements for the forecast period, plus or minus the carryforward adjustment (over- or under-recovery) from the prior period, to the forecast distribution base. Unrecovered amounts under the lump-sum agreements or cost-sharing provisions of prior years shall not be carried forward for consideration in the new rate negotiation. There must, however, be an advance understanding in each case between the institution and the cognizant Federal agency as to whether these differences will be considered in the rate negotiation rather than making the determination after the differences are known. Further, institutions electing to use this carryforward provision may not subsequently change without prior approval of the cognizant Federal agency. In the event that an institution returns to a postdetermined rate, any

over- or under-recovery during the period in which negotiated fixed rates and carryforward provisions were followed will be included in the subsequent postdetermined rates. Where multiple rates are used, the same procedure will be applicable for determining each rate.

15-308 Simplified Method for Small Institutions.

15-308.1 General.

(a) Where the total direct cost of work covered by this Part at an institution does not exceed $3 million in a fiscal year, the use of the simplified procedure described in 15-308.2, below, may be used in determining allowable indirect costs. Under this simplified procedure, the institution's most recent annual financial report and immediately available supporting information with salaries and wages segregated from other costs will be utilized as a basis for determining the indirect cost rate applicable to all sponsored agreements.

(b) The simplified procedure should not be used where it produces results which appear inequitable to the Government or the institution. In any such case, indirect costs should be determined through use of the regular procedure.

15-308.2 Simplified Procedure.

(a) Establish the total amount of salaries and wages paid to all employees of the institution.

(b) Establish an indirect cost pool consisting of the expenditures (exclusive of capital items and other costs specifically identified as unallowable) which customarily are classified under the following titles or their equivalent:

(i) General administration and general expense (exclusive of costs of student administration and services, student aid, student activities, and scholarships).

(ii) Operation and maintenance of physical plant; and depreciation and use allowances; after appropriate adjustment for costs applicable to other institutional activities.

(iii) Library.

(iv) Department administration expenses, which will be computed as 20% of the salaries and expenses of deans and heads of departments. In those cases where expenditures classified under (i) above have previously been allocated to "other institutional activities," they may be included in the indirect cost pool. The total amount of salaries and wages included in the indirect pool must be separately identified.

(c) Establish a salary and wage distribution base, determined by deducting from the total of salaries and wages as established in (a) the amount of salaries and wages included under (b) above.

(d) Establish the indirect cost rate, determined by dividing the amount in the indirect cost pool, (b) above, by the amount of the distribution base, (c) above.

(e) Apply the indirect cost rate to direct salaries and wages for individual agreements to determine the amount of indirect costs allocable to such agreements.

15-309 General Provisions for Selected Items of Cost.

15-309.1 through 15-309.44 provide principles to be applied in establishing the allowability of certain items involved in determining cost. These principles should apply regardless of whether a particular item of cost is properly treated as direct cost or indirect cost. Failure to mention a particular item of cost is not intended to imply that it is either allowable or unallowable; rather, determination as to allowability in each case should be based on the treatment provided for similar or related items of cost. In case of discrepancy between the provisions of a specific sponsored agreement and the provisions below, the agreement should govern.

15-309.1 Advertising Costs.

(a) The term advertising costs means the costs of advertising media and corollary administrative costs. Advertising media include magazines, newspapers, radio and television programs, direct mail, exhibits, and the like.

(b) The only advertising costs allowable are those which are solely for (i) the recruitment of personnel required for the performance by the institution of obligations arising under the sponsored agreement, when considered in conjunction with all other recruitment costs, as set forth in 15-309.32; (ii) the procurement of goods and services for the performance of the sponsored agreement; (iii) the disposal of scrap or surplus materials acquired in the performance of the sponsored agreement except when institutions are reimbursed for disposal costs at a predetermined amount in accordance with Attachment N, OMB Circular No. A-110; or (iv) other specific purposes necessary to meet the requirements of the sponsored agreement.

(c) Costs of this nature, if incurred for more than one sponsored agreement or for both sponsored work and other work of the institution, are allowable to the extent that the principles in 15-304 and 15-305 are observed.

15-309.2 Bad Debts. Any losses, whether actual or estimated, arising from uncollectible accounts and other claims, related collection costs, and related legal costs are unallowable.

15-309.3 Civil Defense Costs. Civil defense costs are those incurred in planning for, and the protection of life and property against, the possible effects of enemy attack. Reasonable costs of civil defense measures (including costs in excess of normal plant protection costs, first-aid training and supplies, fire-fighting training, posting of additional exit notices and directions, and other approved civil defense measures) undertaken on the institution's premises pursuant to suggestions or requirements of civil defense authorities are allowable when distributed to all activities of the institution. Capital expenditures for civil defense purposes will not be allowed, but a use allowance or depreciation may be permitted in accordance with provisions set forth in 15-309.9. Costs of local civil defense projects not on the institution's premises are unallowable.

15-309.4 Commencement and Convocation Costs. Costs incurred for commencements and convocations are unallowable, except as provided for in 15-306.9.

15-309.5 Communication Costs. Costs incurred for telephone services, local and long distance telephone calls, telegrams, radiograms, postage and the like, are allowable.

15-309.6 Compensation for Personal Services.

(a) General. Compensation for personal services covers all amounts paid currently or accrued by the institution for services rendered during the period or performance under government sponsored agreements. Such amounts include salaries, wages, and fringe benefits (see 15-309.15). These costs are allowable to the extent that the total compensation to individual employees conforms to the established policy of the institution, consistently applied, and provided that the charges for work performed directly on sponsored agreements and for other work allocable as indirect costs are determined and supported as provided below. Charges to sponsored agreements may include reasonable amounts for activities contributing and intimately related to work under the agreements, such as delivering special lectures about specific aspects of the ongoing activity, writing reports and articles, participating in appropriate seminars, consulting with colleagues and graduate students, and attending meetings and conferences. Incidental work (that in excess of normal for the individual), for which supplemental compensation is paid by an institution under institutional policy, need not be included in the payroll

distribution systems described below, provided such work and compensation are separately identified and documented in the financial management system of the institution.

(b) Payroll Distribution. For each organizational unit of an institution, the distribution of salaries and wages of professorial or professional staff (whether charged direct or required to be distributed to more than one activity for purposes of allocating indirect costs) will be based on either a system of monitored workload or a system of personnel activity reports. The latter system will be used for nonprofessional employees whose costs are charged directly or are required to be distributed to more than one activity for purposes of allocating indirect costs. In the use of either method, it is recognized that, because of the nature of work involved in academic institutions, the various and often interrelated activities of professorial and professional employees frequently cannot be measured with a high degree of precision, that reliance must be placed on reasonably accurate approximations, and that acceptance of a degree of tolerance in measurement is appropriate.

(c) Monitored Workload. Under this method, the distribution of salaries and wages applicable to sponsored agreements is based on budgeted or assigned workload, updated to reflect any significant changes in workload distributions. A monitored workload system used for salaries and wages charged directly or indirectly to sponsored agreements will meet the following standards:

(1) A system of budgeted or assigned workload will be incorporated into the official records of the institution and encompass both sponsored and all other activities on an integrated basis. The system may include the use of subsidiary records.

(2) The system will reasonably reflect workload of employees, accounting for 100 percent of the work for which the employee is compensated and which is required in fulfillment of the employee's obligations to the institution. Because practices vary among institutions and within institutions as to the total activity constituting a full workload --when expressed in measurable units, such as contact hours in teaching--the system will be based on a determination for each individual, reflecting the ratio of each of the activities which comprise the total workload of the individual. (But see 15-308 for treatment of indirect costs under the simplified method for small institutions.)

(3) The system will provide for modification of an individual's salary or salary distribution commensurate with any significant change in the employee's workload or the ratio of activities comprising the total workload. A significant change in an employee's workload shall be considered to include the following as a minimum: when work begins or ends on a sponsored agreement, when a teaching load is materially modified, when additional unanticipated assignments are received or taken away, when an individual begins or ends a sabbatical leave, prolonged sick leave, or leave without pay, etc. Short-term (such as one or two months) fluctuation between workload categories need not be considered as long as the distribution of salaries and wages is reasonable over the longer term such as an academic period. Whenever it is apparent that a change in workload will occur or has occurred, the change will be documented over the signature of a responsible official and, if significant, entered into the system.

(4) The system will utilize workload categories reflecting activity which is applicable to each sponsored agreement, each indirect cost activity, and each major function of the institution.

(5) At least annually a statement will be signed by the employee, principal investigator, or responsible official, having first hand knowledge of the work stating that salaries and wages charged to sponsored agreements as direct charges, or that salaries and wages charged to both direct and indirect cost categories, or to more than one indirect cost category are reasonable.

(6) The system will provide for independent internal evaluations to insure that it is working effectively.

(7) In the use of this method, an institution shall not be required to provide additional support or documentation for the effort actually performed, but is responsible for assuring that the system meets the above standards.

(d) Personnel Activity Reports. Under this system, the distribution of salaries and wages will be supported by personnel activity reports as prescribed below.

(1) Personnel activity reports will reflect the distribution of activity expended by each employee covered by the system.

(2) The reports will reflect an after-the-fact reporting of the percentage of activity of each employee. Charges may be made initially on the basis of estimates made before the services are performed, provided that such charges are promptly adjusted if significant differences are indicated by activity reports.

(3) Each report will account for 100 percent of the activity for which the employee is compensated and which is required in fulfillment of the employee's obligations to the institution. The report will reasonably reflect the percentage of activity applicable to each sponsored agreement, each indirect cost category, and each major function of the institution.

(4) To confirm that the distribution of activity represents a reasonable estimate of the work performed by the employee during the period, each report will be signed by the employee or by a responsible official having first hand knowledge of the work performed.

(5) For professorial and professional staff, the reports will be prepared each academic term, but no less frequently than every six months. For other individuals, the reports will be prepared no less frequently than monthly and will coincide with one or more pay periods.

(6) Where the institution uses time cards or other forms of after-the-fact payroll documents as original documentation for payroll and payroll charges, such documents shall qualify as a personnel activity report provided that they meet the requirements in (1) through (5) above.

(e) Salary Rates for Faculty Members.

(1) Salary Rates for the Academic Year. Charges for work performed on sponsored agreements by faculty members during the academic year will be based on the individual faculty member's regular compensation for the continuous period which, under the policy of the institution concerned, constitutes the basis of his salary. Charges for work performed on sponsored agreements during all or any portion of such period are allowable at the base salary rate. In no event will charges to sponsored agreements, irrespective of the basis of computation, exceed the proportionate share of the base salary for that period. This principle applies to all members of the faculty at an institution. Since intra-university consulting is assumed to be undertaken as a university obligation requiring no compensation in addition to full-time base salary, the principle also applies to faculty members who function as consultants or otherwise contribute to a sponsored agreement conducted by another faculty member of the same institution. However, in unusual cases where consultation is across departmental lines or involves a separate or remote operation, and the work performed by the consultant is in addition to his regular departmental load, any charges for such work representing extra compensation above the base salary are allowable provided that such consulting arrangements are specifically provided for in the agreement or approved in writing by the sponsored agency.

(2) Periods Outside the Academic Year.

a. Except as otherwise specified for teaching activity in b below, charges for work performed by faculty members on sponsored agreements during the summer months or other period not included in the base salary period will be determined for each faculty member at a rate not in excess of the base salary divided by the period to which the base salary relates, and will be limited to charges made in accordance with other parts of this section. The base salary period used in computing charges for work performed during the summer months will be the number of months covered by the faculty member's official academic year appointment.

b. Charges for teaching activities performed by faculty members on sponsored agreements during the summer months or other periods not included in the base salary period will be based on the normal policy of the institution governing compensation to faculty members for teaching assignments during such periods.

(3) Part-Time Faculty. Charges for work performed on sponsored agreements by faculty members having only part-time appointments will be determined at a rate not in excess of that regularly paid for the part-time assignments: e.g., an institution pays $5,000 to a faculty member for half-time teaching during the academic year. He devoted one-half of his remaining time to a sponsored agreement. Thus, his additional compensation, chargeable by the institution to the agreement, would be one-half of $5,000, or $2,500.

(f) Noninstitutional Professional Activities. Unless an arrangement is specifically authorized by a Federal sponsoring agency, an institution must follow its institution-wide policies and practices concerning the permissible extent of professional services that can be provided outside the institution for non-institutional compensation. Where such institution-wide policies do not exist or do not adequately define the permissible extent of consulting or other noninstitutional activities undertaken for extra outside pay, the Government may require that the effort of professional staff working on sponsored agreements be allocated between (i) institutional activities, and (ii) noninstitutional professional activities. If the sponsoring agency considers the extent of noninstitutional professional effort excessive, appropriate arrangements governing compensation will be negotiated on a case-by-case basis.

15-309.7 Contingency Provisions. Contributions to a contingency reserve or any similar provision made for events, the occurrence of which cannot be foretold with certainty as to

time, intensity, or with an assurance of their happening, are unallowable. (But see also 15-309.16(c).)

15-309.8 Deans of Faculty and Graduate Schools. The salaries and expenses of deans of faculty and graduate schools, or their equivalents, and their staffs are allowable.

15-309.9 Depreciation and Use Allowances. Institutions may be compensated for the use of their buildings, capital improvements, and equipment; provided that they are used, needed in the institution's activities, and properly allocable to sponsored agreements. Such compensation shall be made by computing either depreciation or use allowance. Use allowances are the means of providing such compensation when depreciation or other equivalent costs are not computed. The allocation for depreciation or use allowance shall be made in acoordance with 15-306.1. Depreciation and use allowances are computed applying the following rules:

(a) The computation of depreciation or use allowances shall be based on the acquisition cost of the assets involved. For this purpose, the acquisition cost will exclude (i) the cost of land; (ii) any portion of the cost of buildings and equipment borne by or donated by the Government, irrespective of where title was originally vested or where it is presently located; and (iii) any portion of the cost of buildings and equipment contributed by or for the institution where law or agreement prohibit recovery. For an asset donated to the institution by a third party, its fair market value at the time of the donation shall be considered as the acquisition cost.

(b) In the use of the depreciation method, the following shall be observed:

(1) The period of useful service or useful life established in each case for usable capital assets must take into consideration such factors as type of construction, nature of the equipment, technological developments in the parciular area, and the renewal and replacement policies followed for the individual items or classes of assets involved.

(2) The depreciation method used to charge the cost of an asset (or group of assets) to accounting periods shall reflect the pattern of consumption of the asset during its useful life. In the absence of clear evidence indicating that the expected consumption of the asset will be significantly greater in the early portions than in the later portions of its useful life, the straight-line method shall be presumed to be the appropriate method. Depreciation methods once used shall not be changed unless approved in advance by the cognizant Federal agency.

(3) Where the depreciation method is introduced for application to assets for which use allowance was previously charged, the aggregate amount of use allowances and depreciation applicable to such assets must not exceed the total acquisition cost of the assets.

(4) When the depreciation method is used for buildings, a building "shell" may be treated separately from other building components, such as plumbing system and heating and air-conditioning system. Each component item may then be depreciated over its estimated useful life. On the other hand, the entire building, including the shell and all components, may be treated as a single asset and depreciated over a single useful life.

(5) Where the depreciation method is used for a particular class of assets, no depreciation may be allowed on any such assets that have outlived their depreciable lives. (But see also (c)(3) below.)

(c) Under the use allowance method, the following shall be observed:

(1) The use allowance for buildings and improvements (including improvements such as paved parking areas, fences, and sidewalks) will be computed at an annual rate not exceeding two percent of acquisition cost. The use allowance for equipment will be computed at an annual rate not exceeding six and two-thirds percent of acquisition cost.

(2) In contrast to the depreciation method, the entire building must be treated as a single asset without separating its "shell" from other building components under the use allowance method. The entire building must be treated as a single asset, and the two-percent use allowance limitation must be applied to all parts of the building. The two-percent limitation, however, need not be applied to equipment or other assets that are merely attached or fastened to the building but not permanently fixed and are used as furnishings, decorations or for specialized purposes (e.g., dentist chairs and dental treatment units, counters, laboratory benches bolted to the floor, dishwasher, and carpeting). Such equipment and assets will be considered as not being permanently fixed to the building if they can be removed without the need for costly or extensive alterations or repairs to the building to make the space usable for other purposes. Equipment and assets which meet these criteria will be subject to the six and two-thirds percent equipment use allowance.

(3) A reasonable use allowance may be negotiated for any assets that are considered to be fully depreciated after taking into consideration the amount of depreciation previously charged

to the Government, the estimated useful life remaining at the time of negotiation, the effect of any increased maintenance charges, decreased efficiency due to age, and any other factors pertinent to the utilization of the asset for the purpose contemplated.

(d) Except as otherwise provided in (b) and (c) above, a combination of the depreciation and use allowance methods may not be used, in like circumstances, for a single class of assets (e.g., buildings, office equipment, and computer equipment).

(e) Charges for use allowances or depreciation must be supported by adequate property records, and physical inventories must be taken at least once every two years to ensure that the assets exist and are usable, used, and needed. Statistical sampling techniques may be used in taking these inventories. In addition, when the depreciation method is used, adequate depreciation records showing the amount of depreciation taken each period must also be maintained.

15-309.10 Donated Services and Property. The value of donated services and property are not allowable, either as a direct or indirect cost, except that depreciation or use allowances on donated assets are permitted in accordance with 15-309.9(a). The value of donated services and property may be used to meet cost sharing or matching requirements, in accordance with OMB Circular No. A-110.

15-309.11 Employee Morale, Health, and Welfare Costs and Credits. The costs of house publication, health or first-aid clinics and/or infirmaries, recreational activities, employees' counseling services, and other expenses incurred in accordance with the institution's established practice or custom for the improvement of working conditions, employer-employee relations, employee morale, and employee performance, are allowable. Income generated from any of these activities will be credited to the cost thereof unless such income has been irrevocably set over to employee welfare organizations.

15-309.12 Entertainment Costs. Costs incurred for amusement, social activities, entertainment, and any items relating thereto, such as meals, lodging, rentals, transportation, and gratuities, are unallowable.

15-309.13 Equipment and Other Capital Expenditures.

(a) For purposes of this paragraph, the following definitions apply:

(1) Equipment means an article of nonexpendable tangible personal property having a useful life of more than two years, and an acquisition cost of $500 or more per unit. However, consistent with institutional policy, lower limits may be established.

(2) Capital expenditure means the cost of the asset including the cost to put it in place. Capital expenditure for equipment, for example, means the net invoice price of the equipment, including the cost of any modifications, attachments, accessories, or auxilary apparatus necessary to make it usable for the purpose for which it is acquired. Ancilliary charges, such as taxes, duty, protective intransit insurance, freight, and installation, may be included in, or excluded from, capital expenditure cost in accordance with the institution's regular accounting practices.

(3) Special purpose equipment means equipment which is used only for research, medical, scientific, or other technical activities.

(4) General purpose equipment means equipment, the use of which is not limited only to research, medical, scientific or other technical activities. Examples of general purpose equipment include office equipment and furnishings, air-conditioning equipment, reproduction and printing equipment, motor vehicles, and automatic data processing equipment.

(b) The following rules of allowability shall apply to equipment and other capital expenditures:

(1) Capital expenditures for general purpose equipment, buildings, and the land are unallowable as direct charges, except where approved in advance by the sponsoring agency.

(2) Capital expenditures for special purpose equipment are allowable as direct charges, provided that the acquisition of items having a unit cost of $1,000 or more is approved in advance by the sponsoring agency.

(3) Capital expenditures for improvements to land, buildings, or equipment which materially increase their value or useful life are unallowable as direct charges, except where approved in advance by the sponsoring agency.

(4) Capital expenditures are unallowable as indirect costs, but see 15-309.9 for allowability of depreciation or use allowance on buildings, capital improvements, and equipment. Also see 15-309.33 for allowability of rental costs on land, buildings, and equipment.

15-309.14 Fines and Penalties. Costs resulting from violations of, or failure of the institution to comply with, Federal, State, and local laws and regulations are unallowable except when incurred as a result of compliance with specific provisions of the sponsored agreement or instructions in writing from the contracting officer or equivalent.

15-309.15 Fringe Benefits.

(a) Fringe benefits in the form of regular compensation paid to employees during periods of authorized absences from

the job, such as for annual leave, sick leave, military leave, and the like, are allowable, provided such costs are distributed to all institutional activities in proportion to the relative amount of time or effort actually devoted by the employees. See 15-309.35 for treatment of sabbatical leave.

(b) Fringe benefits in the form of employer contributions or expenses for social security, employee insurance, workmen's compensation insurance, tuition or remission of tuition for individual employees or their families and the like are allowable, provided such benefits are granted in accordance with established institutional policies, and are distributed to all institutional activities on an equitable basis. See 15-309.36(b) for treatment of tuition remission provided to students.

(c) Rules for pension plan costs are as follows:

(1) Costs of the institution's pension plan which are incurred in accordance with the established policies of the institution are allowable, provided (i) such policies meet test of reasonableness; (ii) the methods of cost allocation are equitable for all activities; (iii) the amount of pension cost assigned to each fiscal year is determined in accordance with (2) below; and (iv) the cost assigned to a given fiscal year is paid or funded for all plan participants within six months after the end of that year.

(2) The amount of pension cost assigned to each fiscal year shall be determined in accordance with generally accepted accounting principles. Institutions may elect to follow the "Cost Accounting Standard for Composition and Measurement of Pension Cost" (4 CFR Part 412).

(3) Premiums paid for pension plan termination insurance pursuant to the Employee Retirement Income Security Act of 1974 (Public Law 93-406) are allowable. Late payment charges on such premiums are unallowable. Excise taxes on accumulated funding deficiencies and prohibited transactions of pension plan fiduciaries imposed under the Employee Retirement Income Security Act are also unallowable.

(d) Fringe benefits may be assigned to cost objectives by identifying specific benefits to specific individual employees or by allocating on the basis of the salaries and wages of the employees receiving the benefits. When the allocation method is used, separate allocations must be made to selective groupings of employees, if the costs in relationship to salaries and wages differ significantly for different groups of employees. Also fringe benefits related to institutional salaries and wages treated as direct costs may be treated as direct costs.

15-309.16 Insurance and Indemnification.

(a) Costs of insurance required or approved, and maintained, pursuant to the sponsored agreement, are allowable.

(b) Costs of other insurance maintained by the institution in connection with the general conduct of its activities, are allowable subject to the following limitations: (i) types and extent and cost of coverage must be in accordance with sound institutional practice; (ii) costs of insurance or of any contributions to any reserve covering the risk of loss of or damage to Government-owned property are unallowable except to the extent that the Government has specifically required or approved such costs; and (iii) costs of insurance on the lives of officers or trustees are unallowable except where such insurance is part of an employee plan which is not unduly restricted.

(c) Contributions to a reserve for a self-insurance program are allowable to the extent that the types of coverage, extent of coverage, and the rates and premiums would have been allowed had insurance been purchased to cover the risks.

(d) Actual losses which could have been covered by permissible insurance whether through purchased insurance or self-insurance are unallowable, unless expressly provided for in the sponsored agreement except that costs incurred because of losses not covered under existing deductible clauses for insurance coverage provided in keeping with sound management practice as well as minor losses not covered by insurance, such as spoilage, breakage and disappearance of small hand tools, which occur in the ordinary course of operation, are allowable.

(e) Indemnification includes securing the institution against liabilities to third persons and other losses not compensated by insurance or otherwise. The Government is obligated to indemnify the institution only to the extent expressly provided for in the sponsored agreement, except as provided in (d) above.

15-309.17 Interest, Fund Raising, and Investment Management Costs.

(a) Costs incurred for interest on borrowed capital or temporary use of endowment funds, however represented, are unallowable.

(b) Costs of organized fund raising, including financial campaigns, endowment drives, solicitation of gifts and bequests, and similar expenses incurred solely to raise capital contributions, are unallowable.

(c) Costs of investment counsel and staff and similar expenses incurred solely to enhance income from investments are unallowable.

(d) Costs related to the physical custody and control of monies and securities are allowable.

15-309.18 Labor Relations Costs. Costs incurred in maintaining satisfactory relations between the institution and its employees, including costs of labor management committees, employee's publications, and other related activities, are allowable.

15-309.19 Losses on Other Sponsored Agreements or Contracts. Any excess of costs over income under any other sponsored agreement or contract of any nature is unallowable. This includes, but is not limited to, the institution's contributed portion by reason of cost-sharing agreements or any under-recoveries through negotiation of flat amounts for indirect costs.

15-309.20 Maintenance and Repair Costs. Costs incurred for necessary maintenance, repair, or upkeep of property (including Government property unless otherwise provided for) which neither add to the permanent value of the property nor appreciably prolong its intended life, but keep it in an efficient operating condition, are allowable.

15-309.21 Material Costs. Costs incurred for purchased materials, supplies, and fabricated parts directly or indirectly related to the sponsored agreement are allowable. Purchases made specifically for the sponsored agreement should be charged thereto at their actual prices after deducting all cash discounts, trade discounts, rebates, and allowances received by the institution. Withdrawals from general stores or stockrooms should be charged at their cost under any recognized method of pricing stores withdrawals conforming to sound accounting practices consistently followed by the institution. Incoming transportation charges are a proper part of material cost. Direct material cost should include only the materials and supplies actually used for the performance of the sponsored agreement, and due credit should be given for any excess materials retained, or returned to vendors. Due credit should be given for all proceeds or value received for any scrap resulting from work under the sponsored agreement. Where Government donated or furnished material is used in performing the sponsored agreement, such material will be used without charge.

15-309.22 Memberships, Subscriptions, and Professional Activity Costs.

(a) Costs of the institution's membership in civic, business, technical, and professional organizations are allowable.

(b) Costs of the institution's subscriptions to civic, business, professional, and technical periodicals are allowable.

(c) Costs of meetings and conferences, when the primary purpose is the dissemination of technical information, are allowable. This includes costs of meals, transportation, rental of facilities, and other items incidental to such meetings or conferences.

15-309.23 Patent Costs. Costs of preparing disclosures, reports, and other documents required by the sponsored agreement, and of searching the art to the extent necessary to make such invention disclosures, are allowable. In accordance with the clauses of the sponsored agreement relating to patents, costs of preparing documents and any other patent costs, in connection with the filing of a patent application where title is conveyed to the Government, are allowable. (See also 15-309.34.)

15-309.24 Plant Security Cost. Necessary expenses incurred to comply with security requirements, including wages, uniforms and equipment of personnel engaged in plant protection, are allowable.

15-309.25 Preagreement Costs. Costs incurred prior to the effective date of the sponsored agreement, whether or not they would have been allowable thereunder if incurred after such date, are unallowable unless approved by the sponsoring agency.

15-309.26 Professional Services Costs.

(a) Costs of professional services rendered by the members of a particular profession who are not employees of the institution are allowable, subject to (b) and (c) below, when reasonable in relation to the services rendered and when not contingent upon recovery of the costs from the Government. Retainer fees to be allowable must be reasonably supported by evidence of services rendered.

(b) Factors to be considered in determining the allowability of costs in a particular case include (i) the past pattern of such costs, particularly in the years prior to the award of sponsored agreements; (ii) the impact of sponsored agreements on the institution's total activity; (iii) the nature and scope of managerial services expected of the institution's own organizations; and (iv) whether the proportions of Government work to the institution's total activity is such as to influence the institution in favor of incurring the cost, particularly where the services rendered are not of a continuing nature and have little relationship to work under sponsored agreements.

(c) Costs of legal, accounting, and consulting services, and related costs, incurred in connection with the prosecution of claims against the Government, are unallowable. Costs of

legal, accounting and consulting services, and related costs, incurred in connection with patent infringement litigation, are unallowable unless otherwise provided for in the sponsored agreements.

15-309.27 Profits and Losses on Disposition of Plant, Equipment, or Other Capital Assets. Profits or losses arising from the sale or exchange of plant, facilities, equipment or other capital assets, including sale or exchange of either short-term or long-term investments, shall not be considered in computing the costs of sponsored agreements except for pension plans as provided in 15-309.15(c). When assets acquired with Federal funds, in part or wholly, are disposed of, the distribution of the proceeds shall be made in accordance with Attachment N, OMB Circular No. A-110.

15-309.28 Proposal Costs. Proposal costs are the costs of preparing bids or proposals on potential Government and non-Government sponsored agreements or projects, including the development of data necessary to support the institution's bids or proposals. Proposal costs of the current accounting period of both successful and unsuccessful bids and proposals normally should be treated as indirect costs and allocated currently to all activities of the institution, and no proposal costs of past accounting periods will be allocable to the current period. However, the institution's established practices may be to treat proposal costs by some other recognized method. Regardless of the method used, the results obtained may be accepted only if found to be reasonable and equitable.

15-309.29 Public Information Services Costs. Costs of news releases pertaining to specific research or scientific accomplishment are allowable, when they result from performance of sponsored agreements.

15-309.30 Rearrangement and Alteration Costs. Costs incurred for ordinary or normal rearrangement and alteration of facilities are allowable. Special arrangement and alteration costs incurred specifically for the project are allowable when such work has been approved in advance by the sponsoring agency.

15-309.31 Reconversion Costs. Costs incurred in the restoration or rehabilitation of the institution's facilities to approximately the same condition existing immediately prior to commencement of the sponsored agreement, fair wear and tear excepted, are allowable.

15-309.32 Recruiting Costs.

(a) Subject to (b), (c), and (d) below, and provided that the size of the staff recruited and maintained is in keeping

with workload requirements, costs of "help wanted" advertising, operating costs of an employment office necessary to secure and maintain an adequate staff, costs of operating an aptitude and educational testing program, travel costs of employees while engaged in recruiting personnel, travel costs of applicants for interviews for prospective employment, and relocation costs incurred incident to recruitment of new employees, are allowable to the extent that such costs are incurred pursuant to a well managed recruitment program. Where the institution uses employment agencies, costs not in excess of standard commercial rates for such services are allowable.

(b) In publications, costs of help wanted advertising that includes color, includes advertising material for other than recruitment purposes, or is excessive in size (taking into consideration recruitment purposes for which intended and normal institutional practices in this respect), are unallowable.

(c) Costs of help wanted advertising, special emoluments, fringe benefits, and salary allowances, incurred to attract professional personnel from other institutions, that do not meet the test of reasonableness or do not conform with the established practices of the institution, are unallowable.

(d) Where relocation costs incurred incident to recruitment of a new employee have been allowed either as an allocable direct or indirect cost, and the newly hired employee resigns for reasons within his control within 12 months after hire, the institution will be required to refund or credit such relocation costs to the Government.

15-309.33 Rental Cost of Buildings and Equipment.

(a) Rental costs of buildings or equipment are allowable to the extent that the decision to rent or lease is in accord with 15-303.3. Rental arrangements should be reviewed periodically to determine if circumstances have changed and other options are available.

(b) Rental costs under "sale and lease back" arrangements are allowable only up to the amount that would be allowed if the institution continued to own the property.

(c) Rental costs under "less-than-arms-length" leases are allowable only up to the amount that would be allowed if the institution owned the property. For this purpose, a "less-than-arms-length" lease is one under which one party to the lease agreement is able to control or substantially influence the actions of the other.

(d) Where significant rental costs are incurred under leases which create a material equity in the leased property, they are allowable only up to the amount that would be allowed

if the institution purchased the property on the date the lease agreement was executed. For this purpose, a material equity in the property exists when the lease:

(1) in noncancelable or is cancelable only upon the occurrence of some remote contingency, and

(2) has one or more of the following characteristics:

a. Title to the property passes to the institution at some time during or after the lease period.

b. The term of the lease corresponds substantially to the estimated useful life of the property (i.e., the period of economic usefulness to the legal owner of the property).

c. The initial term is less than the useful life of the property and the institution has the option to renew the lease for the remaining useful life at substantially less than fair rental value.

d. The property was acquired by the lessor to meet the special needs of the insitution and will probably be usable only for that purpose and only by the institution.

e. The institution has the right, during or at the expiration of the lease, to purchase the property at a price which at the inception of the lease appears to be substantially less than the probable fair market value at the time it is permitted to purchase the property (commonly called a lease with a bargain purchase option), except for any discount normally given to educational institutions.

15-309.34 Royalties and Other Costs for Use of Patents. Royalties on a patent or amortization of the cost of acquiring a patent or invention or rights thereto, necessary for the proper performance of the sponsored agreement and applicable to tasks or processes thereunder, are allowable unless the Government has a license or the right to free use of the patent, the patent has been adjudicated to be invalid or has been administratively determined to be invalid, the patent is considered to be unenforceable, or the patent has expired.

15-309.35 Sabbatical Leave Costs. Costs of leave of absence to employees for performance of graduate work or sabbatical study, travel, or research are allowable provided the institution has a uniform policy on sabbatical leave for persons engaged in research. Such costs will be allocated on an equitable basis among all related activities of the institution. Where sabbatical leave is included in fringe benefits for which a cost is determined for assessment as a direct charge, the aggregate amount of such assessments applicable to all work of the institution during the base period must be reasonable in relation to the institution's actual experience under its sabbatical leave policy.

15-309.36 Scholarships and Student Aid Costs.

(a) Costs of scholarships, fellowships, and other programs of student aid are allowable only when the purpose of the sponsored agreement is to provide training to selected participants and the charge is approved by the sponsoring agency. However, tuition remission and other forms of compensation paid as, or in lieu of, wages to students performing necessary work are allowable provided that (i) there is a bona-fide employer-employee relationship between the student and the institution for the work performed, (ii) the tuition or other payments are reasonable compensation for the work performed and are conditioned explicitly upon the performance of the necessary work, and (iii) it is the institution's practice to similarly compensate students in nonsponsored as well as sponsored activities.

(b) Charges for tuition remission and other forms of compensation paid to students as, or in lieu of, salaries and wages shall be subject to the reporting requirements stipulated in 15-309.6, and shall be treated as direct or indirect cost in accordance with actual work being performed. Tuition remission may be charged on an average rate basis.

15-309.37 Severance Pay.

(a) Severance pay is compensation in addition to regular salaries and wages which is paid by an institution to employees whose services are being terminated. Costs of severance pay are allowable only to the extent that such payments are required by law, by employer-employee agreement, by established policy that constitutes in effect an implied agreement on the institution's part, or by circumstances of the particular employment.

(b) Severance payments that are due to normal, recurring turnover and which otherwise meet the conditions of (a) above may be allowed provided the actual costs of such severance payments are regarded as expenses applicable to the current fiscal year and are equitably distributed among the institution's activities during that period.

(c) Severance payments that are due to abnormal or mass terminations are of such conjectural nature that allowability must be determined on a case-by-case basis. However, the Government recognizes its obligation to participate, to the extent of its fair share, in any specific payment.

15-309.38 Specialized Service Facilities.

(a) The costs of institutional services involving the use of highly complex or specialized facilities such as electronic computers, wind tunnels, and reactors, are allowable, provided the charge for the service meets the conditions of (b) through (d) below.

(b) The cost of each service normally shall consist of both its direct costs and its allocable share of indirect costs with deductions for appropriate income or Federal financing as described in 15-303.5.

(c) The cost of such institutional services when material in amount will be charged directly to users, including sponsored agreements based on actual use of the services and a schedule of rates that does not discriminate between federally and nonfederally supported activities of the institution, including those used by the institution for internal purposes. Charges for the use of specialized facilities should be designed to recover not more than the aggregate cost of the services over a long-term period agreed to by the institution and the cognizant Federal agency. Accordingly, it is not necessary that the rates charged for services be equal to the cost of providing those services during any one fiscal year as long as rates are reviewed periodically for consistency with the long-term plan and adjusted if necessary.

(d) Where the costs incurred for such institutional services are not material, they may be allocated as indirect costs. Such arrangements must be agreed to by the institution and the cognizant Federal agency.

(e) Where it is in the best interest of the Government and the institution to establish alternative costing arrangements, such arrangements may be worked out with the cognizant Federal agency.

15-309.39 Special Services Costs. Costs incurred for general public relations activities, alumni activities, and similar services, are unallowable.

15-309.40 Student Activity Costs. Costs incurred for intramural activities, student publications, student clubs, and other student activities, are unallowable, unless specifically provided for in the sponsored agreements.

15-309.41 Taxes.

(a) In general, taxes which the institution is required to pay and which are paid or accrued with generally accepted accounting principles, are allowable. Payments make to local governments in lieu of taxes which are commensurate with the local government services received are allowable, except for (i) taxes from which exemptions are available to the institution directly or which are available to the institution based on an exemption afforded the Government and in the latter case when the sponsoring agency makes available the necessary exemption certificates; and (ii) special assessments on land which represent capital improvements.

(b) Any refund of taxes, interest, or penalties, and any payment to the institution thereon, attributable to taxes, interest, or penalties which were allowed as sponsored agreement costs, will be credited or paid to the Government in the manner directed by the Government. However, any interest actually paid or credited to an institution incident to a refund of tax, interest and penalty will be paid or credited to the Government only to the extent that such interest accrued over the period during which the institution had been reimbursed by the Government for the taxes, interest, and penalties.

15-309.42 Transportation Costs. Costs incurred for freight, express, cartage, postage, and other transportation services relating either to goods purchased, in process, or delivered, are allowable. When such costs can readily be identified with the items involved, they may be charged directly as transportation costs or added to the cost of such items. Where identification with the materials received cannot readily be made, inbound transportation costs may be charged to the appropriate indirect cost accounts if the institution follows a consistent, equitable procedure in this respect. Outbound freight, if reimbursable under the terms of the sponsored agreement should be treated as a direct cost.

15-309.43 Travel Costs.

(a) Travel costs are the expenses for transportation, lodging, subsistence, and related items incurred by employees who are in travel status on official business of the institution. Such costs may be charged on an actual basis, on a per diem or mileage basis in lieu of actual costs incurred, or on a combination of the two, provided the method used is applied to an entire trip and not to selected days of the trip, and results in charges consistent with those normally allowed by the institution in its regular operations.

(b) Travel costs are allowable subject to (c), (d), (e), and (f) below, when they are directly attributable to specific work under a sponsored agreement or are incurred in the normal course of administration of the institution or a department or sponsored program thereof.

(c) The difference in cost between first-class air accommodations and less than first-class air accommodations is unallowable except when less than first-class accommodations are not reasonably available to meet necessary mission requirements, such as where less than first-class accommodations would (i) require circuitous routing, (ii) require travel during unreasonable hours, (iii) greatly increase the duration of the flight, (iv) result in additional costs which would offset the transportation savings, or (v) offer accommodations which

are not reasonably adequate for the medical needs of the traveler.

(d) Costs of personnel movements of a special or mass nature are allowable only when authorized or approved in writing by the sponsoring agency or its authorized representative.

(e) Foreign travel costs are allowable only when the travel has received specific prior approval. Each separate foreign trip must be specifically approved. For purposes of this provision, foreigh travel is defined as "any travel outside of Canada and the United States and its territories and possessions." However, for an organization located outside Canada and the United States and its territories and possessions, foreign travel means travel outside that country.

(f) Domestic travel costs are allowable when permitted by the sponsored agreement. Expenditures for such travel will not be allowed if they exceed the amount specified by more than 25% or $500, whichever is greater, except with an advanced approval of the sponsoring agency.

15-309.44 Termination Costs Applicable to Sponsored Agreements.

(a) Termination of sponsored agreements generally gives rise to the incurrence of costs or to the need for special treatment of costs, which would not have arisen had the agreement not been terminated. Items peculiar to termination are set forth below. They are to be used in conjunction with all other provisions of the Part in the case of termination.

(b) The cost of common items of material reasonably usable on the institution's other work will not be allowable unless the institution submits evidence that it could not retain such items at cost without sustaining a loss. In deciding whether such items are reasonably usable on other work of the institution, consideration should be given to the institution's plans and orders for current and scheduled work. Contemporaneous purchases of common items by the institution will be regarded as evidence that such items are reasonably usable on the institution's other work. Any acceptance of common items as allowable to the terminated portion of the agreement should be limited to the extent that the quantities of such items on hand, in transit, and on order are in excess of the reasonable quantitative requirements of other work.

(c) If in a particular case, despite all reasonable efforts by the institution, certain costs cannot be discontinued immediately after the effective date of termination, such costs are generally allowable within the limitations set forth in this Part, except that any such costs continuing after termination due to the negligent or willful failure of the institution

to discontinue such costs will be considered unacceptable.

(d) Loss of useful value of special tooling, and special machinery and equipment is generally allowable, provided (i) such special tooling, machinery, or equipment is not reasonably capable of use in other work of the institution; (ii) the interest of the Government is protected by transfer of title or by other means deemed appropriate by the contracting officer or equivalent; and (iii) the loss of useful value as to any one terminated agreement is limited to that portion of the acquisition cost which bears the same ratio to the total acquisition cost as the terminated portion of the agreement bears to the entire terminated agreement and other Government agreements for which the special tooling, special machinery, or equipment was acquired.

(e) Rental costs under unexpired leases are generally allowable where clearly shown to have been reasonably necessary for the performance of the terminated agreement, less the residual value of such leases, if (i) the amount of such rental claimed does not exceed the reasonable use value of the property leased for the period of the agreement and such further period as may be reasonable; and (ii) the institution makes all reasonable efforts to terminate, assign, settle, or otherwise reduce the cost of such lease. There also may be included the cost of alterations of such leased property, provided such alterations were necessary for the performance of the agreement, and of reasonable restoration required by the provisions of the lease.

(f) Settlement expenses including the following are generally allowable: (i) accounting, legal, clerical, and similar costs reasonably necessary for the preparation and presentation to contracting officers or equivalent of settlement claims and supporting data with respect to the terminated portion of the agreement, and the termination and settlement of subagreements; and (ii) reasonable costs for the storage, transportation, protection, and disposition of property provided by the Government or acquired or produced by the institution for the agreement, except when the institution is reimbursed for disposals at a predetermined amount in accordance with the provisions of Circular No. A-110.

(g) Claims under subagreements, including the allocable portion of claims which are common to the agreement and to other work of the institution, are generally allowable.

15-310 Certification of Charges. To assure that expenditures for sponsored agreements are proper and in accordance with the agreement documents and approved project budgets, the annual and/or final fiscal reports or vouchers requesting payment under the agreements will include a certification, signed

by an authorized official of the university, which reads essentially as follows: "I certify that all expenditures reported (or payments requested) are for appropriate purposes and in accordance with the provisions of the application and award documents."

SECTION XVI

PROCUREMENT FORMS

16-000 Scope of Section. This Section prescribes forms for use in connection with the procurement of supplies and services (see Appendix F for illustrations of these forms). In using these forms for procurement outside the United States, its possessions, and Puerto Rico, contract provisions which are made inapplicable to such procurement by or under authority of ASPR may be deleted.

PROCUREMENT FORMS

Part 1—Forms for Supply and Services Contracts

16-100 Scope of Part. This Part prescribes forms for use in acquiring supplies and services either by formal advertising or by negotiation (but see also Part 2 of this Section); it is not applicable to specialized acquisition for which other instructions are prescribed by DAR or Departmental procedures (see 1-108).

16-101 Forms for Advertised Supply or Services Contracts (Standard Forms 33, 33A, 32, 36, 30 and 26 and DD Form 1707).

16-101.1 *General.* The following contract forms shall be used in effecting acquisitions of supplies or services by formal advertising:

(i) Solicitation, Offer, and Award (Standard Form 33), including Representations, Certifications, and Acknowledgements (either March 1977 edition or exception approved 9/25/78) for use with Uniform Contract Format in 2-201(a) and 3-501(b) and Information to Offerors or Quoters (DD Form 1707), which may be reproduced locally, unless such action is precluded by Departmental direction;

(ii) Solicitation Instructions and Conditions (Standard Form 33A) (Jan. 1978 edition). In supply contracts substitute the Discounts clause in 7-103.14 and in service contracts substitute the Discounts clause in 7-1902.11 for paragraph 9(b). In both supply and service contracts, substitute the Order of Precedence provision in 7-2003.41 for paragraph 19 and the Late Bids provision in 7-2002.2 for paragraphs 7 and 8. (For negotiated contracts, use the Late Technical Proposals provisions in 7-2002.3, or the Late Proposals provision in 7-2002.4);

(iii) General Provisions (Supply Contract), Standard Form 32, Apr. 1975 edition (to be used only when acquiring supplies). When using this form, the clause in 7-105.1(b) shall be added;

(iv) Any other special terms for the solicitation or additional contract provisions which are prescribed by the DAR or Departmental procedures (see 1-108);

(v) Continuation Sheet (Standard Form 36);

(vi) Amendment of Solicitation / Modification of Contract (Standard Form 30) when needed (see 16-103); and

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

16-101.2 *Conditions for Use.*

(a) The Solicitation, Offer and Award (Standard Form 33) shall be prepared in accordance with 2-201.

(1) Normally, only two copies of the solicitation will be forwarded to each prospective offeror and each offeror shall be requested to return one signed copy of his offer. In those cases where it is more practical or cost effective, three copies of the solicitation may be forwarded and the offeror requested to return two signed copies. For acquisitions made by the Defense Fuel Supply Center, four copies of the solicitation may be forwarded and the offeror requested to return three signed copies. A DD Form 1707 shall accompany each solicitation.

(b) Standard Forms 32 and 33A and any additional general provisions may be attached to each copy of the Solicitation. Alternatively, Standard Forms 32 and 33A may be incorporated by reference to the form number, name, and edition date; also, additional general provisions (contract clauses) that (i) are authorized in Section VII, (ii) do not contain blanks to be filled in by the offeror

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and (iii) are not modified, may be incorporated by reference to the ASPR paragraph number, clause title and date. No other contract clauses shall be incorporated by reference but they shall be set forth in full in the solicitation.

(c) Award of contracts shall be accomplished by completing the Award portion of Standard Form 33 and furnishing a copy of the form, so completed, to each successful offeror. Alternatively, such award may be accomplished by completing the Award portion of Standard Form 26 and furnishing it to each successful offeror. Papers previously forwarded to offerors need not accompany the offeror's copy of the Award document. The required use of the Award portion of Standard Form 33 or Standard Form 26 does not preclude the additional use of informal documents, including telegrams, as notices of awards.

(d) Continuation Sheet (Standard Form 36) shall be used when additional space is required for Schedule, Amendment/Modification, or Award; however, where the columns thereon are not required, a blank sheet may be used. The appropriate Procurement Instrument Identification number (see Section XX, Part 2) and page number shall be shown on all continuation sheets.

16–102 Forms for Negotiated Supply or Services Contracts (Standard Forms 18, 26, 30, 32*, 33, 33A* and 36; DD Forms 1665, and 1707.)

*For DAR clause substitutions on Standard Form 32, Apr. 1975 edition, and Standard Form 33A, Jan. 1978 edition, see 16-101.

16–102.1 *Request for Quotation (Standard Form 18), and Information to Offerors or Quoters (DD Form 1707).*

(a) *General.* Standard Form 18 is authorized and DD Form 1707 is prescribed for obtaining price, cost, delivery, and related information from suppliers. DD Form 1707 may be reproduced locally, unless such action is precluded by Departmental direction.

(b) *Conditions for Use.*

(1) *Acquisitions in Excess of $10,000.* Standard Form 18 is authorized and DD Form 1707 is prescribed for use in negotiated **acquisitions** in excess of $10,000 when it appears reasonably certain that the **acquisition** will be consummated by (i) a fixed-price contract involving negotiation or (ii) a cost-reimbursment contract. Continuation Sheet (Standard Form 36) may be used as required. One copy of DD Form 1707, and two copies of Standard Form 18 shall be sent to each prospective supplier and he shall be requested to return one signed copy of his quotation.

(2) *Acquisitions Not in Excess of $10,000.* Standard Form 18 may be used for simplified purchases made in accordance with Section III, Part 6, when written solicitations (other than by telegram) of quotations are required. (See 3-608.2(c)(1) for use of DD Form 1155 as a request for quotations.) Two copies of Standard Form 18 shall be sent to each prospective supplier and he shall be requested to return only one signed copy. A quotation submitted on this form or on DD Form 1155 is not to be construed as an offer which can be accepted by the Government to form a binding contract. Therefore, issuance by the Government of a purchase order pursuant to a supplier's quotation does not constitute a contract, but the purchase order is an offer by the Government to the supplier to

buy certain goods or services upon specified terms and conditions. DD Form 1707 shall not be used for procurements not in excess of $10,000.

(3) Pending the publication of a new edition of the form, the solicitation representation prescribed by 7-2003.74 shall be added as Item 4 of the Representations and Certifications of Standard Form 18.

16–102.2 *Award/Contract (Standard Form 26).*

(a) *General.* Standard Form 26 is designed for use primarily when entering into contracts resulting from negotiation where the signature of both parties on a single document is appropriate. (See also 16–102.3 for use of this form as an award pursuant to receipt of a firm offer on Solicitation, Offer, and Award (Standard Form 33) and 3–410.2(a) for use of this form to place orders against basic ordering agreements.)

(b) *Conditions for Use.* This form, in conjunction with appropriate General Provisions as provided in (c) and (d) below, is prescribed for use in negotiated contracts except:

(i) contracts for which Solicitation, Offer, and Award (Standard Form 33) is used in accordance with 16–102.3;

(ii) contracts for the construction, alteration, or repair of buildings, bridges, roads or other kinds of real property;

(iii) procurements for which special contract forms are prescribed by ASPR (for example, 16–503, 16–504 and 16–505); and

(iv) procurements for which purchase order and related forms are authorized by Part 3 of this Section.

(c) *Negotiated Supply and Services Contracts.*

(1) Except as provided in (b) above, Award/Contract (Standard Form 26) shall be used with Standard Form 32 (General Provisions (Supply Contract)) (see 16–205) or with required nonpersonal services clauses, and any other forms containing contract provisions which are prescribed by ASPR or Departmental procedures, for entering into negotiated fixed-price contracts to which Section VII, Part 1, is applicable.

(2) Except as provided in (b) above, Award/Contract (Standard Form 26) shall be used with other forms containing contract provisions which are prescribed by ASPR or Departmental procedures for entering into negotiated cost reimbursement type contracts to which Section VII, Part 2, is applicable.

(d) *Special Negotiated Contracts.* Award/Contract (Standard Form 26) may be used for special procurements where clauses other than those on Standard Form 32 have been authorized. For example, cost-reimbursement research and development contracts with clauses prescribed by Section VII, Part 4; contracts for stevedoring services; time and materials contracts; personal and professional services contracts; and contracts for instruction of military personnel at educational institutions.

(e) *Corporate Certificate.* Where a corporate certificate is considered necessary or desirable, it may be executed on a typed sheet, identified by Procurement Instrument Identification (contract) number, and attached to Award/Contract (Standard Form 26).

(f) *Schedule and Continuation Sheet.* Standard Form 36 (Continuation Sheet) shall be used for the Schedule and Continuation Sheets (see 16–101.2(d)).

(g) *Effective Date.* The effective date shown on the Award/Contract (Standard Form 26) is the date agreed to by the contracting parties as the date on which the terms and conditions of the contract take effect. This date may be dif-

ferent from the signature dates and is used for such purposes as establishing a base time from which delivery schedules may be established (see 1-305.3(a)(ii)). The effective date does not necessarily determine the fund obligation date which normally is the date when a mutually binding agreement is reached (see 21-130). If referred to in the contract Schedule, the effective date shall always be identified as the "effective date" and should not be later than any performance or delivery dates set forth in the Schedule. The effective date should be filled in prior to forwarding for contractor signature.

16-102.3 *Solicitation, Offer, and Award (Standard Form 33).*

(a) *General.* Except for acquisition of subsistence, and for acquisition outside the United States, its possessions, and Puerto Rico (see 16-102.4), the following forms are prescribed for use under the conditions set forth in (b) below in effecting negotiated fixed-price acquisition of supplies or nonpersonal services:

(i) Solicitation, Offer, and Award (Standard Form 33), including (Representations, Certifications, and Acknowledgements), and Information to Offerors (DD Form 1707);
(ii) Solicitation Instructions and Conditions (Standard Form 33A)*;
(iii) General Provisions (Supply Contract) (Standard Form 32)* (only when acquiring supplies);
(iv) any other forms containing contract provisions which are prescribed by DAR or Departmental procedures;
(v) Continuation Sheet (see 16-101.2(d));
(vi) Amendment of Solicitation/Modification of Contract (Standard Form 30) when needed (see 16-103); and
(vii) Award/Contract (Standard Form 26) when needed.

*For DAR clause substitutions on Standard Form 32, Apr. 1975 edition, and Standard Form 33A, Jan. 1978 edition, see 16-101.

(b) *Conditions for Use.*

(1) The above forms (together with authorized contract provisions) shall be used in connection with the negotiation of fixed-price contracts for supplies or nonpersonal services when it appears desirable to commence negotiations by soliciting written offers which, if there is written acceptance by the Government, would create a binding contract without further action. Standard Form 33A and DD Form 1707 shall be used as set forth in 16-101.2(a). Prospective offerors shall be requested to return not more than two signed copies of their offers.

(2) When offers have been submitted on Solicitation, Offer, and Award (Standard Form 33) and it is in the interest of the Government and is in accordance with 3-805.1(a)(v) to accept a prospective contractor's offer without further negotiation, price and other factors considered, award may be made by use of the Award portion of Standard Form 33. In such instances, the contract will consist of the appropriate documents listed in (a) above. Alternatively, award may be made by use of the Award portion of Standard Form 26 (see 16-102.2).

(3) When an offer submitted by a prospective contractor leads to further negotiation, the resulting contract shall be prepared as a bilateral contract document on Award/Contract (Standard Form 26) in accordance with 16-102.2 except that:

(i) if the circumstances are such that the prospective contractor can amend his offer in writing to reflect any necessary changes, the amended offer may be accepted by use of the Award portion of Solicitation, Offer, and Award (Standard Form 33) or the Award portion of Award/Contract (Standard Form 26); or
(ii) if all the terms and conditions agreed to as a result of such further negotiation are specifically and clearly set forth in identifiable writings but such writings are unsuitable or too voluminous to permit acceptance of the amended offer by use of the Award portion of either Standard Form 33 or 26 and if the circumstances of the procurement require prompt acceptance of the amended offer, such modified offer may be accepted by the issuance of a notice of award in substantially the format set forth below.

In cases of (i) above, the use of the Award portion of Standard Form 33 or 26 does not preclude the additional use of informal documents, including telegrams, as notices of award. In cases within (ii) above, all of the terms and conditions of the contract thereby created shall be, without change or modification, promptly consolidated into a bilateral contract document using Award/Contract (Standard Form 26).

NAME AND ADDRESS OF PURCHASING OFFICE

DATE .....
NAME AND ADDRESS OF CONTRACTOR
CONTRACT No. .....

Gentlemen:

Your offer dated ....., (in response to Solicitation No. ....., dated .....) (as amended by (list and identify all documents or portions thereof, such as letters, telegrams, and printed matter, from the prospective contractor and the Government, which together set forth the terms and conditions of the contract) for the furnishing of ....., at a total price of $..... is accepted and award is hereby made.

A contract in the usual form, dated and numbered as set forth above, incorporating all the terms and conditions of the contract hereby created is being prepared and will be forwarded to you in the near future.

This contract is authorized by and has been negotiated pursuant to 10 U.S.C. 2304(a)( ).

UNITED STATES OF AMERICA

By .....
(Name) Contracting Officer

(4) Standard Forms 32 and 33A, if applicable, and any other general provisions may be attached to each copy of the Solicitation, Offer, and Award (Standard Form 33). Alternatively, Standard Forms 32 and 33A may be incorporated by reference to the form number, name, and edition date; also, additional general provisions (contract clauses) that (i) are prescribed in Part 1 of Section VII and (ii) do not contain blanks to be filled in, may be incorporated by

reference to the ASPR paragraph number, clause title and date. No other contract clauses shall be incorporated by reference but they shall be set forth in full in the solicitation.

(5) When a cost breakdown is required in connection with an offer, the appropriate form of the DD Form 633 series shall be used to the extent provided in 16–206.

(6) This paragraph does not preclude the use of the purchase order forms prescribed in Section XVI, Part 3.

(7) When it is necessary to issue an amendment to a solicitation for offers, Standard Form 30 shall be used.

16–102.4 *Solicitation, Offer, and Award (Overseas) (DD Form 1665).*

(a) *General.* The following forms are prescribed for use outside the United States, its possessions and Puerto Rico in effecting negotiated fixed-price procurement of supplies or services:

(i) Solicitation, Offer, and Award (Overseas) (DD Form 1665), substituting the Late Technical Proposals provision in 7–2002.3 or the Late Proposals provision in 7–2002.4 for paragraphs 7 and 8;

(ii) for purchasing offices in the North Atlantic—Mediterranean area, including all of Europe, contract clause forms issued by USEUCOM (see 1–104(b)); for overseas purchasing offices not under USEUCOM, any other forms containing contract provisions which are prescribed by ASPR or Departmental procedures;

(iii) Continuation Sheet (Standard Form 36) (see 16–101.2(d)); and

(iv) Amendment of Solicitation / Modification of Contract (Standard Form 30) when needed (see 16–103).

(b) *Conditions for Use.* The conditions for use of DD Form 1665 are the same as for Standard Form 33 (see 16–102.3(b)).

(c) *Optional Use of Uniform Contract Format.* The Uniform Contract Format (see 3–501(b)(1)) may be used with the DD Form 1665.

16–103 Amendment of Solicitation / Modification of Contract (Standard Form 30).

(a) *General.* This paragraph prescribes a single form for (i) amendment of solicitations (whether advertised or negotiated), and (ii) modification of contracts including purchase and delivery orders entered into on DD Form 1155 (see 3–608.4).) Use of this form is optional for amendment of solicitation for the procurement of construction and price change modification of contracts for the procurement of petroleum products as a result of economic price adjustment.

(b) *Conditions for Use.* This form shall be used for:

(i) any amendment to a solicitation;

(ii) any change order issued pursuant to the Changes clause of a contract;

(iii) any other unilateral contract modification (see 1–201.2) issued pursuant to a contract provision authorizing such modification without the consent of the contractor;

(iv) administrative changes such as the correction of typographical mistakes, changes in the paying office and changes in accounting and appropriation data;

(v) supplemental agreements as defined in 1–201.18; and

(vi) provisioned items orders.

(c) *Continuation of Amendments / Modifications.* Standard Form 36 or a blank sheet of paper may be used for continuation of amendments / modifications (see 16–101.2(d)).

(d) *Modification of Construction Contracts.* When used to modify a contract for construction, this form may be altered to provide for the contractor's written acknowledgment of the change orders. (See 16–405.4 for instructions relative to modifying a contract for construction.)

(e) *Identification of FMS Contract Modifications.* If the modification includes FMS requirements, identify the modification by clearly stamping or otherwise indicating "*FMS Requirement*" on the face of the modification.

16–104 Instructions for Preparation of Forms for Advertised and Negotiated Supply and Services Contracts (Standard Forms 33, 26, 30, and 18).

16–104.1 *General.* The following information is applicable to all of the forms discussed in this paragraph.

(a) *Codes.* Entries in the code blocks provided on the forms are required if administration is assigned (i) to DCAS, or (ii) to a non-DCAS office listed in the DoD Directory of Contract Administration Services components and the contractor is located in the continental United States or Canada. The organizational entity address codes to be entered on contracts are as follows:

(1) *Codes published in the DoD Activity Address Directory (DODAAD), DoD 4000.25D.* These codes are to be used for Government entities. However, the "Ship To / Mark For" block shall use a DODAAD code for non-Government entities for shipments to satisfy MILSTRIP requisitions for that non-Government entity.

(2) *Codes published in Handbook of Non-Government Organizations for MILSCAP, H8–1/H8–2 Handbooks.* These codes will be used for all non-Government entities, except for the condition as noted in (i) above.

(b) *Dates.* All date entries shall be constructed with a 2–position numeric year; 3–position alpha month, and a 2–position numeric day; *e.g.*, 71NOV06.

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

(d) *Uniform Contract Format (UCF).*

(1) A Uniform Contract Format (UCF) consisting of (i) a standard table of contents and (ii) a standard location for all provisions under applicable section headings is set forth in 2–201(a) and 3–501(b). The table of contents is required in written solicitations and contracts (excluding orders under basic ordering agreements). Placement of provisions under applicable section headings is required in written solicitations, solicitation amendments, awards under solicitations, contracts (including contracts under basic agreements), and contract modifications.

(2) When a particular Section or Sections are not necessary (as for example, Sections C and D are not necessary because part numbers, NSNs, brief item descriptions and/or preservation and packaging information in Section B provide sufficient descriptive details), the unnecessary Sections should not be checked.

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

(vii) contracts for industry technical representatives;
(viii) contracts for consultant support services;
(ix) geodesy mapping, air charting, and information center contracts;
(x) base, post, camp, and station purchases (see 20–703.1);
(xi) contracts for operation or maintenance of, or installation of equipment at, radar or communications network sites, *e.g.*, SAGE, BMEWS, JCSAN, WHITE ALICE, etc;
(xii) communications service contracts;
(xiii) contracts for installation, operation and maintenance of spacetrack sensors and relays;
(xiv) Dependents Medicare Program contracts;
(xv) stevedoring contracts;
(xvi) contracts for construction and maintenance of military and civil public works, including harbors, docks, port facilities, military housing, development of recreational facilities, water resources, flood control, and public utilities;
(xvii) architect-engineer (A-E) contracts;
(xviii) contracts for Airlift and Sealift—Military Airlift Command and Military Sealift Command may perform contract administration services at contractor locations involved solely in performance of airlift or sealift contracts;
(xix) contracts for subsistence supplies:
(xx) ballistic missile site contracts—supporting administration of these contracts may be performed at missile activation sites during the installation, test, and checkout of the missiles and associated equipment; and
(xxi) contracts for operation and maintenance of, or installation of equipment at, military test ranges, facilities, and installations.

To avoid duplication of field contract administration capability, except for the performance of (xviii) and (xx) above, contract administration personnel from the purchasing office shall not be located at contractor's facilities. If field assistance from a DoD contract administration services component is needed in the administration of these contracts, such assistance will be requested by assignment of supporting contract administration to the contract administration offices listed in DoD Directory 4105.59–H as cognizant of the contractor's facility (facilities) at which the supporting contract administration function(s) is required. Specific instructions as to the assistance needed will be furnished. If field assistance is needed in the performance of the major portion of applicable contract administration functions, the contract will be reassigned to the cognizant contract administration office.

20–703.3 *Retention of Normal, or Assignment of Additional Functions.*

(a) The purchasing office may withhold, after consulting with the contract administration office when appropriate, specific contract administration functions on individual contracts when the performance of such functions can best be accomplished by the purchasing office (see 20–702.1).

(b) On individual contracts, it may be advisable for the purchasing office to delegate to the contract administration office functions which have not been designated in 1–406(c) as contract administration functions. Similarly, by individual contract or groups of contracts, authority may be delegated for contract administration offices to issue orders under the provisioning procedures con-

tained in contracts, and to issue orders under Basic Ordering Agreements for such items and services as are identified in the schedule; *provided*, however, that such delegation has been approved by the Head of the Procuring Activity or his designee. Prior to issuing delegations under this paragraph, the purchasing office shall coordinate with the contract administration office to assure availability of resources for performing the additional functions. Except as already provided for under this paragraph and under 1–406, new or follow-on procurement by the contract administration office shall not be authorized.

(c) The purchasing office shall advise the contractor, the contract administration office, and other appropriate activities, in writing, of the functions withheld or additional functions assigned.

20–704 Supporting Contract Administration.

(a) Supporting contract administration (see 1–201.31), when required for administration of a portion of the contract being performed at a different location, shall be requested in writing of the contract administration office normally cognizant of each of the contractor's facilities in which the work is to be performed. The request shall be made by the office having contract administration cognizance for the contract. Individual requests for quality assurance and transportation support are not required in those cases where specific distribution of the contract was made pursuant to 20–401(d)(ii)(E). The request shall clearly state the applicable functions to be performed. A copy of the pertinent contractual and other necessary documents shall be attached thereto. Generally, the office for performing supporting functions shall be selected from the list in DoD 4105.59–H. However, in special circumstances (for example, when contractor's work site is a military base), a component of a military command not listed in DoD 4105.59–H may be selected to perform supporting contract administration when prior coordination between the offices concerned has indicated that such an arrangement is feasible and that adequate resources are available.

(b) The prime contractor is responsible for managing his subcontract program, and the contract administration office function normally is limited to evaluating the effectiveness of the prime contractor's management of this program. Therefore, except when performance of contract administration duties by Government personnel is authorized elsewhere in this Regulation, administration of subcontracts by the Government shall not be assumed unless undue cost to the Government would otherwise be incurred or successful completion of the contract is threatened. This in no way precludes the contracting officer from designating under major system acquisitions (as defined in 1–201.41) certain high risk or critical subsystems or components thereof as requiring the application of special management attention in addition to assignment of support administration. Such special management attention shall be fully consistent with the practice of calling upon the contract administration organization cognizant of a facility to perform such contract administration functions as are required at that facility.

20–705 Reserved.

20–706 Designation of the Disbursing Office. The purchasing office shall designate in the contract a disbursing office in accordance with (a), (b), (c), or (d) below:

(a) *Defense Contract Administration Services Disbursing Office.* Contracts assigned to an office of Defense Contract Administration Services for administration shall also specify disbursement by the cognizant Defense Contract Administration Services Regional Office if funded with DoD funds (i.e., department codes 17 (Navy), 21 (Army), 57 (Air Force), 97 (OSD, including Defense Agencies), and 43 (Civil Defense). For any other department or agency funds, the payment office serving that department or agency must be cited for the portion of the contract covered by non-DoD funds, even though the contract is otherwise wholly administered by the DCASR.

(b) *Other Disbursing Office(s).* Any contract not assigned to a Defense Contract Administration Services Office for administration shall designate a disbursing office in accordance with Departmental or Agency regulations. Such contract, if issued for requirements of more than one Department or Agency, may provide for payment by more than one disbursing office.

(c) *Disbursement for Air Force Missile Propellant Contracts.* The Department of the Air Force shall retain the disbursement function on all contracts for Air Force missile propellants.

(d) Disbursements for NATO AEW contracts citing fund account 97X6147 will be assigned to ESD Accounting and Finance Office, Hanscom AFB MA.

20-707 Reassignment of Contract Administration and Disbursing Responsibility. Changes in assignment on account of changes in place of manufacture or for other reasons shall be made by the procuring contracting officer by issuance of a unilateral contract modification. However, when a contract is initially incorrectly assigned, a contracting officer at the contract administration office receiving such assignment shall issue a unilateral contract modification reassigning the contract to the correct contract administration office and disbursing office. Also, when a contractor is reassigned to another contract administration office on account of transfer of plant cognizance, establishment or disestablishment of a contract administration office, or change in geographical assignment of a contract administration office, the contract administration office having cognizance of the contract prior to the reassignment shall issue a unilateral contract modification reassigning the contracts to the newly assigned contract administration office and disbursing office. In accomplishing any change of assignment, the contract administration office shall assure that the contract and files and necessary supporting documents are transmitted to the correct contract administration office.

Part 8—Correspondence and Visits

20-801 Contract Correspondence.

(a) Generally, correspondence relating to contract administration functions shall be forwarded to the contractor via the cognizant contract administration office with a copy supplied for the file of the contract administration office. If, under urgent circumstances, direct correspondence is necessary, a copy shall be forwarded concurrently to the contract administration office.

(b) A copy of pertinent correspondence between the contract administration office and the contractor shall be sent to the purchasing office.

20-802 Visits to Contractor's Plants.

(a) *Planning Visits.* When visits to a contractor's facility are planned, the contract administration office shall be provided the following information prior to such visits:

(i) name, official position, and activity represented by visitor;
(ii) date of intended visit;
(iii) name and address of contractor and personnel to be contacted;
(iv) contract number and program involved, and purpose of visit;
(v) security clearance (If access to classified information will be involved, the contractor must be given advance notice, in writing, as required by the Industrial Security Regulation (DoD 5220.22—R);
(vi) if desired, a request that a representative of the contract administration office accompany the visitor (In the absence of such a request, the contract administration office may elect to have a representative accompany the visitor.).

(b) *Discussions With the Contractor, and Reporting Results of Visits.* Agreements reached with the contractor by authorized personnel during a visit shall be reduced to writing and a copy furnished to the contract administration office if it is affected. If the contract administration office was not represented, visitors will furnish to that office the status of any unresolved problems, and information on data requested from the contractor.

20-803 Evaluation of Contract Administration Offices. The on-site inspection, surveillance or evaluation of contract administration activities in the performance of their assigned functions shall only be accomplished by or under the direction of the parent Department or the Office of the Secretary of Defense organization element having this responsibility.

Part 4—Report of Contract Completion (DD Form 1500)

21–400 Scope and Purpose of Part. This Part prescribes the reporting on DD Form 1500 (set forth in F–200.1500) of actual cost and profits earned on prime contracts of $200,000 or more (and in some instances $500,000 or more—see 21–401) awarded by the purchasing offices of those commands specified in 21–401 below. The term "profit" also includes fee. Since the form also includes data on initial and adjusted cost and profit, it is independent of, and will not be compared with, DD Form 1499.

21–401 Applicability and Coverage.

(a) DD Form 1500 shall be prepared for each physically completed FPR, FPI, CPAF, CPIF, and CPFF contract (which was not previously reported on a DD Form 1500 or predecessor form) and which was:

(1) $200,000 or more if completed after 30 June 1966, and was

(2) awarded by (but regardless of whom administered by) purchasing offices of the following commands:

(i) Army Materiel Development and Readiness Command; Ballistic Missile Defense Systems Command;

(ii) Naval Air, Electronic, and Sea Systems Commands;

(iii) Naval Supply Systems Command (Navy Aviation Supply Office, Navy Ships Parts Control Center, and Naval Regional Procurement Office at Long Beach only;

(iv) Air Force Systems and Logistics Commands.

(b) Contract administration offices, including plant representatives or Defense Contract Administration Service offices, if applicable, shall:

(1) Notify purchasing offices in (a) above, when any contract covered by these instructions is physically completed. A copy of DD Form 1593, annotated as an information copy, may be used for this purpose.

(2) For completed CPFF contracts administered on behalf of the purchasing offices in (a) above, submit DD Form 1500 reports promptly to the appropriate purchasing office. For other types of contracts, the contract administration office shall furnish promptly to the appropriate purchasing office, information required by the purchasing office to prepare DD Form 1500.

(c) Purchasing offices in (a) above shall prepare DD Form 1500 reports for completed CPAF, CPIF, FPI and FPR contracts, and shall be responsible for assuring prompt submission of all DD Form 1500 reports, including those for CPFF contracts, to the addressees listed in 21–402. Each purchasing office shall maintain a register of all physically completed contracts of the aforementioned types beginning with a listing of those completed contracts for which a DD Form 1500 has not yet been submitted. This register shall include, as a minimum, the contract number, contractor's name, date of physical completion, estimated dollar amount of contract, and date DD Form 1500 is submitted. If the DD Form 1500 is delayed beyond the due date prescribed in 21–402, the reason for such delay shall be noted in the register.

(d) Purchasing offices which are located outside the United States, its possessions and Puerto Rico and are under the jurisdiction of the above Commands are exempt from this reporting requirement.

(e) The amount of $200,000 used as a threshold for reporting shall be based on the sum of the final cost and profit (or fee), exclusive of amounts for firm fixed price or cost no-fee portions of a contract. If exclusion of the FFP or cost no-fee portions reduces an otherwise reportable contract below the aggregate of $200,000, the contract shall not be reported on DD Form 1500.

(f) DD Form 1500 shall be submitted for each contract meeting the above conditions, even though the contract was not previously reported on DD Form 1499 or a similar predecessor form.

(g) DD Form 1500 shall be submitted for terminated contracts (other than FFP, cost, and cost sharing contracts) on which there is a final cost and profit or fee aggregating $200,000 or more for contracts terminated after 30 June 1966.

(h) If final costs and profit are negotiated for two or more contracts as a package (*e.g.*, FPR aircraft engine contracts), a single DD Form 1500 may be submitted for all the contracts included in the package. One contract number shall be selected as the master for identification in Item 2 of the form, and the other contract numbers shall be listed in the "Remarks" section, Item 14.

21–402 Due Date and Distribution.

(a) The DD Form 1500 report shall be prepared within six months after a contract is physically completed or when it is financially closed out (see S2–301.2), whichever occurs first. Timeliness of reporting is of greater importance than meticulous accuracy of amount. In the absence of significant dispute or known differences of opinion between the contractor and the Government that may have substantial impact on cost of final earned profit, the final cost and profit may be approximated. For this purpose amounts withheld by contract withholding provisions pending full contractor compliance after completion of work shall be treated as being payable to the contractor.

(b) Contract administration offices shall submit the original and three copies of the report for CPFF contracts to the appropriate purchasing office within five work days after the preparation date in (a) above.

(c) Within 10 days after the close of each month, purchasing offices shall forward all reports prepared as in (a) above or received as in (b) above to the appropriate one of the following commands:

(1) Army—Headquarters, U.S. Army Materiel Development and Readiness Command, Attn: DRCRP-SC, Washington, D.C. 20315.

(2) Navy—Headquarters, Naval Material Command, Attn: MAT 08C14, Washington, D.C. 20360.

(3) Air Force — AFLC/AC OPL, Wright-Patterson Air Force Base, Ohio 45433.

(d) If it is not possible to submit the DD Form 1500 report at the required time because of significant disputes or other factors which would affect the estimated final profit rate by more than 0.5% of the estimated final cost, a letter report shall be submitted indicating the reason for delay and the estimated date when a DD Form 1500 will be submitted.

(e) DD Form 1500 shall be submitted as an unclassified document. Should a reporting office consider it necessary to apply a security classification to a DD

Part 5—Procurement of Mortuary Services

22-500 Scope of Part. Procurement procedures peculiar to contracts for mortuary services (the care of remains) of military personnel within the United States are set forth in this Part. These procedures may be used as guidance in areas outside the United States in procuring such services for both deceased military and civilian personnel. Uniform contract clauses for care of remains contracts are set forth or referenced in Section VII, Part 12.

22-501 Method of Procurement.

22-501.1 *Procurements by Requirements Type Contract.* By agreement among the military activities involved, one military activity in each geographical area shall contract for the estimated requirements for the care of remains for all activities in the area. Procurement shall be by use of a requirements type contract (see 3-409.2) when the estimated annual requirements for the individual activity concerned, or for the activities using one contract, are ten or more. Except where negotiation is authorized under Section III, Part 2, such contracts shall be formally advertised.

22-501.2 *Procurements by Purchase Order.* Where no contract exists, such services shall be obtained by use of DD Form 1155 (Order for Supplies and Services/Request for Quotations) and DD Form 1155r "General Provisions" (see 3-608), inserting in the Schedule the clauses prescribed in 3-608.2(b)(1)(xii).

22-501.3 *Solicitation Planning.* Bids or offers for annual requirements for the next fiscal year shall be solicited in sufficient time to permit award prior to the beginning of the fiscal year.

22-501.4 *Area of Performance.* Each contract for care of remains (except Port of Entry Requirements contracts) shall clearly define the geographical area covered by the contract. The area shall be determined by the activity entering into the contract in accordance with the following general guidelines. It shall be an area using political boundaries, streets, or other features as demarcation lines. Generally, this should be a size roughly equivalent to the contiguous metropolitan or municipal area enlarged to include the activities served. In the event the area of performance best suited to the needs of a particular contract is not large enough to include a carrier terminal commonly used by people within such area, the contract area of performance shall specifically state that it includes such terminal as a pickup or delivery point.

22-501.5 *Distribution of Contracts.* In addition to normal contract distribution, three copies of each contract shall be furnished to each activity authorized to use it, and two copies to each of the following:

(i) Office of the Chief of Support Services Department of the Army, Attn:SPTS-MD Washington, D.C. 20315

(ii) Bureau of Medicine and Surgery (454) Department of the Navy Washington, D.C. 20390

(iii) Headquarters, AFMPC/MPCCM, Randolph AFB, TX 78148

22-502 Solicitation Provision. Advertised solicitations for mortuary services contracts shall contain the provision in 7-2003.58. This provision shall be appropriately modified for use in negotiated solicitations.

22-503 Schedule Formats.

22-503.1 *Schedule Format for Other Than Port of Entry Requirements Contracts.* Set forth below is an example of a Schedule format suitable for use in solicitations for other than port of entry requirements. The estimated quantities are only illustrative.

ITEM NO.	SUPPLIES, SERVICES AND TRANSPORTATION	ESTIMATED QUANTITY	UNIT	UNIT PRICE	AMOUNT
1	For a Type I casket, standard size, supplies and services in accordance with specifications.	20	each		
2	For a Type II casket, standard size, supplies and services in accordance with specifications.	5	each		
3	For a Shipping Case, standard size, in accordance with specifications. (For use with Item 1 or 2 above.)	17	each		
4	For a Type I casket, exceeding standard size, supplies and services in accordance with specifications.	4	each		
5	For a Type II casket, exceeding standard size, supplies and services in accordance with specifications.	2	each		
6	For a Shipping Case, exceeding standard size, in accordance with specifications. (To be used with Item 4 or 5 above.)	2	each		
7	For transportation of remains, in accordance with specifications and as provided for in paragraphs (b) and (c) of the "Area of Performance" clause of this contract.	200 Loaded miles	(Loaded mile)		

lieu of an individual item record for each component comprising the item of plant equipment. This does not obviate the requirement for adequately describing the component items on the plant equipment record nor does it preclude the use of more than one plant equipment record form when additional space is required.

(d) *Plant Equipment Costing Less Than $1,000.* Except where individual item records are necessary for effective control, calibration, or maintenance, summary stock records may be maintained for plant equipment costing less than $1,000 per unit. The contractor's property control system shall be such as to provide the following minimum information:

(i) contract number or equivalent code designation;
(ii) noun name, Federal Supply Classification in Cataloging Handbooks H2-1, H2-2 and H2-3;
(iii) manufacturer or Federal Supply Code for the manufacturer and model/part number;
(iv) quantity received;
(v) balance on hand;
(vi) posting reference and date of transaction;
(vii) unit price;
(viii) location (see B-301(g)); and
(ix) disposition.

In addition, where appropriate as determined by the property administrator the serial number and/or Government identification number for each item shall be recorded in a permanent manner in the property records and, upon disposition, lined out or otherwise deleted from the record. DD Form 1342 may be used for individual record cards for items costing less than $1,000.

B-306.1 *Centrally Reportable Industrial Plant Equipment.*

(a) The contractor shall prepare a DD Form 1342 (Appendix F, F-200.1342) for each item of equipment identified as Industrial Plant Equipment (IPE), including items which, though part of a manufacturing system, would otherwise qualify as industrial plant equipment. General purpose components of special test equipment, which would otherwise qualify as IPE, should not be reported until there is no longer a requirement for the test equipment. The forms will be prepared in accordance with instructions contained in AR 700-43 / NAVSUP PUB 5009/AFM 78-9/DLAM 4215.1, Management of Defense-Owned Industrial Plant Equipment (IPE), at the time (1) of receipt and acceptance of accountability by the contractor; (2) major changes as specified by DLAM 4215.1 occur in the data initially submitted to DIPEC; (3) IPE is no longer required for the purpose authorized or provided; or (4) disposal is completed. The DD Form 1342 prepared at the time IPE is no longer required for the purpose authorized or provided shall reflect all changes in data not previously reported to the Defense Industrial Plant Equipment Center (DIPEC). The contractor shall retain the original of each DD Form 1342 which may be used as the official property record. Copies of the DD Form 1342 shall be forwarded directly to DIPEC through the property administrator. Each DD Form 1342 will be prepared and forwarded within 15 working days after the event which created the need for its preparation and forwarding. AR 700-43/NAVSUP PUB 5009/AFM 78-9/DLAM 4215.1 is available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

(b) IPE is identified by noun name in Joint DoD IPE Handbooks as listed in 13-312. Additional handbooks and page changes to existing handbooks, with asterisks denoting additions to the IPE scope, shall be published as required. Reporting of newly listed items which are in the possession of the contractor shall be accomplished within 180 days following the date of the new handbook or the page change.

B-307 Records of Real Property.

(a) Records of real property shall consist of maps, drawings, plans, and specifications supplemented, where necessary to reflect building installations such as heating, electrical, sanitary, ventilating, drainage, sprinkler systems, etc. Appropriate changes will be made to the records to reflect alterations, additions, or extensions to real property. Where the maps, drawings, plans, and specifications do not adequately reflect descriptive data as to buildings installations, supplemental records will be maintained. The foregoing records will: (i) be complete, (ii) show the original cost of the property and improvements and the cost of changes and additions thereto, and (iii) be appropriately indexed.

(b) Costs incurred by the contractor or the Government for new construction, including erection, installation or assembly, of Government real property in possession of the contractor, shall be capitalized in the real property records and financial accounts maintained by the contractor for the Government.

(c) Costs incurred for additions, expansions, extensions, conversions, alterations, and improvements including applicable portions of capital maintenance to Government real property which increase the value, life, utility, capability and/or serviceability, shall be capitalized.

(d) Costs incurred in the following circumstances shall not be capitalized in the Government real property records or financial accounts:

(i) A facility is specifically constructed for test purposes which include destruction of the facility.
(ii) The building is designed to be portable.

(e) Costs incurred for maintenance, repair and/or rearrangement of Government real property which maintain the property in good physical condition, utility, capacity, and/or serviceability, shall be charged to expense, and the real property records shall not be affected. See (c) above for costs which shall be capitalized.

(f) When Government-owned real property is sold, transferred, donated, destroyed by fire or other cause, abandoned-in-place or condemned, the financial accounts shall be reduced by the presently recorded cost and the real property records annotated with a supporting statement including pertinent facts.

B-308 Records of Scrap and Salvage. Except as provided in B-103(d), the contractor shall maintain records of all scrap or salvage generated. These records shall be in accordance with the contractor's established system of scrap and salvage control, if approved by the property administrator, who shall take into consideration the need for protecting the Government's interest in the proration, disposition, and allocation of proceeds resulting therefrom.

B-308.1 *Records of Scrap.* The contractor's property control system shall be such as to provide the following minimum information:

C-306.1 *Centrally Reportable Industrial Plant Equipment.*

(a) The contractor shall prepare a DD Form 1342 (Appendix F, F-200.1342) for each item of equipment identified as Industrial Plant Equipment (IPE), including items which, though part of a manufacturing system, would otherwise qualify as industrial plant equipment. General purpose components of special test equipment, which would otherwise qualify as IPE, should not be reported until there is no longer a requirement for the test equipment. The forms will be prepared in accordance with instructions contained in AR 700-43 / NAVSUP PUB 5009/AFM 78-9/DLAM 4215.1, Management of Defense-Owned Industrial Plant Equipment (IPE), at the time (1) of receipt and acceptance of accountability by the contractor; (2) major changes as specified by DLAM 4215.1 occur in the data initially submitted to DIPEC; (3) IPE is no longer required for the purpose authorized or provided; or (4) disposal is completed. The DD Form 1342 prepared at the time IPE is no longer required for the purpose authorized or provided shall reflect all changes in data not previously reported to the Defense Industrial Plant Equipment Center (DIPEC). The contractor shall retain the original of each DD Form 1342 which may be used as the official property record. Copies of the DD Form 1342 shall be forwarded directly to DIPEC through the property administrator. Each DD Form 1342 will be prepared and forwarded within 15 working days after the event which created the need for its preparation and forwarding. AR 700-43 / NAVSUP PUB 5009 / AFM 78-9/ DLAM 4215.1 is available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

(b) IPE is identified by noun name in Joint DoD IPE Handbooks as listed in 13-312. Additional handbooks and page changes to existing handbooks, with asterisks denoting additions to the IPE scope, shall be published as required. Reporting of newly listed items which are in the possession of the contractor shall be accomplished within 180 days following the date of the new handbook or the page change.

C-307 Records of Real Property.

(a) In the case of real property furnished by the Government under fixed price contracts, and in the case of real property furnished by the Government and acquired by the contractor, title to which vests in the Government, under cost type contracts the contractor shall maintain a continuous itemized record of the description, location, acquisition cost, and disposition of all government real property including unimproved real property, all alterations and all construction work, and sites connected with such alteration and construction, acquired by purchase, lease or otherwise. The foregoing records will: (i) be complete, (ii) show the original cost of the property and improvements and the cost of changes and additions thereto, and (iii) be appropriately indexed.

(b) Costs incurred by the contractor or the Government for new construction, including erection, installation or assembly, of government real property in possession of the contractor, shall be capitalized in the real property records and financial accounts maintained by the contractor for the Government.

(c) Costs incurred for additions, expansions, extensions, conversions, alterations, and improvements including applicable portions of capital maintenance to government real property which increase the value, life, utility, capability and/or serviceability, shall be capitalized.

(d) Costs incurred in the following circumstances shall not be capitalized in the government real property records or financial accounts:

(i) A facility is specifically constructed for test purposes which include destruction of the facility.

(ii) The building is designed to be portable.

(e) Costs incurred for maintenance, repair and/or rearrangement of Government real property which maintain the property in good physical condition, utility, capacity, and/or serviceability, shall be charged to expense, and the real property records shall not be affected. See (c) above for costs which shall be capitalized.

(f) When government-owned real property is sold, transferred, donated, destroyed by fire or other cause, abandoned-in-place or condemned, the financial accounts shall be reduced by the presently recorded cost and the real property records annotated with a supporting statement including pertinent facts.

C-308 Records of Scrap and Salvage. In the event procedures for the control of scrap and salvage are required (see C-101(c)) and except as provided in C-103(b), the contractor shall maintain records of all scrap and salvage generated.

C-308.1 *Records of Scrap.* The contractor's property control system shall be such as to provide the following minimum information:

(i) contract number, if practicable, or equivalent code designation;
(ii) scrap classification (material content);
(iii) quantity on hand;
(iv) unit of measure;
(v) posting reference and date of transaction; and
(vi) disposition.

C-308.2 *Records of Salvage.* The contractor's property control system shall be such as to provide the following minimum information:

(i) contract number, if practicable, or equivalent code designation;
(ii) nomenclature or description of item;
(iii) quantity on hand;
(iv) posting reference and date of transaction; and
(v) disposition.

C-309 Records of Related Data and Information. The contractor shall maintain property control and accountability in accordance with sound business practice with respect to manufacturing or assembly drawings, installations, operation, repair, or maintenance instructions, or other similar data and information furnished to the contractor by the Government. The requirements of this Appendix are not otherwise applicable to such property.

C-310 Records of End Items. The contractor shall maintain a record of all completed products produced under the contract as follows:

(a) When there is no lapse of time between Government inspection and acceptance of the completed products and shipment from the plant site, the records shall, as a minimum, consist of a summarization of quantities accepted or shipped. When end items are accepted by the Government and stored with the contractor awaiting shipment, the record shall identify quantities stored, location, and disposition action.

E-502.1 *Requests for Proposals.* Requests for proposals shall state that contract provision for progress payments will be made in conformity with regulations, and that the need for progress payments conforming to regulations will not be considered as a handicap or adverse factor in the award of contracts. Requests for proposals shall not state a liquidation rate for progress payments. See E-512.

E-503 Customary Progress Payments. Certain contracts may require contractor's predelivery or unbillable partial performance expenditures that will have a material impact on the contractor's working funds. These include production contracts which involve a long "lead time" or preparatory period between the beginning of work and the first production delivery, normally involving four months or more for small business concerns and six months or more for firms which are not small business concerns. They also include some contracts for research and development and some contracts for services which have a long time period, of approximately four months or more for small business concerns and six months or more for firms which are not small business concerns, between the beginning of work and the first opportunity to bill and receive payment for a significant element of contract performance. Progress payments are customary at (i) the uniform standard percentages of total costs (E-503.1, E-503.2), (ii) the uniform cost base (E-509.5), (iii) the frequency of payment established in the progress payment clause (7-104.35), and (iv) the ordinary liquidation method (E-512.1) unless changed to the alternate method as provided in E-512.2 on this category of contracts and letter contracts contemplating a definitive fixed price type of contract. Length of lead time, or length of the time period within which billings for deliveries or for significant partial performance cannot be accomplished, are not a factor in qualifying letter contracts and their superseding definitive contracts for customary progress payments. Contract financing arrangements other than those set forth in this paragraph are regarded as unusual, and not within the category of customary progress payments (E-505).

The long lead time or preparatory period in these cases, and the accompanying predelivery or pre-partial performance billing expenditures that may have a material impact on the contractor's working funds, and the equivalent circumstances of letter contracts and their superseding definitive contracts, are regarded as making these customary progress payments reasonably necessary. The general preference for private financing is not applicable to this class of cases. Provision for customary progress payments will be made as a matter of course when requested by contractors who are known (from experience or adequate preaward investigation) to be reliable, competent, capable of satisfactory performance, in satisfactory financial condition, and to have an adequate accounting system and controls. In such cases, it is not necessary to require projections of cash receipts and expenditures or other demonstration of actual reasonable need for progress payments. However, in order to minimize administrative effort and expense, progress payments will be discouraged on relatively small contracts of the stronger and larger contractors who are not small business concerns, *e.g.*, contracts for less than $1,000,000, unless the circumstances of a group of such contracts, for contemporaneous performance, make such contracts the approximate equivalent of a larger contract that would have a material impact on the contractor's working funds. If a small business concern, and the contract involved, meet the above standards for customary progress payments, the smallness of the contract shall not deter the making of provision for customary progress payments to such small business concerns.

E-503.1 *Uniform Standard Percentages.* The uniform standard progress payment rate is 80% of total costs for firms which are not small business concerns. The 85% rate applies to all contracts awarded to small business conerns, whether or not awarded by formal advertising. Higher percentages will be regarded as unusual (E-505) and not within the category of customary progress payments. No percentage higher than the uniform standard progress payment may be offered in any solicitation unless approved in advance in accordance with E-505.

E-503.2 *Uniform Standard Percentages—Foreign Military Sales (FMS) Contracts.*

(a) The laws, rules, and business practices of foreign governments generally provide more favorable methods of financing in contracts with their indigenous industry, or purchases made on an international commercial basis, than the uniform standard progress payment rate for normal DoD contracts set forth in E-503.1. Therefore, the uniform standard progress payment rate for contracts awarded on and after September 28, 1977 on behalf of a foreign government or international organization under the FMS Program is 90% of total costs for firms which are not small business concerns and 95% of total costs for small business concerns. No percentages higher than the uniform standard progress payment rates set forth in this paragraph may be authorized unless approved in advance in accordance with E-505. The uniform standard percentages set forth in this paragraph do not apply to Foreign Military Sales made from U.S. Government inventories or stocks, to procurements for replenishment of U.S. Government inventories or stocks, or to procurements made under DoD Cooperative Logistics Support Arrangements.

(b) On FMS requirements, the Arms Export Control Act requires the deposit of FMS customer cash in advance of related payments to contractors. In order to comply with this requirement, all FMS contracts with progress payments must contain the billing procedures described below. For these purposes, the contractor shall allocate costs between customer countries in a manner acceptable to the Administrative Contracting Officer that does not incur undue administrative expense.

(1) If the contract contains only one progress payment rate and there is more than one customer country, the contractor shall submit one DD Form 1195 with a supporting schedule showing the portions of the total requested payment to be attributed to each country's requirement.

F–100.32 *Standard Form 32: General Provisions (Supply Contract)*—Continued

or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

19. OFFICIALS NOT TO BENEFIT

No member of or delegate to Congress, or resident Commissioner, shall be admitted to any share or part of this contract, or to any benefit that may arise therefrom; but this provision shall not be construed to extend to this contract if made with a corporation for its general benefit.

20. COVENANT AGAINST CONTINGENT FEES

The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For breach or violation of this warranty the Government shall have the right to annul this contract without liability or in its discretion to deduct from the contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

21. UTILIZATION OF SMALL BUSINESS CONCERNS

(a) It is the policy of the Government as declared by the Congress that a fair proportion of the purchases and contracts for supplies and services for the Government be placed with small business concerns.

(b) The Contractor agrees to accomplish the maximum amount of subcontracting to small business concerns that the Contractor finds to be consistent with the efficient performance of this contract.

22. UTILIZATION OF LABOR SURPLUS AREA CONCERNS

(a) It is the policy of the Government to award contracts to labor surplus area concerns that (1) have been certified by the Secretary of Labor (hereafter referred to as certified-eligible concerns with first or second preferences) regarding the employment of a proportionate number of disadvantaged individuals and have agreed to perform substantially (i) in or near sections of concentrated unemployment or underemployment or in persistent or substantial labor surplus areas or (ii) in other areas of the United States, respectively, or (2) are noncertified concerns which have agreed to perform substantially in persistent or substantial labor surplus areas, where this can be done consistent with the efficient performance of the contract and at prices no higher than are obtainable elsewhere. The Contractor agrees to use his best efforts to place his subcontracts in accordance with this policy.

(b) In complying with paragraph (a) of this clause and with paragraph (b) of the clause of this contract entitled "Utilization of Small Business Concerns" the Contractor in placing his subcontracts shall observe the following order of preference: (1) Certified-eligible concerns with a first preference which are also small business concerns; (2) other certified-eligible concerns with a first preference; (3) certified-eligible concerns with a second preference which are also small business concerns; (4) other certified-eligible concerns with a second preference; (5) persistent or substantial labor surplus area concerns which are also small business concerns; (6) other persistent or substantial labor surplus area concerns; and (7) small business concerns which are not labor surplus area concerns.

23. UTILIZATION OF MINORITY BUSINESS ENTERPRISES

(a) It is the policy of the Government that minority business enterprises shall have the maximum practicable opportunity to participate in the performance of Government contracts.

(b) The Contractor agrees to use his best efforts to carry out this policy in the award of his subcontracts to the fullest extent consistent with the efficient performance of this contract. As used in this contract, the term "minority business enterprise" means a business, at least 50 percent of which is owned by minority group members or, in case of publicly-owned businesses, at least 51 percent of the stock of which is owned by minority group members. For the purposes of this definition, minority group members are Negroes, Spanish-speaking American persons, American-Orientals, American-Indians, American-Eskimos, and American Aleuts. Contractors may rely on written representations by subcontractors regarding their status as minority business enterprises in lieu of an independent investigation.

24. PRICING OF ADJUSTMENTS

When costs are a factor in any determination of a contract price adjustment pursuant to the Changes clause or any other provision of this contract, such costs shall be in accordance with the contract cost principles and procedures in Part 1–15 of the Federal Procurement Regulations (41 CFR 1-15) or Section XV of the Armed Services Procurement Regulation, as applicable, which are in effect on the date of this contract.

25. PAYMENT OF INTEREST ON CONTRACTORS' CLAIMS

(a) If an appeal is filed by the Contractor from a final decision of the Contracting Officer under the Disputes clause of this contract, denying a claim arising under the contract, simple interest on the amount of the claim finally determined owed by the Government shall be payable to the Contractor. Such interest shall be at the rate determined by the Secretary of the Treasury pursuant to Public Law 92-41, 85 Stat. 97, from the date the Contractor furnishes to the Contracting Officer his written appeal under the Disputes clause of this contract, to the date of (1) a final judgment by a court of competent jurisdiction, or (2) mailing to the Contractor of a supplemental agreement for execution either confirming completed negotiations between the parties or carrying out a decision of a board of contract appeals.

(b) Notwithstanding (a), above, (1) interest shall be applied only from the date payment was due, if such date is later than the filing of appeal, and (2) interest shall not be paid for any period of time that the Contracting Officer determines the Contractor has unduly delayed in pursuing his remedies before a board of contract appeals or a court of competent jurisdiction.

5 STANDARD FORM 32 (Rev. 4-75)

F-100.33 *Standard Form 33: Solicitation, Offer, and Award.*

SOLICITATION, OFFER AND AWARD

PAGE 1

SOLICITATION

CAUTION — LATE OFFERS. See par. 7 and 8 of Solicitation Instructions and Conditions

FOR INFORMATION CALL (Name & telephone no.) (No collect calls)

TABLE OF CONTENTS

PART I — GENERAL INSTRUCTIONS

PART II — THE SCHEDULE

PART II — THE SCHEDULE (Cont'd)

PART III — GENERAL PROVISIONS

PART IV — LIST OF DOCUMENTS AND ATTACHMENTS

OFFER (pages 2 and 3 must also be fully completed by offeror)

17. OFFEROR CODE FACILITY CODE

NAME AND ADDRESS (Street, city, county, State and ZIP code)

AREA CODE AND TELEPHONE NO.

19. SIGNATURE 20. OFFER DATE

AWARD (To be completed by Government)

21. ACCEPTED AS TO ITEMS NUMBERED 22. AMOUNT 23. ACCOUNTING AND APPROPRIATION DATA

24. SUBMIT INVOICES (4 copies unless otherwise specified) TO ADDRESS SHOWN IN BLOCK

25. NEGOTIATED PURSUANT TO 10 U.S.C. 2304(a)( ) 41 U.S.C. 252(c)( )

26. ADMINISTERED BY (If other than block 7) CODE 27. PAYMENT WILL BE MADE BY CODE

28. NAME OF CONTRACTING OFFICER (Type or print)

29. UNITED STATES OF AMERICA

BY

(Signature of contracting officer)

30. AWARD DATE

33-130

Standard Form 33 Page 1 (REV. 3-77)

Prescribed by GSA, FPR (41 CFR) 1-16.101

STANDARD FORMS

F-100.33 *Standard Form 33: Solicitation, Offer, and Award*—Continued.

REPRESENTATIONS, CERTIFICATIONS AND ACKNOWLEDGMENTS

REPRESENTATIONS *(Check or complete all applicable boxes or blocks.)*
The offeror represents as part of his offer that:

1. **SMALL BUSINESS** *(See par. 14 on SF 33-A.)*
He ☐ is, ☐ is not, a small business concern. If offeror is a small business concern and is not the manufacturer of the supplies offered, he also represents that all supplies to be furnished hereunder ☐ will, ☐ will not, be manufactured or produced by a small business concern in the United States, its possessions, or Puerto Rico.

2. **MINORITY BUSINESS ENTERPRISE**
He ☐ is, ☐ is not, a minority business enterprise. A minority business enterprise is defined as a "business, at least 50 percent of which is owned by minority group members or, in case of publicly owned businesses, at least 51 percent of the stock of which is owned by minority group members. For the purpose of this definition, minority group members are Negroes, Spanish-speaking American persons, /American Orientals, American Indians, American Eskimos, and American Aleuts.

3. **REGULAR DEALER – MANUFACTURER** *(Applicable only to supply contracts exceeding $10,000.)*
He is a ☐ regular dealer in ☐ manufacturer of, the supplies offered.

4. **CONTINGENT FEE** *(See par. 15 on SF 33-A.)*
(a) He ☐ has, ☐ has not, employed or retained any company or person *(other than a full-time bona fide employee working solely for the offeror)* to solicit or secure this contract, and (b) he ☐ has, ☐ has not, paid or agreed to pay any company or person *(other than a full-time bona fide employee working solely for the offeror)* any fee, commission, percentage, or brokerage fee contingent upon or resulting from the award of this contract, and agrees to furnish information relating to (a) and (b) above, as requested by the Contracting Officer. *(Interpretation of the representation, including the term "bona fide employee," see Code of Federal Regulations, Title 41, Subpart 1-1.5.)*

5. **TYPE OF BUSINESS ORGANIZATION**
He operates as ☐ an individual, ☐ a partnership, ☐ a nonprofit organization, ☐ a corporation, incorporated under the laws of the State of _____

6. **AFFILIATION AND IDENTIFYING DATA** *(Applicable only to advertised solicitations.)*
Each offeror shall complete (a) and (b) if applicable, and (c) below:

(a) He ☐ is, ☐ is not, owned or controlled by a parent company. *(See par. 16 on SF 33-A.)*
(b) If the offeror is owned or controlled by a parent company, he shall enter in the blocks below the name and main office address of the parent company.

NAME OF PARENT COMPANY AND MAIN OFFICE ADDRESS (Include ZIP Code)

(c) EMPLOYER'S IDENTIFICATION NUMBER (See par. 17 on SF 33-A.) | OFFEROR'S F / HQ | PARENT COMPANY'S F / HQ

7. **EQUAL OPPORTUNITY**
(a) He ☐ has, ☐ has not, participated in a previous contract or subcontract subject either to the Equal Opportunity clause herein or the clause originally contained in section 301 of Executive Order No. 10925, or the clause contained in Section 201 of Executive Order No. 11114, that he ☐ has, ☐ has not, filed all required compliance reports, and that representations indicating submission of required compliance reports, signed by proposed subcontractors, will be obtained prior to subcontract awards. (The above representation need not be submitted in connection with contracts or subcontracts which are exempt from the equal opportunity clause.)
(b) The bidder (or offeror) represents that (1) he ☐ has developed and has on file, ☐ has not developed and does not have on file, at each establishment, affirmative action programs as required by the rules and regulations of the Secretary of Labor (41 CFR 60-1 and 60-2) or (2) he ☐ has not previously had contracts subject to the written affirmative action programs requirement of the rules and regulations of the Secretary of Labor. *(The above representation shall be completed by each bidder (or offeror) whose bid (offer) is $50,000 or more and who has 50 or more employees.)*

CERTIFICATIONS *(Check or complete all applicable boxes or blocks)*

1. **BUY AMERICAN CERTIFICATE**
The offeror certifies as part of his offer that each end product, except the end products listed below, is a domestic end product (as defined in the clause entitled "Buy American Act"), and that components of unknown origin have been considered to have been mined, produced, or manufactured outside the United States.

EXCLUDED END PRODUCTS | COUNTRY OF ORIGIN

Standard Form 33 Page 3 (REV 3-77)

STANDARD FORMS

F-100.33 *Standard Form 33: Solicitation, Offer, and Award*—Continued.

2. **CLEAN AIR AND WATER** *(Applicable if the bid or offer exceeds $100,000 or the contracting officer has determined that orders under an indefinite quantity contract in any year will exceed $100,000, or a facility to be used has been the subject of a conviction under the Clean Air Act (42 U.S.C. 1857c-8(c)(1)) or the Federal Water Pollution Control Act (33 U.S.C. 1319(c)) and is listed by EPA, or is not otherwise exempt.)*
The bidder or offeror certifies as follows:
(a) Any facility to be utilized in the performance of this proposed contract ☐ has, ☐ has not, been listed on the Environmental Protection Agency List of Violating Facilities.
(b) He will promptly notify the contracting officer, prior to award, of the receipt of any communication from the Director, Office of Federal Activities, Environmental Protection Agency, indicating that any facility which he proposes to use for the performance of the contract is under consideration to be listed on the EPA list of Violating Facilities.
(c) He will include substantially this certification, including this paragraph (c), in every nonexempt subcontract.

3. **CERTIFICATION OF INDEPENDENT PRICE DETERMINATION** *(See par. 18 on SF 33-A.)*
(a) By submission of this offer, the offeror certifies, and in the case of a joint offer, each party thereto certifies as to its own organization, that in connection with this procurement:
(1) The prices in this offer have been arrived at independently, without consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other offeror or with any competitor;
(2) Unless otherwise required by law, the prices which have been quoted in this offer have not been knowingly disclosed by the offeror and will not knowingly be disclosed by the offeror prior to opening, in the case of an advertised procurement or prior to award, in the case of a negotiated procurement, directly or indirectly to any other offeror or to any competitor; and
(3) No attempt has been made or will be made by the offeror to induce any other person or firm to submit or not to submit an offer for that purpose of restricting competition.
(b) Each person signing this offer certifies that:
(1) He is the person in the offeror's organization responsible within that organization for the decision as to the prices being offered herein and that he has not participated, and will not participate, in any action contrary to (a)(1) through (a)(3), above; or
(2) (i) He is not the person in the offeror's organization responsible within that organization for the decision as to the prices being offered herein but that he has been authorized in writing to act as agent for the persons responsible for such decision in certifying that such persons have not participated and will not participate, in any action contrary to (a)(1) through (a)(3) above, and as their agent does hereby so certify, and (ii) he has not participated, and will not participate, in any action contrary to (a)(1) through (a)(3) above.

4. **CERTIFICATION OF NONSEGREGATED FACILITIES** *(Applicable to (1) contracts, (2) subcontracts, and (3) agreements with applicants who are themselves performing federally assisted construction contracts, exceeding $10,000 which are not exempt from the provisions of the Equal Opportunity clause.)*
By the submission of this bid, the bidder, offeror, applicant, or subcontractor certifies that he does not maintain or provide for his employees any segregated facilities at any of his establishments, and that he does not permit his employees to perform their services at any location under his control, where segregated facilities are maintained. He certifies further that he will not maintain or provide for his employees any segregated facilities at any of his establishments, and that he will not permit his employees to perform their services at any location, under his control, where segregated facilities are maintained. The bidder, offeror, applicant, or subcontractor agrees that a breach of this certification is a violation of the Equal Opportunity clause in this contract. As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directive or are in fact segregated on the basis of race, color, religion or national origin, because of habit, local custom, or otherwise. He further agrees that (except where he has obtained identical certifications from proposed subcontractors for specific time periods) he will obtain identical certifications from proposed subcontractors prior to the award of subcontracts exceeding $10,000 which are not exempt from the provisions of the Equal Opportunity clause; that he will retain such certifications in his files; and that he will forward the following notice to such proposed subcontractors (except where the proposed subcontractors have submitted identical certifications for specific time periods):

Notice to prospective subcontractors of requirement for certifications of nonsegregated facilities.

A Certification of Nonsegregated Facilities must be submitted prior to the award of a subcontract exceeding $10,000 which is not exempt from the provisions of the Equal Opportunity clause. The certification may be submitted either for each subcontract or for all subcontracts during a period (i.e., quarterly, semiannually, or annually). *NOTE: The penalty for making false offers is prescribed in 18 U.S.C. 1001.*

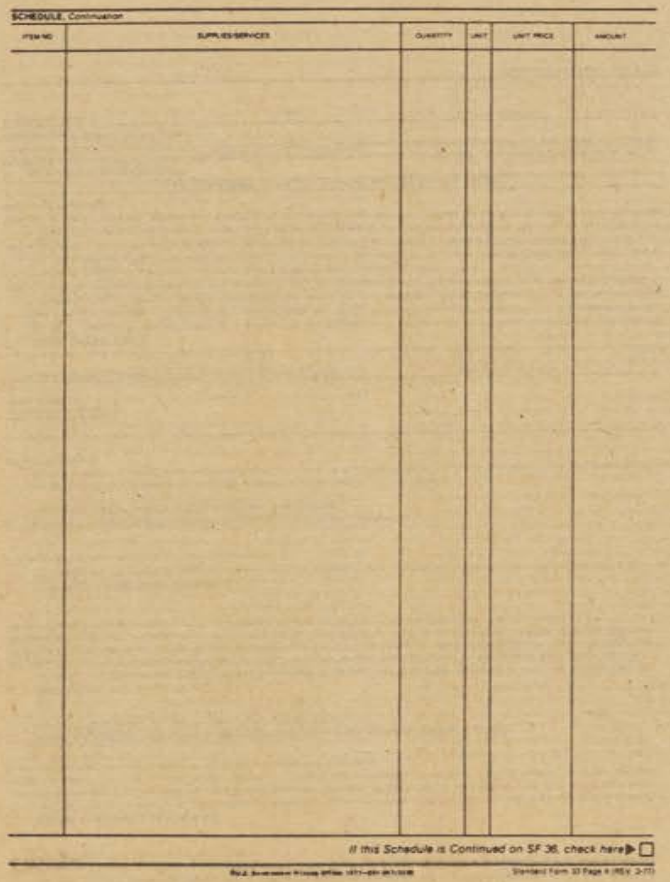
ACKNOWLEDGMENT OF AMENDMENTS	AMENDMENT NO.	DATE	AMENDMENT NO.	DATE
The offeror acknowledges receipt of amendments to the Solicitation for offers and related documents numbered and dated as follows:				

NOTE: Offers must set forth full, accurate and complete information as required by the Solicitation (including attachments). The penalty for making false statements in offers is prescribed in 18 U.S.C. 1001.

Standard Form 33 Page 3 (REV 3-77)

STANDARD FORMS

F-100.33 *Standard Form 33: Solicitation, Offer, and Award*—Continued.



SCHEDULE—Continued

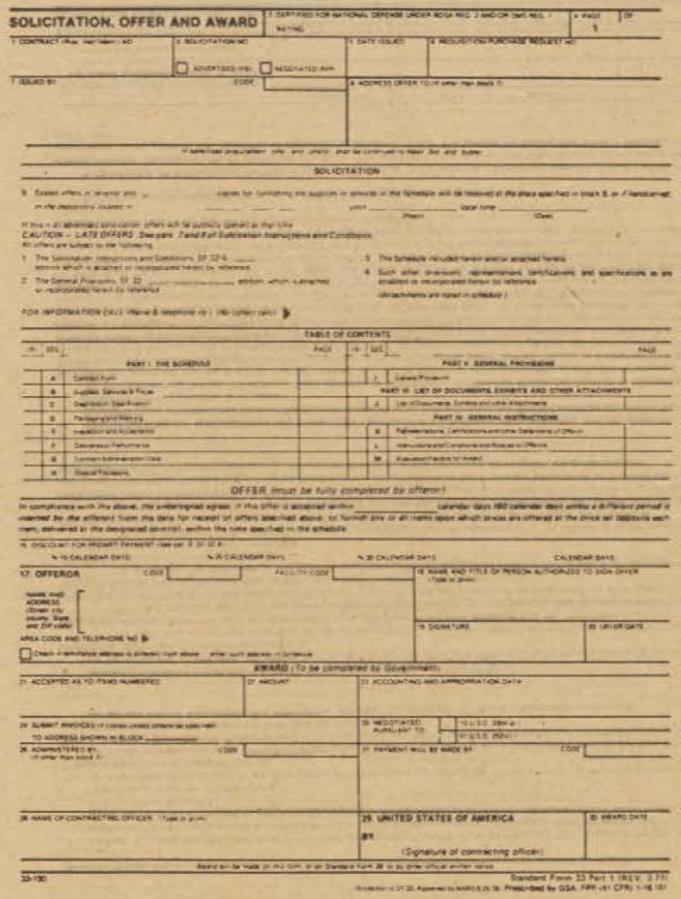
ITEM NO	SUPPLIES/SERVICES	QUANTITY	UNIT	UNIT PRICE	AMOUNT

If this Schedule is Continued on SF 30, check here ▶ ☐

Standard Form 33 Page 4 (REV. 3-77)

STANDARD FORMS

F-100.33 *Standard Form 33 (Exception): Solicitation, Offer, and Award.*



SOLICITATION, OFFER AND AWARD

1 CONTRACT (Proc. Inst. Ident.) NO. | 2 SOLICITATION NO. | 3 DATE ISSUED | 4 REQUISITION/PURCHASE REQUEST NO.

5 ISSUED BY | CODE | 6 ADDRESS OFFER TO (If other than Block 5)

SOLICITATION

OFFER (must be fully completed by offeror)

17 OFFEROR | CODE | FACILITY CODE | 18 NAME AND TITLE OF PERSON AUTHORIZED TO SIGN OFFER (Type or print)

19 SIGNATURE | 20 OFFER DATE

AWARD (To be completed by Government)

21 ACCEPTED AS TO ITEMS NUMBERED | 22 AMOUNT | 23 ACCOUNTING AND APPROPRIATION DATA

24 SUBMIT INVOICES (4 copies unless otherwise specified) TO ADDRESS SHOWN IN BLOCK

25 ADMINISTERED BY (If other than Block 7) | CODE | 26 PAYMENT WILL BE MADE BY | CODE

27 NAME OF CONTRACTING OFFICER (Type or print) | 28 UNITED STATES OF AMERICA BY (Signature of contracting officer) | 29 AWARD DATE

33-130 Standard Form 33 Part 1 (REV. 3-77)

F:100.33 *Standard Form 33 (Exception): Solicitation, Offer, and Award*—Continued.

ACKNOWLEDGMENT OF AMENDMENTS	AMENDMENT NO	DATE	AMENDMENT NO	DATE
The offeror acknowledges receipt of amendments to the Solicitation for offers and related documents numbered and dated as follows:				

SECTION B - SUPPLIES/SERVICES AND PRICES

SCHEDULE

ITEM NO	SUPPLIES/SERVICES	QUANTITY	UNIT	UNIT PRICE	AMOUNT

Standard Form 33 (REV. 3-77)

F-100.33 *Standard Form 33 (Exception): Solicitation, Offer, and Award*—Continued.

REPRESENTATIONS, CERTIFICATIONS AND ACKNOWLEDGMENTS

REPRESENTATIONS *(Check or complete all applicable boxes or blocks.)*
The offeror represents as part of his offer that:

1. **SMALL BUSINESS** *(See par. 14 on SF 33-A.)*
He ☐ is, ☐ is not, a small business concern. If offeror is a small business concern and is not the manufacturer of the supplies offered, he also represents that all supplies to be furnished hereunder ☐ will, ☐ will not, be manufactured or produced by a small business concern in the United States, its possessions, or Puerto Rico.

2. **MINORITY BUSINESS ENTERPRISE**
He ☐ is, ☐ is not, a minority business enterprise. A minority business enterprise is defined as a "business, at least 50 percent of which is owned by minority group members or, in case of publicly owned businesses, at least 51 percent of the stock of which is owned by minority group members." For the purpose of this definition, minority group members are: Negroes, Spanish-speaking American persons, American Orientals, American Indians, American Eskimos, and American Aleuts.

3. **REGULAR DEALER – MANUFACTURER** *(Applicable only to supply contracts exceeding $10,000.)*
He is a ☐ regular dealer in ☐ manufacturer of, the supplies offered.

4. **CONTINGENT FEE** *(See par. 15 on SF 33-A.)*
(a) He ☐ has, ☐ has not, employed or retained any company or persons (other than a full-time bona fide employee working solely for the offeror) to solicit or secure this contract, and (b) he ☐ has, ☐ has not, paid or agreed to pay any company or person (other than a full-time bona fide employee working solely for the offeror) any fee, commission, percentage, or brokerage fee contingent upon or resulting from the award of this contract, and agrees to furnish information relating to (a) and (b) above, as requested by the Contracting Officer. *(Interpretation of the representation, including the term "bona fide employee," see Code of Federal Regulations, Title 41, Subpart 1-1.5.)*

5. **TYPE OF BUSINESS ORGANIZATION**
He operates as ☐ an individual, ☐ a partnership, ☐ a nonprofit organization, ☐ a corporation, incorporated under the laws of the State of _____

6. **AFFILIATION AND IDENTIFYING DATA** *(Applicable only to advertised solicitations.)*
Each offeror shall complete (a) and (b) if applicable, and (c) below:

(a) He ☐ is, ☐ is not, owned or controlled by a parent company. *(See par. 16 on SF 33-A.)*
(b) If the offeror is owned or controlled by a parent company, he shall enter in the blocks below the name and main office address of the parent company.

NAME OF PARENT COMPANY AND MAIN OFFICE ADDRESS (Include ZIP code)

(c) EMPLOYER'S IDENTIFICATION NUMBER (See par. 17 on SF 33-A.)	OFFEROR'S I.R.S. NO.	PARENT COMPANY'S I.R.S. NO.

7. **EQUAL OPPORTUNITY**
(a) He ☐ has, ☐ has not, participated in a previous contract or subcontract subject either to the Equal Opportunity clause herein or the clause originally contained in section 301 of Executive Order No. 10925, or the clause contained in Section 201 of Executive Order No. 11114, that he ☐ has, ☐ has not, filed all required compliance reports; and that representations indicating submission of required compliance reports, signed by proposed subcontractors, will be obtained prior to subcontract awards. (The above representation need not be submitted in connection with contracts or subcontracts which are exempt from the equal opportunity clause.)
(b) The bidder (or offeror) represents that (1) he ☐ has developed and has on file, ☐ has not developed and does not have on file, at each establishment, affirmative action programs as required by the rules and regulations of the Secretary of Labor (41 CFR 60-1 and 60-2) or (2) he ☐ has not previously had contracts subject to the written affirmative action programs requirement of the rules and regulations of the Secretary of Labor. *(The above representation shall be completed by each bidder (or offeror) whose bid (offer) is $50,000 or more and who has 50 or more employees.)*

CERTIFICATIONS *(Check or complete all applicable boxes or blocks.)*

1. **BUY AMERICAN CERTIFICATE**
The offeror certifies as part of his offer that each end product, except the end products listed below, is a domestic end product (as defined in the clause entitled "Buy American Act"), and that components of unknown origin have been considered to have been mined, produced, or manufactured outside the United States.

EXCLUDED END PRODUCTS	COUNTRY OF ORIGIN

Standard Form 33 Part 2 (REV. 3-77)

STANDARD FORMS

F-100.33 *Standard Form 33 (Exception): Solicitation, Offer, and Award*—Continued.

2. **CLEAN AIR AND WATER** *(Applicable if the bid or offer exceeds $100,000 or the contracting officer has determined that orders under an indefinite quantity contract in any year will exceed $100,000, or a facility to be used has been the subject of a conviction under the Clean Air Act (42 U.S.C. 1857c-8(c)(1)) or the Federal Water Pollution Control Act (33 U.S.C. 1319(c)) and is listed by EPA, or is not otherwise exempt.)*

The bidder or offeror certifies as follows:

(a) Any facility to be utilized in the performance of this proposed contract ☐ has, ☐ has not, been listed on the Environmental Protection Agency List of Violating Facilities.

(b) He will promptly notify the contracting officer, prior to award, of the receipt of any communication from the Director, Office of Federal Activities, Environmental Protection Agency, indicating that any facility which he proposes to use for the performance of the contract is under consideration to be listed on the EPA list of Violating Facilities.

(c) He will include substantially this certification, including this paragraph (c), in every nonexempt subcontract.

3. **CERTIFICATION OF INDEPENDENT PRICE DETERMINATION** *(See par. 18 on SF 33-A)*

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

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

(2) Unless otherwise required by law, the prices which have been quoted in this offer have not been knowingly disclosed by the offeror and will not knowingly be disclosed by the offeror prior to opening in the case of an advertised procurement or prior to award in the case of a negotiated procurement, directly or indirectly to any other offeror or to any competitor; and

(3) No attempt has been made or will be made by the offeror to induce any other person or firm to submit or not to submit an offer for that purpose of restricting competition.

(b) Each person signing this offer certifies that:

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

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

4. **CERTIFICATION OF NONSEGREGATED FACILITIES** *(Applicable to (1) contracts, (2) subcontracts, and (3) agreements with applicants who are themselves performing federally assisted construction contracts, exceeding $10,000 which are not exempt from the provisions of the Equal Opportunity clause.)*

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

Notice to prospective subcontractors of requirement for certifications of nonsegregated facilities.

A Certification of Nonsegregated Facilities must be submitted prior to the award of a subcontract exceeding $10,000 which is not exempt from the provisions of the Equal Opportunity clause. The certification may be submitted either for each subcontract or for all subcontracts during a period (i.e., quarterly, semiannually, or annually). *NOTE. The penalty for making false offers is prescribed in 18 U.S.C. 1001.*

Standard Form 33 (REV. 3-77)

STANDARD FORMS

F-100.33A *Standard Form 33A: Solicitation Instructions and Conditions*

SOLICITATION INSTRUCTIONS AND CONDITIONS

1. **DEFINITIONS.**

As used herein:

(a) The term "solicitation" means Invitation for Bids (IFB) where the procurement is advertised, and Request for Proposal (RFP) where the procurement is negotiated.

(b) The term "offer" means bid where the procurement is advertised, and proposal where the procurement is negotiated.

(c) For purposes of this solicitation and Block 2 of Standard Form 33, the term "advertised" includes Small Business Restricted Advertising and other types of restricted advertising.

2. **PREPARATION OF OFFERS.**

(a) Offerors are expected to examine the drawings, specifications, Schedule, and all instructions. Failure to do so will be at offeror's risk.

(b) Each offeror shall furnish the information required by the solicitation. The offeror shall sign the solicitation and print or type his name on the Schedule and each Continuation Sheet thereof on which he makes an entry. Erasures or other changes must be initialed by the person signing the offer. Offers signed by an agent are to be accompanied by evidence of his authority unless such evidence has been previously furnished to the issuing office.

(c) Unit price for each unit offered shall be shown, and such price shall include packing unless otherwise specified. A total shall be entered in the Amount column of the Schedule for each item offered. In case of discrepancy between a unit price and extended price, the unit price will be presumed to be correct, subject, however, to correction to the same extent and in the same manner as any other mistake.

(d) Offers for supplies or services other than those specified will not be considered unless authorized by the solicitation.

(e) Offerors must state a definite time for delivery of supplies or for performance of services unless otherwise specified in the solicitation.

(f) Time, if stated as a number of days, will include Saturdays, Sundays and holidays.

(g) Code box(es) are for Government use only.

3. **EXPLANATION TO OFFERORS.** Any explanation desired by an offeror regarding the meaning or interpretation of the solicitation, drawings, specifications, etc., must be requested in writing and with sufficient time allowed for a reply to reach offerors before the submission of their offers. Oral explanations or instructions given before the award of the contract will not be binding. Any information given to a prospective offeror concerning a solicitation will be furnished to all prospective offerors as an amendment of the solicitation, if such information is necessary to offerors in submitting offers on the solicitation, or if the lack of such information would be prejudicial to uninformed offerors.

4. **ACKNOWLEDGMENT OF AMENDMENTS TO SOLICITATIONS.**

Receipt of an amendment to a solicitation by an offeror must be acknowledged (a) by signing and returning the amendment, (b) on page three of Standard Form 33, or (c) by letter or telegram. Such acknowledgment must be received prior to the hour and date specified for receipt of offers.

5. **SUBMISSION OF OFFERS.**

(a) Offers and modifications thereof shall be enclosed in sealed envelopes and addressed to the office specified in the solicitation. The offeror shall show the hour and date specified in the solicitation for receipt, the solicitation number, and the name and address of the offeror on the face of the envelope.

(b) Telegraphic offers will not be considered unless authorized by the solicitation. However, offers may be modified or withdrawn by telegram or telegraphic notice, provided such notice is received prior to the hour and date specified for receipt. (However, see paragraphs 7 and 8.)

(c) Samples of items, when required, must be submitted within the time specified, and unless otherwise specified by the Government, at no expense to the Government. If not destroyed by testing, samples will be returned at offeror's request and expense, unless otherwise specified by the solicitation.

6. **FAILURE TO SUBMIT OFFER.** If no offer is to be submitted, do not return the solicitation unless otherwise specified. A letter or postcard shall be sent to the issuing office advising whether future solicitations for the type of supplies or services covered by this solicitation are desired. Failure of the recipient to offer, or to notify the issuing office that future solicitations are desired, may result in removal of the name of such recipient from the mailing list for the type of supplies or services covered by the solicitation.

7. **LATE BIDS, MODIFICATIONS OF BIDS, OR WITHDRAWAL OF BIDS.**

(a) Any bid received at the office designated in the solicitation after the exact time specified for receipt will not be considered unless it is received before award is made and either:

(1) It was sent by registered or certified mail not later than the fifth calendar day prior to the date specified for the receipt of bids (e.g., a bid submitted in response to a solicitation requiring receipt of bids by the 20th of the month must have been mailed by the 15th or earlier); or

(2) It was sent by mail (or telegram if authorized), and it is determined by the Government that the late receipt was due solely to mishandling by the Government after receipt at the Government installation.

(b) Any modification or withdrawal of a bid is subject to the same conditions as in (a), above. A bid may also be withdrawn in person by a bidder or his authorized representative, provided his identity is made known and he signs a receipt for the bid, but only if the withdrawal is made prior to the exact time set for receipt of bids.

(c) The only acceptable evidence to establish:

(1) The date of mailing of a late bid, modification, or withdrawal sent either by registered or certified mail is the U.S. Postal Service postmark on both the envelope or wrapper and on the original receipt from the U.S. Postal Service. If neither postmark shows a legible date, the bid, modification, or withdrawal shall be deemed to have been mailed late. (The term "postmark" means a printed, stamped, or otherwise placed impression (exclusive of a postage meter machine impression) that is readily identifiable without further action as having been supplied and affixed on the date of mailing by employees of the U.S. Postal Service. Therefore, offerors should request the postal clerk to **place a hand cancellation bull's-eye "postmark" on both the receipt and the envelope or wrapper.**)

(2) The time of receipt at the Government installation is the time-date stamp of such installation on the bid wrapper or other documentary evidence of receipt maintained by the installation.

(d) Notwithstanding (a) and (b), of this provision, a late modification of an otherwise successful bid which makes its terms more favorable to the Government will be considered at any time it is received and may be accepted.

Note: The term "telegram" includes mailgram.

8. **LATE PROPOSALS, MODIFICATIONS OF PROPOSALS, AND WITHDRAWALS OF PROPOSALS.**

(a) Any proposal received at the office designated in the solicitation after the exact time specified for receipt will not be considered unless it is received before award is made and either:

(1) It was sent by registered or certified mail not later than the fifth calendar day prior to the date specified for receipt of offers (e.g., an offer submitted in response to a solicitation requiring receipt of offers by the 20th of the month must have been mailed by the 15th or earlier); or

(2) It was sent by mail (or telegram if authorized), and it is determined by the Government that the late receipt was due solely to mishandling by the Government after receipt at the Government installation; or

(3) It is the only proposal received.

(b) Any modification of a proposal, except a modification resulting from the Contracting Officer's request for "best and final" offer, is subject to the same conditions as in (a)(1) and (a)(2) of this provision.

(c) A modification resulting from the Contracting Officer's request for "best and final" offer received after the time and date specified in the request will not be considered unless received before award and the late receipt is due solely to mishandling by the Government after receipt at the Government installation.

(d) The only acceptable evidence to establish:

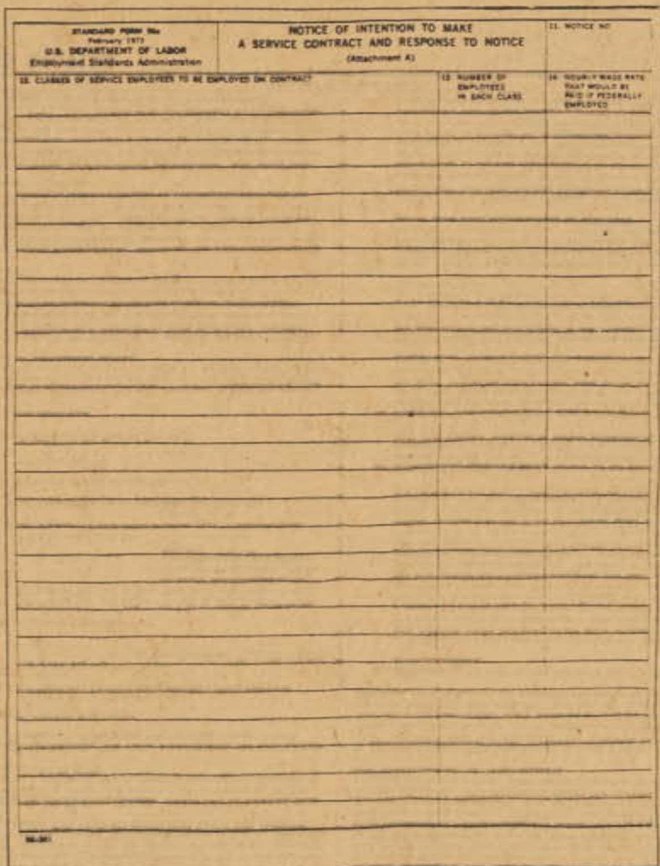
(1) The date of mailing of a late proposal or modification sent either by registered or certified mail is the U.S. Postal Service postmark on both the envelope or wrapper and on the original receipt from the U.S. Postal Service. If neither postmark shows a legible date, the proposal or modification shall be deemed to have been mailed late. (The term "postmark" means a printed, stamped, or otherwise placed impression (exclusive of a postage meter machine impression) that is readily identifiable without further action as having been supplied and affixed on the date of mailing by employees of the U.S. Postal Service. Therefore, offerors should request the postal clerk to place a hand cancellation bull's-eye "postmark" on both the receipt and the envelope or wrapper.)

(2) The time of receipt at the Government installation is the time-date stamp of such installation on the proposal wrapper or other documentary evidence of receipt maintained by the installation.

33-207

STANDARD FORM 33-A (Rev. 1-78)
Prescribed by GSA, FPR (41 CFR) 1-16.101

F-100.98a *Standard Form 98a: Notice of Intention to Make a Service Contract and Response to Notice (Attachment A)*



F-200.1072 Reserved.

F-200.1114 *DD Form 1114: Instructions for Use of Contract Termination Settlement and Inventory Schedule Forms*

INSTRUCTIONS FOR USE OF
CONTRACT TERMINATION SETTLEMENT
AND
INVENTORY SCHEDULE FORMS

1. TERMINATION FORMS. Standardized forms are prescribed by the Armed Services Procurement Regulation, Section VIII. They are used in submitting proposals for settlement of claims under all terminated cost-reimbursement type contracts and under fixed-price type contracts terminated for the convenience of the Government. Prime contractors are to file the forms with the contracting officer. Subcontractors are to file the forms with the customer from whom the termination notice was received.

2. WHERE TO OBTAIN FORMS. Forms may be obtained from the contracting officer, his authorized representative, or the customer. The forms may be reproduced provided no change in format or size is made.

3. LIST OF FORMS. The forms prescribed by the Armed Services Procurement Regulation, Section VIII, are as follows:

a. Settlement Proposals:

DD Form 1440 - (Inventory Basis)
DD Form 1441 - (Total Cost Basis) - Prior approval required
DD Form 1831 - (Short Form)
DD Form 1547 - For Cost Reimbursement Type Contracts only

b. Inventory Schedules

DD Forms 1542 and 1542-c - Metals in Mill Product Form
DD Forms 1543 and 1543-c - Raw Materials (other than metals), Purchased Parts, Finished Components, Finished Products, and Miscellaneous
DD Forms 1544 and 1544-c - Work in Process
DD Forms 1545 and 1545-c - Dies, Jigs, Fixtures, and Special Tools
DD Form 1832 - To be used with DD Form 1831

c. Schedule of Accounting Information:

DD Form 1546

d. Application for Partial Payment:

DD Form 1548

4. MODIFICATION OF FORMS. When any item of the settlement proposal forms is not appropriate for a particular contract, necessary modification may be made on the form with the approval of the contracting officer.

5. SEPARATE PROPOSALS. A separate settlement proposal should ordinarily be submitted for each terminated contract. Claims based on a series of subcontracts or purchase orders from the same customer applicable to the same Government contract should be combined in a single proposal. Such proposals are not to be divided to bring them within any monetary limitation.

6. INTERIM PROPOSALS. Normally, the settlement proposal should cover all elements of the claim, that is, the total claim of the contractor and the settlements with subcontractors. With the consent of the contracting officer, interim proposals covering separate portions of the total proposal may be filed. For example, a proposal limited to settlements with subcontractors may be filed.

7. REQUESTS FOR PARTIAL PAYMENTS. Any prime contractor or subcontractor may request a partial payment against his termination settlement proposal by submitting a properly executed DD Form 1548, Application for Partial Payment, to the contracting officer or to his customer. Such form may not be submitted, however, unless it is accompanied by or submitted subsequent to an interim or final settlement proposal.

8. THE TERMINATION INVENTORY. Prime contractors and subcontractors should not include on the inventory schedules any Common Items which are reasonably usable on other work without loss unless they have been directed to do so by the contracting officer or their customer, or unless such items are Government-furnished property. Contractors are encouraged to return any termination inventory to the supplier from whom such inventory was received for full cre... less the supplier's normal restocking charge or 15% of cost, whichever is less. When inventory is so returned, it is not to be listed on the inventory schedules. The restocking charge and reasonable handling and transportation costs may be included in the settlement proposal as "other costs".

9. INSTRUCTIONS FOR PREPARATION OF FORMS. The short form settlement proposal and all the inventory schedules contain detailed information on the preparation of such forms. The following instructions apply principally to the settlement proposal forms (*DD Form 1440, DD Form 1441, DD Form 1547*). Pertinent parts, however, are applicable to the other forms.

a. HEADING. All appropriate blocks in the heading are to be completed.

b. COSTS. From your accounting records show the direct and indirect costs incurred which were reasonably necessary and properly allocable, under recognized commercial accounting practices, to the terminated portion of the contract (Inventory Basis), or to the entire contract (Total Cost Basis). Where such costs are not available from accounting records you may use any reasonable basis for estimating your costs which will provide for fair compensation for the preparations made and work done on the terminated portion of the contract. The approval of the contracting officer must be obtained before you can use DD Form 1441 (Total Cost Basis). Where the proposal provides for the use of inventory schedules, they must be attached. All applicable schedules on the proposal forms must be completed.

c. CENTS MAY BE OMITTED. In any of the forms, cents may be omitted either by dropping them entirely or by stating the amount at the nearest dollar, except in the unit cost column (column e) of the inventory schedules.

d. PROFIT. You may include a reasonable profit for the preparations you have made and the work you have actually done on the terminated portion of your contract. No profit should be included for work which has not been done, nor shall profit be included for settlement expenses or for settlements with subcontractors.

e. SETTLEMENT EXPENSES. Reasonable expenses for the termination and settlement of the contract including preparation of the settlement proposal and supporting data, termination and settlement of subcontracts and for the protection and disposition of termination inventory may be included.

f. SETTLEMENTS WITH SUBCONTRACTORS. All proposed settlements with subcontractors and relevant data are to be attached unless such settlements have previously been approved by the contracting officer, in which case such approval will be indicated.

g. ACCEPTABLE FINISHED PRODUCT. The contracting officer may authorize a prime contractor to deliver acceptable finished product on hand at the date of termination and to invoice such property at the contract price. These items should not be reported on inventory schedules or included in the settlement proposal. Subcontractors in possession of acceptable finished product under the terms of their subcontracts, and prime contractors who do not receive payment for acceptable finished product on hand through invoicing, should list

Continued on reverse side

DD FORM 1 OCT 65 1114

(ii) Reserved.

AUTHORIZATION FOR NEGOTIATION

(b) *Format for D&F for Exception (7).*

(Military Department or Agency)

Determination and Findings

Authority To Negotiate an Individual Contract

Upon the basis of the following findings and determination, the proposed contract described below may be negotiated without formal advertising pursuant to the authority of 10 U.S.C. 2304(a)(7).

Findings

1. The ____(1)____ proposes to procure by negotiation ____(2)____.

2. ____(3)____.

3. The use of formal advertising will not be feasible or practicable in this instance because ____(4)____.

Determination

The use of a negotiated contract is justified because the contemplated procurement is for medical supplies for which procurement by formal advertising is not feasible and practicable.

Date _____ _____

NOTES: (1) Procuring or contracting activity.
(2) Description of supplies or equipment, quantity, and estimated cost.
(3) Include a statement as to the type of item(s); *e.g.*, medicine, medical supplies, or medical equipment.
(4) Include the specific reason(s) why the use of formal advertising is not feasible or practicable.

[FR Doc. 80-19733 Filed 6-30-80; 8:45 am]

BILLING CODE 3810-70-C

32 CFR Parts 1-39

[DAC 76-21]

Defense Acquisition Regulation

AGENCY: Department of Defense.

ACTION: Final rule.

SUMMARY: This document publishes changes to the Defense Acquisition Regulation contained in the Code of Federal Regulations. The changes are the same as those in the Defense Acquisition Circular 76-21. The changes consist of revisions to the Activity Address Numbers in Appendix N.

EFFECTIVE DATE: January 16, 1980.

FOR FURTHER INFORMATION CONTACT: J. Brannan, Director, Defense Acquisition Regulatory Council, Room 3D1080, Pentagon, Washington, D.C. 20301, Telephone 202-697-6710.

SUPPLEMENTARY INFORMATION:

Background

The Defense Acquisition Regulation (DAR) is codified in Title 32, Parts 1-39, Volumes I, II, and III, of the Code of Federal Regulations. The July 1, 1979 revision is the most recent edition of that title. It reflects amendments to the 1976 edition made by Circulars 76-1 through 76-19.

The Department of Defense announced the promulgation of the 1979 CFR edition in the **Federal Register** of December 31, 1979 (44 FR 77158). At that time, the Department also announced that any amendments made to the Regulation after Circular 76-19 would be published in the **Federal Register.**

Defense Acquisition Circular 76-21

This document contains amendments to the Defense Acquisition Regulation in the form of replacement pages which were included in DAC 76-21, issued January 16, 1980. The following is a summary of the amendments:

The attached replacement pages constitute a reprint in its entirety of Appendix N, Activity Address Numbers, with new and previously published revisions incorporated.

Because the Defense Acquisition Regulation concerns agency management, public property and contracts, it is not necessary to issue proposed rules for public comment. Neither is it necessary to delay the effective date until 30 days after the date of publication of these rules, 5 U.S.C. 553(a) and (d). The amendments became effective on January 16, 1980.

How To Use Replacement Pages

Reproduced at the end of this document are replacement pages from DAC 76-21. The number at the top of each page (for example N:1) identifies the page from the Regulation which is being replaced. Because DAC 76-21 is a reprint of Appendix N in its entirety, there are no marginal revision marks to indicate amendments.

Adoption of Amendments

Therefore, the July 1, 1979 edition of the Defense Acquisition Regulation contained in 32 CFR Parts 1-39, Volumes I, II, and III, is amended in Appendix N by substitution of the replacement pages listed:

DAR pages	Replacement pages
Volume III	
N:1 thru N:111	N:1 thru N:118.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

June 24, 1980.

BILLING CODE 3810-70-M

APPENDIX N — ACTIVITY ADDRESS NUMBERS

Activity Address Numbers are for use in conjunction with the Uniform Procurement Instrument Identification Numbering System as prescribed in section XX, part 2. The six-digit number is used in the first six positions of the Procurement Instrument Identification Number (PIIN). The two-digit number is used in the first two positions of the Call / Order Serial Number.

For further information, see section XX, part 2.

Activities numbering procurement instruments shall use only those unique and significant numbers assigned by their respective Department / Agency Activity Address Monitor(s). When required, activities shall also be assigned a two-digit number. (Newly assigned numbers will be listed in future revisions to appendix N.) Activity Address Monitors are as follows:

Army

HQDA (JDHQ-SV-W)
Chief, Procurement Statistics Division
Washington, D.C. 20310

Navy

Navy Accounting and Finance Center
(NAFC-3113)
Washington, D.C. 20390
**(Six-digit Unit Identification Number only)*

Air Force

Hq USAF (RDCL)
Directorate, Contracting and Acquisition Policy
Washington, D.C. 20330

Defense Logistics Agency

Chief, Policy Branch (DLA-PPR)
Procurement Division
Defense Logistics Agency
Cameron Station
Alexandria, Virginia 22314

(See footnote on following page)

APPENDIX N — ACTIVITY ADDRESS NUMBERS

Marine Corps

Commandant, U.S. Marine Corps (CHS-2)
Washington, D.C. 20380
**(Six-digit Unit Identification Number only)*

Defense Civil Preparedness Agency

Staff Director, Procurement
Services Division
Defense Civil Preparedness Agency
Washington, D.C. 20301

Defense Mapping Agency

Staff Director for Logistics
Defense Mapping Agency
Washington, D.C. 20305

Defense Nuclear Agency

Chief, Contract Division
Defense Nuclear Agency
Washington, D.C. 20305

Defense Communications Agency

Chief, Logistics Management Office
Code 202
Defense Communications Agency
Washington, D.C. 20305

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*The Navy and Marine Corps Activity Address Monitor for assignment of two-digit "alpha-numeric call / serial numbers" is:

Chief, Naval Material Command
(MAT 08C12)
Washington, D.C. 20360

APPENDIX N — ACTIVITY ADDRESS NUMBERS

DEPARTMENT OF THE ARMY

DAAA03
B1
Pine Bluff Arsenal
Pine Bluff, AR 71601

DAAA05
B2
USA Rocky Mountain Arsenal
Denver, CO 80240

DAAA08
B7
USA Rock Island Arsenal
Rock Island, IL 61299

DAAA09
BA
USA Armament Materiel Readiness Command
Rock Island, IL 61299

DAAA11
Iowa Army Ammunition Plant
Burlington, IA 52601

DAAA19
B4
Lake City Army Ammunition Plant
Independence, MO 64056

DAAA22
BV
USA Watervliet Arsenal
Watervliet, NY 12189

DAAA27
Radford Army Ammunition Plant
Radford, VA 24141

DAAA29
FV
USA Ammunition Plant
Hawthorne, NV 89415

DAAA31
GJ
USA Ammunition Plant
McAlester, OK 74501

APPENDIX N — ACTIVITY ADDRESS NUMBERS

DAAB07
BG
USA Communications and Electronics
Materiel Readiness Command
Procurement Directorate
Fort Monmouth, NJ 07703

DAAD01
B5
Yuma Proving Ground
Yuma, AZ 85364

DAAD03
B6
Jefferson Proving Ground
Madison, IN 47250

DAAD05
BM
Aberdeen Proving Ground
MD 21005

DAAD07
BN
White Sands Missile Range,
NM 88002

DAAD09
BP
Dugway Proving Ground
Procurement Office
PO Box 545
Dugway, UT 84022

DAAD10
HDQTRS, USA Test and Evaluation Command
Aberdeen Proving Ground, MD 21005

DAAE07
BR
USA Tank-Automotive
Materiel Readiness Command
Warren, MI 48090

DAAG02
BH
Anniston Army Depot
Anniston, AL 36201

DAAG08
ZR
Sacramento Army Depot
Sacramento, CA 95813

ARMED SERVICES PROCUREMENT REGULATION

DAAG10 ZM	Sharpe Army Depot Lathrop, CA 95331
DAAG29 G2	USA Research Office PO Box 12211 Research Triangle Park, NC 27709
DAAG34 ZN	Letterkenny Army Depot Chambersburg, PA 17201
DAAG36 D2	New Cumberland Army Depot New Cumberland, PA 17070
DAAG38 ZS	Tobyhanna Army Depot Tobyhanna, PA 18466
DAAG46 D6	USA Materials and Mechanics Research Center Arsenal Street Watertown, MA 02172
DAAG47 D7	Red River Army Depot Texarkana, TX 75501
DAAG48 BJ	USA Depot Corpus Christi, TX 78419
DAAG49 BK	Tooele Army Depot Building 9 Tooele, UT 84074
DAAG54 ZP	USA Electronics Materiel Readiness Activity Vint Hill Farms Station Warrenton, VA 22186
DAAG60 G8	U.S. Army Military Academy West Point, NY 10996

DAAG99	USA Project Manager, SANG APO New York 09038
DAAH01 CC	HDQTRS, US Army Missile Command Redstone Arsenal, AL 35809
DAAH03 D8	P&C Division, USA Missile Command Redstone Arsenal, AL 35809
DAAJ04 C6	USA St. Louis Area Support Center Granite City, IL 62040
DAAJ09 BS YY ZQ	USA Troop Support and Aviation Materiel Readiness Command 4300 Goodfellow Blvd. St. Louis, MO 63120
DAAK10 2T	USA Armament R&D Command Procurement Directorate Dover, NJ 07801
DAAK11 2U	USA Armament R&D Command Chemical/Ballistics Procurement Div. Edgewood Arsenal Aberdeen Proving Ground, MD 21010
DAAK20 1Y	USA Electronics R&D Command Fort Monmouth Procurement Office Fort Monmouth, NJ 07703
DAAK21 D3	Harry Diamond Laboratories 2800 Powder Mill Road Adelphi, MD 20783
DAAK30 2S	USA Tank-Automotive R&D Command Warren, MI 48090

DAAK50 1W	USA Aviation R&D Command PO Box 209 St. Louis, MO 63120
DAAK51 D9	Applied Technology Laboratory, USA Research and Technology Laboratories, AVRADCOM Fort Eustis, VA 23604
DAAK60 C5	USA Natick R&D Command Natick, MA 01760
DAAK70 E1	USA Mobility Equipment R&D Command Fort Belvoir, VA 22060
DAAK80 2V	USA Communications R&D Command Procurement Directorate, DRDCO-PC Fort Monmouth, NJ 07703
DABT01 F6	Fort Rucker Ozark, AL 36360
DABT02 2A	Fort McClellan Anniston, AL 36205
DABT10 2B	USA Infantry Center Fort Benning Columbus, GA 31905
DABT11 2C	Fort Gordon Augusta, GA 30905
DABT15 F9	Fort Benjamin Harrison Indianapolis, IN 46216

DABT19 2D	Fort Leavenworth KS 66027
DABT23 2E	Fort Knox KY 40121
DABT31 2F	Fort Leonard Wood MO 65473
DABT35 2G	HQS, USATCI, Fort Dix Burlington, NJ 08640
DABT39 2H	USA Field Artillery Center Fort Sill, Lawton, OK 73503
DABT43 2J	Procurement Division, Bldg. 46 Carlisle Barracks, PA 17013
DABT47 2K	Fort Jackson Columbia, SC 29207
DABT51 2L	Fort Bliss, PO Box 6078 El Paso, TX 79906
DABT56 2M	USA Engineer Center and Fort Belvoir Fort Belvoir, VA 22060
DABT57 2N	Fort Eustis VA 23604
DABT58 2P	Fort Monroe VA 23351

DABT59
2Q
Fort Lee
VA 23801

DABT60
USA Training Support Center
Fort Eustis, VA 23604

DABT61
The Judge Advocate General, USA
Charlottesville, VA 22901

*DACA01
**DACW01
CK
USA Engineer District, Mobile
PO Box 2288
Mobile, AL 36628
CA — Military
***CW — Civil Works*

DACA03
DACW03
CL
USA Engineer District, Little Rock
PO Box 867
Little Rock, AR 72203

DACA05
DACW05
CM
USA Engineer District, Sacramento
650 Capitol Mall
Sacramento, CA 95814

DACA06
DACW06
CN
USA Engineer Division, South Pacific
630 Sansome Street, Room 1216
San Francisco, CA 94111

DACA07
DACW07
CP
USA Engineer District, San Francisco
211 Main Street
San Francisco, CA 94105

DACA09
DACW09
CQ
USA Engineer District, Los Angeles
PO Box 2711
Los Angeles, CA 90053

DACA17
DACW17
CS
USA Engineer District, Jacksonville
PO Box 4970
Jacksonville, FL 32201

DACA19
DACW19
CU
USA Engineer Division, South Atlantic
510 Title Bldg., 30 Pryor Street, S.W.
Atlanta, GA 30303

DACA21
DACW21
CV
USA Engineer District, Savannah
200 East Saint Julian Street
Savannah, GA 31401

DACA22
DACW22
CW
USA Engineer Division, North Central
536 South Clark Street
Chicago, IL 60605

DACA23
DACW23
CX
USA Engineer District, Chicago
219 South Dearborn Street
Chicago, IL 60604

DACA25
DACW25
CD
USA Engineer District, Rock Island
Clock Tower Building
Rock Island, IL 61201

DACA27
DACW27
CY
USA Engineer District, Louisville
PO Box 59
Louisville, KY 40201

DACA29
DACW29
CZ
USA Engineer District, New Orleans
PO Box 60267
New Orleans, LA 70160

DACA31
DACW31
DA
USA Engineer District, Baltimore
PO Box 1715
Baltimore, MD 21203

DACA33 DACW33 DB	USA Engineer Division, New England 424 Trapelo Road Waltham, MA 02154
DACA35 DACW35 DC	USA Engineer District, Detroit 150 Michigan Avenue, PO Box 1027 Detroit, MI 48231
DACA37 DACW37 DD	USA Engineer District, St. Paul 1210 USPO & Customs House St. Paul, MN 55101
DACA38 DACW38 DE	USA Engineer District, Vicksburg PO Box 60 Vicksburg, MS 39181
DACA39 DACW39 DF	USA Engineer Water-Ways Experiment Station PO Box 631 Vicksburg, MS 39180
DACA40 DACW40 DG	USA Engineer Division, Lower Mississippi Valley PO Box 80 Vicksburg, MS 39181
DACA41 DACW41 DH	USA Engineer District, Kansas City 700 Federal Bldg., 601 East 12th Street Kansas City, MO 64106
DACA43 DACW43 DJ	USA Engineer District, St. Louis 210 North 12th Street St. Louis, MO 63101
DACA45 DACW45 DK	USA Engineer District, Omaha 6014 USPO and Courthouse Omaha, NE 68102

DACA46 DACW46 DL	USA Engineer Division, Missouri River PO Box 103, Downtown Station Omaha, NE 68101
DACA47 DACW47 DM	USA Engineer District, Albuquerque PO Box 1580 Albuquerque, NM 87103
DACA49 DACW49 DN	USA Engineer District, Buffalo Foot of Bridge Street Buffalo, NY 14207
DACA51 DACW51 CE	USA Engineer District, New York 26 Federal Plaza New York, NY 10007
DACA52 DACW52 DP	USA Engineer Division, North Atlantic 90 Church Street New York, NY 10007
DACA54 DACW54 DQ	USA Engineer District, Wilmington 308 Custom House Wilmington, NC 28402
DACA55 DACW55 DR	USA Engineer Division, Ohio River PO Box 1159 Cincinnati, OH 45201
DACA56 DACW56 DS	USA Engineer District, Tulsa 224 South Boulder Tulsa, OK 74102
DACA57 DACW57 DT	USA Engineer District, Portland PO Box 2946 Portland, OR 97208

APPENDIX N — ACTIVITY ADDRESS NUMBERS

DACA58
DACW58
DU
USA Engineer Division, North Pacific
210 Custom House
Portland, OR 97209

DACA59
DACW59
DV
USA Engineer District, Pittsburgh
Federal Building, 1000 Liberty Avenue
Pittsburgh, PA 15222

DACA60
DACW60
DW
USA Engineer District, Charleston
PO Box 905
Charleston, SC 29402

DACA61
DACW61
CF
USA Engineer District, Philadelphia
Custom House, 2nd & Chestnut Streets
Philadelphia, PA 19106

DACA62
DACW62
DX
USA Engineer District, Nashville
PO Box 1070
Nashville, TN 37202

DACA63
DACW63
DY
USA Engineer District, Fort Worth
PO Box 17300
Forth Worth, TX 76102

DACA64
DACW64
DZ
USA Engineer District, Galveston
PO Box 1229
Galveston, TX 77551

DACA65
DACW65
EA
USA Engineer District, Norfolk
803 Front Street
Norfolk, VA 23510

DACA66
DACW66
EB
USA Engineer District, Memphis
668 Federal Office Building
Memphis, TN 38103

APPENDIX N — ACTIVITY ADDRESS NUMBERS

DACA67
DACW67
EC
USA Engineer District, Seattle
PO Box C-3755
Seattle, WA 98124

DACA68
DACW68
YW
USA Engineer District, Walla Walla
Building 602, City-County Airport
Walla Walla, WA 99362

DACA69
DACW69
CG
USA Engineer District, Huntington
502 Eighth Street
Huntington, WV 25721

DACA70
DACW70
YX
USA Engineer Division, Southwestern
Main Tower Building
1200 Main Street
Dallas, TX 75202

DACA72
DACW72
ZA
USA Coastal Engineering Research Center
Kingman Building
Fort Belvoir, VA 22060

DACA73
DACW73
CH
Office, Chief of Engineers (DAEN-ECP-C)
Washington, DC 20314

DACA74
DACW74
ZB
Rivers and Harbors, Board of Engineers
TEMPO "C" Building
Second & O Streets, S.W.
Washington, DC 20315

DACA75
DACW75
ZC
USA Engineer Division, Middle East
APO New York, NY 09038

DACA76
DACW76
ZD
USA Engineer Topographic Laboratories
Fort Belvoir, VA 22060

DACA78
DACW78
Rear Headquarters,
USA Engineer Division, Middle East
PO Box 2250
Winchester, VA 22601

DACA84
DACW84
ZH
USA Engineer Division, Pacific Ocean
Building 230
Fort Shafter, HI 96858

DACA85
DACW85
ZJ
USA Engineer District, Alaska
PO Box 7002
Anchorage, AK 99510

DACA86
DACW86
USA Engineer District, Riyadh
APO New York, NY 09038

DACA87
DACW87
ZW
USA Engineer Division, Huntsville
PO Box 1600 West Station
Huntsville, AL 35807

DACA88
DACW88
USA Construction Engineering
Research Laboratory
PO Box 4005
Champaign, IL 61820

DACA89
DACW89
USA Cold Regions Research
and Engineering Laboratory
PO Box 282
Hanover, NH 03755

DACA90
DACW90
USA Engineer Division, Europe, EUDPS-C
APO New York, NY 09757

DACA91
DACW91
Engineer Logistics Command, Middle East
Aurora, CO 80045

DACA92
DACW92
USA Engineer District, Jidda
APO New York 09697

DACA93
DACW93
USA Engineer District, Al Batin
APO New York 09038

DADA01
Letterman Army Medical Center
Presidio of San Francisco, CA 94129

DADA03
Fitzsimons Army Medical Center
Denver, CO 80240

DADA09
William Beaumont Army Medical Center
PO Box 70003
El Paso, TX 79920

DADA11
Brooke Army Medical Center
Fort Sam Houston, TX 78234

DADA13
Madigan Army Medical Center
Tacoma, WA 98431

DADA15
Walter Reed Army Medical Center
Washington, DC 20012

DAEA08
E4
HQ Fort Ritchie, CCNJ-DIO-PC
Fort Ritchie, MD 21719

DAEA16
E7
5th Signal Command, DCSLOG
Attn: CCE-LGC
APO New York, NY 09056

DAEA18
BL
HQ Fort Huachuca, CCH-IOD-PC
PO Box 748
Ft. Huachuca, AZ 85613

DAEA20
E8
1st Signal Brigade, USACC
Contract Administration Branch S4
APO San Francisco, CA 96301

DAHA01
9B
USP&FO for Alabama
PO Box 1015
Montgomery, AL 36102

DAHA02
USP&FO for Arizona
1815 North 52nd Street
Phoenix, AZ 85008

DAHA03
9D
USP&FO for Arkansas
PO Box 677
North Little Rock, AR 72115

DAHA04
9N
USP&FO for California
PO Box G
Camp San Luis Obispo, CA 93406

DAHA05
USP&FO for Colorado
Camp George West, Golden, CO 80401

DAHA06
USP&FO for Connecticut
National Guard Armory
Hartford, CT 06115

DAHA07
9A
USP&FO for Delaware
Grier Building
1161 River Road
New Castle, DE 19720

DAHA08
USP&FO for Florida, State Arsenal
St. Augustine, FL 32084

DAHA09
USP&FO for Georgia
PO Box 17882
Atlanta, GA 30316

DAHA10
USP&FO for Idaho
PO Box 1098
Boise, ID 83701

DAHA11
9E
USP&FO for Illinois
Camp Lincoln
1301 North McArthur Blvd.
Springfield, IL 62702

DAHA12
USP&FO for Indiana
PO Drawer AR
Indianapolis, IN 46241

DAHA13
9L
USP&FO for Iowa
PO Box 616
Des Moines, IA 50303

DAHA14
USP&FO for Kansas
Kansas State Arsenal
27th and Kansas Avenue
Topeka, KS 66601

DAHA15
USP&FO for Kentucky
Boone National Guard Center
Frankfort, KY 40601

DAHA16
USP&FO for Louisiana
HQ. Building, Jackson Barracks
New Orleans, LA 70146

DAHA17
USP&FO for Maine, Camp Keyes
Augusta, ME 04330

DAHA18 USP&FO for Maryland, State Military Reservation
PO Box 206
Havre De Grace, MD 21078

DAHA19 USP&FO for Massachusetts, NG Supply Depot
143 Speen Street
Natick, MA 01760

DAHA20
9F USP&FO for Michigan
PO Box 958
Lansing, MI 48904

DAHA21
9K USP&FO for Minnesota, Camp Ripley
Little Falls, MN 56345

DAHA22 USP&FO for Mississippi
PO Box 4447, Fondren Station
Jackson, MS 39216

DAHA23
9H USP&FO for Missouri
1715 Industrial Avenue
Jefferson City, MO 65101

DAHA24
9P USP&FO for Montana, State Arsenal Building
PO Box 1157
Helena, MT 59601

DAHA25 USP&FO for Nebraska
1234 Military Road
Lincoln, NE 68508

DAHA26 USP&FO for Nevada
406 East Second Street, PO Box 649
Carson City, NV 89701

DAHA27 USP&FO for New Hampshire,
State Military Reservation
Concord, NH 03301

DAHA28 USP&FO for New Jersey
PO Box 2000
Trenton, NJ 08607

DAHA29 USP&FO for New Mexico
PO Box 4277
Sante Fe, NM 87501

DAHA30 USP&FO for New York
Building 4, State Campus
Albany, NY 12226

DAHA31 USP&FO for North Carolina
PO Box 26328
Raleigh, NC 27611

DAHA32 USP&FO for North Dakota
PO Box 1817
Bismark, ND 58501

DAHA33
9M USP&FO for Ohio
PO Box 720
Worthington, OH 43085

DAHA34
9J USP&FO for Oklahoma
3501 Military Circle, NE
Oklahoma City, OK 73511

DAHA35 USP&FO for Oregon
2150 Fairgrounds Road, N.E.
Salem, OR 97310

DAHA36 USP&FO for Pennsylvania,
c/o Dept. of Military Affairs, IGMR
Annville, PA 17003

DAHA37 USP&FO for Rhode Island
51 Stenton Avenue
Providence, RI 02906

DAHA38 USP&FO for South Carolina
PO Box 1090
Columbia, SC 29202

DAHA39 USP&FO for South Dakota, Camp Rapid
Rapid City, SD 57701

DAHA40 USP&FO for Tennessee
PO Box 40748
Nashville, TN 37204

DAHA41 USP&FO for Texas
9C PO Box 5218 WAS
Austin, TX 78763

DAHA42 USP&FO for Utah
PO Box 8000
Salt Lake City, UT 84108

DAHA43 USP&FO for Vermont
Camp Johnson, Bldg. 1
Winooski, VT 05404

DAHA44 USP&FO for Virginia
401 East Main Street
Richmond, VA 23219

DAHA45 USP&FO for Washington, Camp Murray
Tacoma, WA 98430

DAHA46 USP&FO for West Virginia
Buckhannon, WV 26201

DAHA47 USP&FO for Wisconsin
9G Camp Douglas, WI 54618

DAHA48 USP&FO for Wyoming
PO Box 1709
Cheyenne, WY 82001

DAHA49 USP&FO for District of Columbia
2001 East Capitol Street
Washington, DC 20003

DAHA50 USP&FO for Hawaii, Fort Ruger
Honolulu, HI 96816

DAHA51 USP&FO for Alaska
PO Drawer 8989
Anchorage, AK 99508

DAHA70 USP&FO for Puerto Rico
PO Box 3786
San Juan, PR 00904

DAHA72 USP&FO for Virgin Islands
PO Box 1050
Christiansted, St. Croix, VI 00820

DAHA90 National Guard Bureau
Washington, DC 20310

DAHC21 Eastern Area, MTMC
G3 Building 41
Bayonne, NJ 07002

DAHC23
G4
Western Area, MTMC
Oakland Army Base
Oakland, CA 94626

DAHC24
HDQTRS, Military Traffic Management Command
Washington, DC 20315

DAHC25
Directorate of Personal Property, MTMC
Washington, DC 20315

DAHC26
1X
USA Computer Systems Selection and
Acquisition Agency (USACSSA-PD)
Washington, DC 20310

DAHC30
HDQTRS, Military District of Washington,
ANHCA
Bldg. 15, Cameron Station
Alexandria, VA 22314

DAHC31
The Adjutant General Center, Army Publication
Directorate, DAAG-PAR-C
Forrestal Bldg.
Washington, DC 20314

DAHC32
National Defense University
Bldg. 59, Fort Leslie J. McNair
Washington, DC 20319

DAHC34
Superintendent, Arlington National Cemetery
Arlington, VA 22211

DAHC40
USA Troop Support Agency
Southeast Commissary Field Office
Fort Lee, VA 23801

DAHC41
USA Troop Support Agency
Northeast Commissary Field Office
Fort George G. Meade, MD 20755

DAHC42
USA Troop Support Agency
Midwest Commissary Field Office
Fort Sam Houston, TX 78234

DAHC43
USA Troop Support Agency
Western Commissary Field Office
Fort Lewis, WA 98433

DAHC44
USA Troop Support Agency
European Commissary Field Office
APO New York, NY 09872

DAHC61
USA Memorial Affairs Agency
Washington, DC 20315

DAHC75
U.S. Army Western Command
ACofS for Acquisition
Fort Shafter, HI 96858

DAHC77
CJ
USA Support Command, Hawaii
Contracts Division, DIO
Fort Shafter, HI 96858

DAJA01
9Q
U.S. Army Southern European Task Force
APO New York, NY 09168

DAJA02
G5
Seckenheim Area Procurement Office
USAPAE, USAREUR
APO New York, NY 09099

DAJA04
9R
Fuerth Area Procurement Office
USAPAE, USAREUR
APO New York, NY 09696

DAJA06 9S	Stuttgart Area Procurement Office USAPAE, USAREUR APO New York, NY 09154
DAJA10 9U	Augsburg Area Procurement Office USAPAE, USAREUR APO New York, NY 09178
DAJA16 8X	Grafenwoehr Suboffice Fuerth Area Procurement Office USAPAE, USAREUR APO New York, NY 09114
DAJA23 9W	U.S.Army, Berlin APO New York, NY 09742
DAJA25 9X	Bremerhaven Area Procurement Office USAPAE, USAREUR APO New York, NY 09069
DAJA37 G6	USA Procurement Agency, Europe APO, New York, NY 09710
DAJA45 9Y	Burtonwood USA Depot, United Kingdom APO New York, NY 09075
DAJA61 9Z	NATO/SHAPE Support Group (U.S.) APO New York, NY 09667
DAJA66	U.S. Military Training Mission, Dhahran Saudi Arabia APO New York, NY 09616
DAJA68	HQ, U.S. Support Activity, Iran APO New York, NY 09205

DAJA75	USA Pipeline Liaison Office, France USAREUR APO New York, NY 09777
DAJA76 8V	Frankfurt Area Procurement Office USAPAE, USAREUR APO New York, NY 09710
DAJB03 F4	USA Korea Procurement Agency APO San Francisco, CA 96301
DAKF01 1A	Presidio of San Francisco CA 94129
DAKF03 F2	Fort Ord CA 93941
DAKF06 1C	Fort Carson Colorado Springs, CO 80913
DAKF10 1D	Fort Stewart Savannah, GA 31313
DAKF11 1E	Fort McPherson Atlanta, GA 30330
DAKF15 1F	Fort Sheridan Highland Park, IL 60037
DAKF19 1G	Fort Riley Junction City, KS 66442
DAKF23 1H	Fort Campbell Oak Grove, KY 42223

DAKF24 G1	Fort Polk Leesville, LA 71459
DAKF27 1J	Fort George G. Meade MD 20755
DAKF31 1K	Fort Devens Ayer, MA 01433
DAKF36 1M	Fort Drum Watertown, NY 13601
DAKF40 1N	Fort Bragg, Drawer 70120 Fayetteville, NC 28307
DAKF44 1P	USA Garrison, Fort Indiantown Gap Annville, PA 17003
DAKF48 1Q	Fort Hood Killeen, TX 76544
DAKF49 1R	Fort Sam Houston San Antonio, TX 78234
DAKF57 1T	Fort Lewis Tacoma, WA 98433
DAKF61 1U	Camp McCoy Sparta, WI 54656
DAKF70 8U	HQ, 172D Infantry Brigade, Procurement Division, PO Box 5–525 Fort Richardson, AK 99505

DAKF71 1V	HQ, 193D Infantry Brigade (CZ), DIO, Procurement Division, PO Drawer 925 APO Miami 34004
DAMD17 B3	USA Medical Research and Development Command Fort Detrick Frederick, MD 21701
DASG60 CB	Ballistic Missile Defense Systems Command PO Box 1500 Huntsville, AL 35807

APPENDIX N — ACTIVITY ADDRESS NUMBERS

DEPARTMENT OF THE NAVY

N00011
7E
Navy Department Procurement Branch
Office of the Chief of Naval Operations
1300 Wilson Boulevard
Arlington, VA 22209

N00014
EE
Office of Naval Research
Arlington, VA 22217

N00019
EF
Naval Air Systems Command
Washington, DC 20361

N00023
Naval Supply Systems Command
Washington, DC 20376

N00024
EH
Naval Sea Systems Command
Washington, DC 20360

N00025
EJ
Naval Facilities Engineering Command
200 Stovall Street
Alexandria, Va. 22332

N00030
EK
Strategic System Project Office
Department of the Navy
Washington, DC 20376

N00033
EL
Commander, Military Sealift Command
Washington, DC 20390

N00034
EM
U.S. Navy Finance Center
Cleveland, OH 44114

N00039
NS
Naval Electronic Systems Command
Washington, DC 20360

APPENDIX N — ACTIVITY ADDRESS NUMBERS

N00101
3R
U.S. Naval Air Station
South Weymouth, MA 02190

N00102
EN
Portsmouth Naval Shipyard
Portsmouth, NH 03801

N00104
EP
EQ
U.S. Navy Ships Parts Control Center
Mechanicsburg, PA 17055

N00109
F1
U.S. Naval Weapons Station
Yorktown, VA 23491

N00112
U.S. Naval Hospital
Chelsea, MA 02150

N00123
ES
Naval Regional Contracting Office
Long Beach, CA 90801

N00124
M5
Naval War College
Newport, RI 02840

N00127
H1
U.S. Naval Air Station
Quonset Point, RI 02819

N00128
EU
Supply Department
Naval Administrative Command
U.S. Naval Training Center
Great Lakes, IL 60088

N00129
EV
U.S. Naval Submarine Base, New London
Groton, CT 06340

ARMED SERVICES PROCUREMENT REGULATION

N00140 EX
Naval Regional Contracting Office
Naval Base Bldg. No. 600
Philadelphia, PA 19112

N00146 QK
Marine Corps Air Station
Cherry Point, NC 28533

N00148
U.S. Naval Air Station, New York
c/o Naval Air Station
Willow Grove, PA 19090

N00151 EY
Philadelphia Naval Shipyard
Philadelphia, PA 19112

N00158 3V
U.S. Naval Air Station
Willow Grove, PA 19090

N00161 FA
U.S. Naval Academy
Annapolis, MD 21402

N00163 FB
U.S. Naval Avionics Facility
21st and Arlington Avenue
Indianapolis, IN 46218

N00164 FC
U.S. Naval Weapons Support Center
Crane, IN 47522

N00166
U.S. Naval Air Facility
Washington, DC 20390

N00167 FD
Naval Ship Research & Development Center
Washington, DC 20007

N00168 FE
National Naval Medical Center
Bethesda, MD 20014

N00171 N5
HQ, Naval District Washington
Washington Navy Yard
Washington, DC 20374

N00173 FF
U.S. Naval Research Laboratory
Washington, DC 20390

N00174 FG
U.S. Naval Ordnance Station
Indianhead, MD 20640

N00178 FH
U.S. Naval Weapons Laboratory
Dahlgren, VA 22448

N00181 FJ
Norfolk Naval Shipyard
Portsmouth, VA 23709

N00187
U.S. Naval Public Works Center
Norfolk, VA 23511

N00188 H2
U.S. Naval Air Station
Norfolk, VA 23511

N00189 FK
U.S. Naval Supply Center
Norfolk, VA 23512

N00191 FL
Charleston Naval Shipyard, U.S. Naval Base
Charleston, SC 29408

N00193
U.S. Naval Weapons Station
Charleston, SC 29408

N00196 3K
U.S. Naval Air Station, Atlanta
Marietta, GA 30060

N00197 FM
U.S. Naval Ordnance Station
Louisville, KY 40214

N00200 H3
U.S. Naval Station
Key West, FL 33040

N00203
U.S. Naval Aerospace Medical Center
Pensacola, FL 32512

N00204 FN
U.S. Naval Air Station
Pensacola, FL 32508

N00205 FP
Naval Support Activity
New Orleans, LA 70140

N00206
U.S. Naval Air Station
New Orleans, LA 70140

N00207 FQ
U.S. Naval Air Station
Jacksonville, FL 32212

N00213 H4
U.S. Naval Air Station
Key West, FL 33040

N00215 3W
U.S. Naval Air Station
Dallas, TX 75211

N00216 FR
Supply Officer
Building 10
Naval Air Station
Corpus Christi, TX 78419

N00221 K5
Mare Island Naval Shipyard
Vallejo, CA 94592

N00228 FU
U.S. Naval Supply Center
Oakland, CA 94625

N00231
U.S. Naval Hospital
Quantico, VA 22134

N00236 NX
U.S. Naval Air Station
Alameda, CA 94501

N00244 NW
U.S. Naval Supply Center
937 North Harbor Drive
San Diego, CA 92132

N00246 H5
U.S. Naval Air Station, North Island
San Diego, CA 92135

N00247
U.S. Naval Training Center
San Diego, CA 92133

N00249
Procurement Management Division
Seabee Systems Engineering Office
Naval Construction Battalion Center
Port Hueneme, CA 93041

N00250 FW
Navy Resale Systems Office
830 Third Avenue
Brooklyn, NY 11232

N00251 FX
Puget Sound Naval Shipyard
Bremerton, WA 98314

N00253 FY
U.S. Naval Torpedo Station
Keyport, WA 98345

N00267
U.S. Naval Hospital
Key West, FL 33040

APPENDIX N — ACTIVITY ADDRESS NUMBERS

N00274
Naval Air Facility
Selfridge Air Force Base
Supply Department
Mt. Clemens, MI 48045

N00275
3M
U.S. Naval Air Station
Glenview, IL 60026

N00276
U.S. Naval Air Station
Twin Cities, Minneapolis, MN 55450

N00278
U.S. Naval Air Station
Olathe, KS 66061

N00281
U.S. Fleet Anti-Air Warfare Training Center
Dam Neck, Virginia Beach, VA 23461

N00285
U.S. Naval Hospital
Corpus Christi, TX 78419

N00288
U.S. Naval Publications and Forms Center
5801 Tabor Avenue
Philadelphia, PA 19120

N00296
NY
U.S. Naval Air Station
Moffett Field, CA 94035

N00311
GA
Pearl Harbor Naval Shipyard
Box 400
Pearl Harbor, HI 96860

N00314
M7
Naval Submarine Base
Pearl Harbor, HI 96860

APPENDIX N — ACTIVITY ADDRESS NUMBERS

N00334
N6
U.S. Naval Air Station
Barbers Point, HI 96862

N00342
U.S. Naval Station, Argentia
FPO New York, NY 09597

N00383
GB NK
GC NL
GD NM
U.S. Navy Aviation Supply Office
700 Robbins Avenue
Philadelphia, PA 19111

N00406
GE
U.S. Naval Supply Center, Puget Sound
Bremerton, WA 98314

N00421
M8
Naval Air Test Center
Patuxent River, MD 20670

N00600
GG
Naval Regional Contracting Office
Washington Navy Yard
Washington, DC 20374

N00604
NQ
U.S. Naval Supply Center, Pearl Harbor
Pearl Harbor, HI 96860

N00612
GH
U.S. Naval Supply Center
Charleston, SC 29411

N00620
H6
U.S. Naval Air Station, Whidbey Island
Oak Harbor, WA 98277

N00639
H7
U.S. Naval Air Station
Memphis 84
Millington, TN 38054

ARMED SERVICES PROCUREMENT REGULATION

N00651
H8
U.S. Naval Supply Depot, Subic Bay
Box 33
FPO San Francisco, CA 96651

N00693
U.S. Naval Training Center
Bainbridge, MD 21905

NOO743
8N
U.S. Naval Communication Station
(Ponce, Puerto Rico)
FPO New York 09554

N00788
U.S. Naval Communication Station
Washington, DC 20390

NOO867
8P
U.S. Naval Communication Station
(Fort Amador, Canal Zone)
FPO Miami 34059

N00886
QB
U.S. Naval Communication Station
San Francisco, Rough and Ready Island
Stockton, CA 95203

NOO927
8E
U.S. Naval Communication Station
(San Miguel, Luzon, Philippines)
FPO San Francisco 96656

NOO950
8R
U.S. Naval Communication Area
Master Station, EASTPAC
Wahiawa, HI 96786

N0428A
3Q
U.S. Naval Air Station
Patuxent River, MD 20670

N0429A
3A
U.S. Naval Air Station
Point Mugu, CA 93042

N08939
U.S. Naval Mission to Venezuela, Caracas
Department of State
Washington, DC 20521

N09534
U.S. Naval Mission to Peru
Box 31
APO New York, NY 09339

N09550
4G
U.S. Fleet Air Mediterranean
FPO New York, NY 09521

N30776
4N
U.S. Naval Air Station
Kingsville Auxiliary Landing Field
Orange Grove Det.
Orange, TX 77630

N30779
3Z
U.S. Naval Auxiliary Landing Field
Goliad, TX 77963

N32525
8S
U.S. Naval Communication Detachment
(Sigonella, Italy)
FPO New York 09523

N32832
7K
Naval Air Technical Assistance Group
Alverca, Portugal
APO New York, NY 09285

N35584
Naval Electronic Systems Command Detachment
Defense Activities
Mechanicsburg, PA 17055

N60002
U.S. Naval Hospital
Memphis 74
Millington, TN 38054

N60028
QC
U.S. Naval Station, Treasure Island
San Francisco, CA 94130

N60036 QD	U.S. Naval Weapons Station Concord, CA 94520
N60087 3P	U.S. Naval Air Station Brunswick, ME 04011
N60103 3L	U.S. Naval Air Station Glynco, GA 31520
N60191 4A	U.S. Naval Air Station, Oceana Virginia Beach, VA 23460
N60200 3G	U.S. Naval Air Station Cecil Field, FL 32215
N60201 L7	U.S. Naval Station Mayport, FL 32228
N60205 3B	U.S. Naval Air Station Imperial Beach, CA 92032
N60211 3D	U.S. Naval Auxiliary Landing Field Crows Landing, CA 95313
N60234 4R	U.S. Naval Air Station Soufley Field Pensacola, FL 32508
N60235 3H	U.S. Naval Air Station Ellyson Field Pensacola, FL 32509
N60241 3X	U.S. Naval Air Station Kingsville, TX 78363

N60258 GK	Long Beach Naval Shipyard Long Beach, CA 90801
N60259 H9	U.S. Naval Air Station Miramar, CA 92145
N60376 3Y	U.S. Naval Air Station, Chase Field Beeville, TX 78102
N60462	U.S. Naval Station, Adak FPO Seattle, WA 98791
N60478	U.S. Naval Weapons Station, Earle Colt's Neck, NJ 07722
N60495 3T	U.S. Naval Air Station Fallon, NV 89406
N60508 4Q	U.S. Naval Air Station Whiting Field Milton, FL 32570
N60514 GL	U.S. Naval Supply Depot, Guantanamo Bay Box 33 FPO New York, NY 09593
N60530 GM	U.S. Naval Weapons Center China Lake, CA 93555
N60656 GN	U.S. Navy Commissary Store, Naval Station Annapolis, MD 21402
N60663 GR	U.S. Navy Commissary Store, Naval Training Center Great Lakes, IL 60088

APPENDIX N — ACTIVITY ADDRESS NUMBERS

N60666 GS	U.S. Navy Commissary Store, Naval Station Key West, FL 33040
N60676 GX	U.S. Navy Commissary Store, Naval Air Station Patuxent River, MD 20670
N60681 HA	U.S. Navy Commissary Store, Naval Station San Diego, CA 92136
N60693 HB	U.S. Navy Commissary Store, Naval Base Pearl Harbor Box 110 Pearl Harbor, HI 96860
N60701 4M	U.S. Naval Weapons Station Seal Beach, CA 90740
N60895 HF	U.S. Navy Commissary Store, Naval Air Station Alameda, CA 94501
N60921 HG	U.S. Naval Ordnance Laboratory Silver Spring, MD 20910
N60935 HH	U.S. Navy Commissary Store, Naval Air Station Jacksonville, FL 32212
N60936 HJ	U.S. Navy Commissary Store, Naval Air Station Pensacola, FL 32508
N60937 HK	U.S. Navy Commissary Store, Naval Support Activity New Orleans, LA 70140
N60938 HL	U.S. Navy Commissary Store, Naval Air Station Corpus Christi, TX 78419

APPENDIX N — ACTIVITY ADDRESS NUMBERS

N60939 HM	U.S. Navy Commissary Store, Naval Air Station Memphis 32 Millington, TN 38054
N61115 HN	U.S. Navy Commissary Store, Naval Submarine Base New London, Groton, CT 06340
N61119 HP	U.S. Naval Supply Depot, Guam FPO San Francisco, CA 96630
N61173	U.S. Naval Station 495 Summer Street Boston, MA 02210
N61174 7B	Naval Support Activity Brooklyn, NY 11251
N61189	U.S. Naval Station Philadelphia, PA 19112
N61217 HQ	U.S. Navy Commissary Store, Naval Station Bermuda FPO New York, NY 09560
N61331 HR	Naval Coastal Systems Laboratory Panama City, FL 32401
N61337	U.S. Naval Hospital Beaufort, SC 29904
N61339 HT	Naval Training Equipment Center Orlando, FL 32813
N61414 4B	U.S. Naval Amphibious Base, Little Creek Norfolk, VA 23521

ARMED SERVICES PROCUREMENT REGULATION

N61510
HU
U.S. Navy Commissary Store, Naval Station
Guam, Box 179
FPO San Francisco, CA 96630

N61533
HW
Naval Ship Research and
Development Laboratory
Annapolis, MD 21402

N61602
HX
Morocco-U.S. Naval Training Command
FPO New York, NY 09544

N61726
QL
Naval Submarine Medical Center
Naval Submarine Base New London
Groton, CT 06340

N61751
U.S. Naval Medical Research Unit No. 3, Cairo
FPO New York, NY 09527

N61762
HY
U.S. Naval Ordnance Missile Test Facility
White Sands Missile Range, NM 88002

N62021
7V
Naval Amphibious Base
Coronado, CA 92155

N62161
HZ
U.S. Navy Commissary Store, Rough and Ready Island
Stockton, CA 95203

N62199
JA
U.S. Navy Commissary Store, Naval Station
Midway Island
FPO San Francisco, CA 96614

N62245
U.S. Naval Medical Field Research Laboratory
Camp Lejeune, NC 28542

N62254
U.S. Naval Air Facility, NAHA
FPO Seattle, WA 98770

N62269
JC
U.S. Naval Air Development Center, Johnsville
Warminster, PA 18974

N62271
QE
U.S. Naval Postgraduate School
Monterey, CA 93940

N62376
4K
U.S. Naval Air Propulsion Test Center
Trenton, NJ 08628

N62381
JG
Military Sealift Command, Atlantic
58th Street & First Avenue
Brooklyn, NY 11250

N62382
Military Sealift Command, Gulf Subarea
4400 Dauphin Street
New Orleans, LA 70146

N62383
JH
Military Sealift Command, Pacific
Naval Supply Center
Oakland, CA 94625

N62395
U.S. Naval Public Works Center, Guam
FPO San Francisco, CA 96630

N62404
JJ
Military Sealift Command, Far East
FPO Seattle, WA 98760

N62462
Naval Applied Science Laboratory
Brooklyn, NY 11251

APPENDIX N — ACTIVITY ADDRESS NUMBERS

N62467
JM
Southern Division, Naval Facilities
Engineering Command
PO Box 10068
Charleston, SC 29411

N62470
JN
Atlantic Division, Naval Facilities
Engineering Command
Norfolk, VA 23511

N62471
N7
Officer in Charge of Construction, Naval
Facilities Engineering Command, Mid-Pacific
FPO San Francisco, CA 96610

N62472
JP
Northern Division, Naval Facilities
Engineering Command, U.S. Naval Base
Philadelphia, PA 19112

N62474
JR
Western Division, Naval Facilities
Engineering Command
San Bruno, CA 94066

N62477
JU
Chesapeake Division, Naval Facilities
Engineering Command
Washington Navy Yard
Washington, DC 20390

N62481
N8
U.S. Naval Station, Bermuda
FPO New York, NY 09560

N62507
U.S. Naval Air Station, Atsugi
FPO Seattle, WA 98767

N62510
U.S. Naval Correspondence Course Center
Scotia, NY 12302

APPENDIX N — ACTIVITY ADDRESS NUMBERS

N62522
JV
Military Sealift Command
Eastern Atlantic & Mediterranean
FPO New York, NY 09514

N62537
Military Sealift Command, Mediterranean Subarea
Box 357
FPO New York, NY 09521

N62566
3F
U.S. Naval Fuel Depot
PO Box 9068
Jacksonville, FL 32208

N62573
K8
Marine Corps Air Facility
New River Plaza
Jacksonville, NC 28540

N62578
J2
Naval Construction Battalion Center
Davisville, RI 02854

N62583
J3
Naval Construction Battalion Center
Port Hueneme, CA 93041

N62588
NR
U.S. Naval Support Activity, Naples
FPO New York, NY 09521

N62604
J4
Naval Construction Battalion Center
Gulfport, MS 39501

N62649
JY
U.S. Naval Supply Depot, Yokosuka
FPO Seattle, WA 98762

N62665
Supervisor of Shipbuilding, Conversion & Repair, USN
Bldg. 114, Section D
666 Summer Street
Boston, MA 02210

ARMED SERVICES PROCUREMENT REGULATION

N62670
8B
Supervisor of Shipbuilding, Conversion & Repair, USN
Drawer T
Mayport Naval Station
Jacksonville, FL 32228

N62673
Supervisor of Shipbuilding, Conversion & Repair, USN
Naval Base
Charleston, SC 29408

N62678
8C
Supervisor of Shipbuilding, Conversion & Repair, USN
PO Box 215
Portsmouth, VA 23705

N62742
KB
Pacific Division,
Naval Facilities Engineering Command
Pearl Harbor, HI 96860

N62745
Officer in Charge of Construction
Naval Facilities Engineering Command Contracts
Madrid
APO New York, NY 09285

N62766
L1
Officer in Charge of Construction
Naval Facilities Engineering Command Contracts
Guam
FPO San Francisco, CA 96630

N62786
Supervisor of Shipbuilding, Conversion & Repair, USN
574 Washington Street
Bath, ME 04530

N62789
L8
Supervisor of Shipbuilding, Conversion & Repair, USN
Groton, CT 06340

N62791
NU
Supervisor of Shipbuilding, Conversion & Repair, USN
Naval Station, Box 119
San Diego, CA 92136

N62793
4T
Supervisor of Shipbuilding, Conversion & Repair, USN
Newport News, VA 23607

N62794
7D
Supervisor of Shipbuilding, Conversion & Repair, USN
Flushing & Washington Avenues
Brooklyn, NY 11251

N62795
7F
Supervisor of Shipbuilding, Conversion & Repair, USN
Pascagoula, MS 39567

N62798
4X
Supervisor of Shipbuilding, Conversion & Repair, USN
San Francisco, CA 94135

N62799
7M
Supervisor of Shipbuilding, Conversion & Repair, USN
Seattle, WA 98115

N62808
U.S. Navy Public Works Center, Subic Bay
FPO San Francisco, CA 96651

N62810
Chief, Navy Section,
Military Assistance Advisory Group
Taiei, Box 12
FPO San Francisco, CA 96268

N62814
U.S. Naval Medical Research Unit No. 2
Taipei, Box 14,
APO San Francisco, CA 96268

N62826
Chief, Navy Section,
Military Assistance Advisory Group
Tokyo
APO San Francisco, CA 96390

N62832
U.S. Naval Activities, Rota, Spain
FPO New York, NY 09540

N62836
L4
Officer in Charge of Construction
Naval Facilities Engineering Command Contracts,
Far East
Yokosuka, Box 61
FPO Seattle, WA 98762

N62852
Naval Electronic System Security Engineering Center
Naval Security Station
3801 Nebraska Avenue, NW
Washington, DC 20390

N62861
KD
Naval Plant Representative Office
General Dynamics
PO Box 2505
Pomona, CA 91766

N62863
U.S. Naval Station, Rota, Spain
FPO New York, NY 09540

N62864
L2
Officer in Charge of Construction
Naval Facilities Engineering Command Contracts
Southwest Pacific
APO San Francisco, CA 96528

N62907
KG
Naval Plant Representative Office
Applied Physics Laboratory
Johns Hopkins Road
Laurel, MD 20810

N62908
8D
Naval Weapons Engineering Support Activity
Washington Navy Yard
Washington, DC 20374

N62921
KH
Naval Plant Representative Office
(Special Projects)
Lockheed Missiles & Space Co.
PO Box 504
Sunnyvale, CA 94088

N62922
7W
Resident Officer in Charge of Construction, Pacific
Department of the Navy
PO Box 418
San Bruno, CA 94067

N62932
KJ
U.S. Navy Commissary Store, Taipei
APO San Francisco, CA 96263

N62938
KK
Naval Plant Representative Office
Grumman Aerospace Corp.
Bethpage, L.I., NY 11714

N62940
KM
Naval Plant Representative Office
North American Rockwell Corp.
4300 E. Fifth Avenue
Columbus, OH 43216

N62953
Navy Public Works Center, Naval Base
Newport, RI 02844

N62972
Chief, U.S. Naval Mission to Brazil
Rio De Janeiro
APO New York, NY 09676

N62990
Supervisor of Shipbuilding, Conversion & Repair, USN
PO Box 26
Sturgeon Bay, WI 54235

N62995
4H
U.S. Naval Air Facility, Sigonella
FPO New York, NY 09523

N63015
7Y
Naval Education and Training Support Center, Pacific
Fleet Station PO Bldg
San Diego, CA 92132

APPENDIX N — ACTIVITY ADDRESS NUMBERS

N63028	Polaris Missile Facility, Atlantic Naval Weapons Station Charleston, SC 29408
N63032 KS	U.S. Naval Station, Keflavik FPO New York, NY 09571
N63038 8M	U.S. Naval Communication Unit Cutler East Machias, ME 04630
N63042 NZ	U.S. Naval Air Station Lemoore, CA 93245
N63043 3S	U.S. Naval Air Station Meridian, MS 39301
N63044	Headquarters Support Activity, Taipei APO San Francisco, CA 96263
N63080 KT	U.S. Navy Commissary Store, Chinhae FPO Seattle, WA 98769
N63105 4W	Naval Air Systems Command Representative, Atlantic, U.S. Naval Air Station Norfolk, VA 23511
N63106	Naval Air Systems Command Representative, Pacific, Naval Air Station North Island, San Diego, CA 92135
N63124	Supervisor of Shipbuilding, Conversion & Repair, USN New Orleans, LA 70146
N63134 7R	Fleet Numerical Weather Central Monterey, CA 93940

APPENDIX N — ACTIVITY ADDRESS NUMBERS

N63136	Navy Section, U.S. Military Group Argentina, Buenos Aires, Dept. of State Washington, DC 20521
N63143 8K	U.S. Naval Communication Station (Keflavik, Iceland) Box 22 FPO New York 09571
N63165 7U	Navy Regional Data Automation Center, Washington Washington Navy Yard Washington, DC 20374
N63182 8T	U.S. Naval Communication Station (Rota, Spain) FPO New York 09539
N63204 KV	Naval Plant Representative Office Goodyear Aerospace Corp. Akron, OH 44305
N63205 KW QM	Naval Plant Representative Office LTV Aerospace Corp. PO Box 5907 Dallas, TX 75222
N63273 4S	Fleet Combat Direction Systems Support Activity Dam Neck Virginia Beach, VA 23461
N63274 4F	Naval Electronic Systems Engineering Center Vallejo, CA 94592
N63282 KZ	Naval Plant Representative Office Lockheed Aircraft Corp. Burbank, CA 91503

APPENDIX N — ACTIVITY ADDRESS NUMBERS

N63287
LB
Naval Plant Representative Office
McDonnell-Douglas Corp., Douglas Aircraft Co.,
Aircraft Div
Long Beach, CA 90801

N63325
7X
Naval Education & Training Support Center, Atlantic
Bldg. Z-86, Naval Station
Norfolk, VA 23511

N63331
LF
Naval Plant Representative Office
United Aircraft Corp., Sikorsky Aircraft Div.
Stratford, CT 06497

N63339
LL
U.S. Navy Commissary Store
Naval Station, Adak
FPO Seattle, WA 98791

N63340
LM
U.S. Navy Commissary Store
Naval Station, Argentia
FPO New York, NY 09597

N63341
LN
U.S. Navy Commissary Store
Naval Auxiliary Air Station, Chase Field
Beeville, TX 78102

N63343
LQ
U.S. Navy Commissary Store, Naval Air Station
Brunswick, ME 04011

N63344
LR
U.S. Navy Commissary Store, Naval Station
Charleston, SC 29408

N63345
LS
U.S. Navy Commissary Store
Naval Base, Guantanamo Bay
FPO New York, NY 09598

APPENDIX N — ACTIVITY ADDRESS NUMBERS

N63346
LT
U.S. Navy Commissary Store
Naval Station, Keflavik
FPO New York, NY 09571

N63347
LU
U.S. Navy Commissary Store, Kenitra
FPO New York, NY 09544

N63348
LV
U.S. Navy Commissary Store,
Naval Auxiliary Air Station
Kingsville, TX 78364

N63349
LW
U.S. Navy Commissary Store, Naval Air Station
Lemoore, CA 93246

N63351
LY
U.S. Navy Commissary Store, Naval Station
Long Beach, CA 90802

N63352
LS
U.S. Navy Commissary Store,
Naval Auxiliary Air Station
Meridian, MS 39301

N63353
MA
U.S. Navy Commissary Store
Naval Support Activity, Naples
FPO New York, NY 09521

N63356
MD
U.S. Navy Commissary Store, Naval Station
Roosevelt Roads
FPO New York, NY 09551

N63357
ME
U.S. Navy Commissary Store
Naval Station, Rota
FPO New York, NY 09540

N63360
MH
U.S. Navy Commissary Store
Fleet Activities, SASEBO
FPO Seattle, WA 98766

N63362
MK
U.S. Navy Commissary Store
Naval Station, Subic Bay
FPO San Francisco, CA 96651

N63364
MM
U.S. Navy Commissary Store
Navy Housing Activity, Yokohama
FPO Seattle, WA 98761

N63365
MN
U.S. Navy Commissary Store
Headquarters Support Activities, Yokosuka
FPO Seattle, WA 98762

N63367
MP
U.S. Navy Commissary Store, Naval Station
Norfolk, VA 23511

N63387
U.S. Naval Public Works Center, Naval Base
San Diego, CA 92136

N63394
L6
Naval Ship Weapon Systems Engineering Station
Port Hueneme, CA 93043

N63395
LM
U.S. Naval Communication Station
(Thurso, Caithness, UK)
FPO New York 09516

N63402
K7
US. Polaris Missile Facility, Pacific
Silverdale, WA 98383

N63427
8F
U.S. Naval Communication Station, Perth
FPO San Francisco, CA 96680

N63439
K9
Naval Ophthalmic Support and Training Activity
Williamsburg, VA 23185

N63821
Atlantic Undersea Test & Evaluation Center, Bahamas
FPO New York, NY 09559

N63886
8Q
U.S. Naval Security Group Activity
(Adak, AK)
FPO Seattle 98777

N64267
M9
Fleet Analysis Center
Naval Weapons Station, Seal Beach
Corona, CA 91720

N65117
NJ
Naval Plant Representative Office
(Strategic Systems Project Office)
General Electric Ordnance Systems
100 Plastics Ave.
Pittsfield, MA 01201

N65202
Supervisor of Shipbuilding, Conversion & Repair, USN
Box 400
Pearl Harbor, HI 96860

N65227
NH
Naval Plant Representative Office
Sperry Rand Corp.
Great Neck, L.I., NY 11020

N65236
Naval Electronic Systems Engineering Center
Room 512, Federal Building
334 Meeting Street
Charleston, SC 29403

N65576
Navy Space Systems Activity
PO Box 92960
Worldway Postal Center
Los Angeles, CA 90009

N65579
N2
Naval Electronic Systems Engineering Center,
Philadelphia, PA 19112

APPENDIX N — ACTIVITY ADDRESS NUMBERS

N65580
M2
Naval Electronic Systems Engineering Center
PO Box 55
Portsmouth, VA 23705

N65582
Naval Electronic Systems Engineering Center
Building 3209
Great Lakes, IL 60088

65584
Naval Electronic Systems Engineering Center,
PO Box 80337
San Diego, CA 92138

N65870
Supervisor of Shipbuilding, Conversion & Repair, USN
Long Beach Naval Shipyard
Long Beach, CA 90822

N65913
7L
Naval Sea Support Center, Pacific
San Diego, CA 92138

N65928
N3
Naval Training Center
Orlando, FL 32813

N65980
Naval Electronic Systems Test
and Evaluation Center
Patuxent River, MD 20670

N66001
7N
Naval Ocean Systems Center
San Diego, CA 92152

N66021
7G
Fleet Air, Western Pacific
FPO Seattle, WA 98767

N66032
Automatic Data Processing Equipment Selection Office
Washington, DC 20376

APPENDIX N — ACTIVITY ADDRESS NUMBERS

N66314
QF
Naval Regional Procurement Office
Oakland, CA 94625

N66444
4V
Naval Strategic System Navigation Facility
Flushing & Washington Avenues
Brooklyn, NY 11251

N66604
N4
Naval Underwater Systems Center
Newport, RI 02840

N66669
V1
U.S. Naval Communication Station
(Diego Garcia)
FPO San Francisco 96685

N66691
4P
U.S. Naval Detachment
Souda Bay, Crete
FPO New York, NY 09528

N66896
8A
Naval Education and Training Support
Building 997
Pensacola, FL 32509

N68047
4L
U.S. Naval Office, Singapore
FPO San Francisco, CA 96699

N68056
Navy Regional Medical Center
San Diego, CA 92134

N68084
Navy Regional Medical Center
Charleston, SC 29408

N68085
Navy Regional Medical Center
Jacksonville, FL 32214

N68086
7S
Navy Regional Medical Center
Newport, RI 02840

N68087 Navy Regional Medical Clinic,
Navy Department
Washington, DC 20360

N68092 Navy Regional Medical Center
Great Lakes, IL 60088

N68093 Navy Regional Medical Center
Camp Lejeune, NC 28542

N68094 Navy Regional Medical Center
Camp Pendleton, CA 92055

N68097
QA Navy Regional Medical Center
Oakland, CA 94627

N68100 Navy Regional Medical Center
St. Albans
Long Island, NY 11425

N68101 Navy Regional Medical Center
17th Street and Pattison Avenue
Philadelphia, PA 19145

N68171
M3 U.S. Naval Regional Procurement Office
FPO New York 09521

N68248
V6 Officer in Charge of Construction
Naval Facilities Engineering Command
5610 Kitsap Way
PO Box UU, Wycoff Station
Bremerton, WA 98310

N68296
7A National Parachute Test Range
El Centro, CA 92243

N68322
7Z Naval Education & Training Program and
Development Center Ellyson
Pensacola, FL 32509

N68335
4Y U.S. Naval Air Engineering Center
Lakehurst, NJ 08733

N68390 Officer in Charge of Construction
Naval Facilities Engineering Command
200 Stovall Street
Alexandria, VA 22332

N68443
7T Naval Regional Dental Center
Bremerton, WA 98310

N68463
7C Naval Oceanographic Office
National Space Technology Laboratory
Bay St. Louis, MS 39520

N68478
7H Naval Plant Branch Representative Office
Westinghouse Electric Corporation
Oceanic Division; PO Box 1488
Annapolis, MD 21404

N68517 Officer in Charge of Construction
Naval Facilities Engineering Command Contracts,
Elk Hills
San Bruno, CA 94066

N68520
7P Naval Aviation Logistics Center
U.S. Naval Air station
Patuxent River, MD 20670

APPENDIX N — ACTIVITY ADDRESS NUMBERS

N68525 7Q	Naval Plant Representative Office General Electric Company Aircraft Engine Group 1000 Western Avenue Lynn, MA 01910
N69080	Navy Regional Medical Center 7500 Carson St. Long Beach, CA 90801
N70092	U.S. Naval Security Station 3801 Nebraska Ave., N.W. Washington, DC 20390
N70243 V2	U.S. Naval Communication Area Master Station, WESTPAC (Guam, Mariana Islands) FPO San Francisco 96630
N70272 8G	U.S. Naval Communication Area Master Station LANT Norfolk, VA 23511
N70273 V3	Naval Radio Station Jim Creek Oso, WA 98223
N70278 V4	U.S. Naval Communication Station (Yokosuka, Japan) Box 3 FPO Seattle 98762
N70291	U.S. Naval Security Group Activity, Kami Seya FPO Seattle, WA 98768

APPENDIX N — ACTIVITY ADDRESS NUMBERS

N70294 8H	U.S. Naval Communication Area Master Station MED (Naples, Italy) FPO New York 09524
N70295 8J	U.S. Naval Communication Station (Nea Makri, Greece) FPO New York 09525
N70300 V5	U.S. Naval Communication Unit (Christchurch, New Zealand) FPO San Francisco 96690
M00027 MS	Hqrs. U.S. Marine Corps Washington, DC 20380
M00146 MT	Commissary Store, Marine Corps Air Station Cherry Point, NC 28533
M00243 NE	Marine Corps Recruit Depot San Diego, CA 92140
M00263 MX	Marine Corps Recruit Depot Parris Island, SC 29905
M00264 MY	Marine Corps Schools Development and Education Command Quantico, VA 22134
M00318 MU	Commissary Store, Marine Corps Air Station FPO San Francisco, CA 96628
M00681 NG	Marine Corps Base, Camp Pendleton Oceanside, CA 92054

ARMED SERVICES PROCUREMENT REGULATION

M28300 QH	1st Force Service Regiment, Force Logistic Command FPO San Francisco, CA 96602
M60050 MV	Commissary Store, Marine Corps Air Station El Toro (Santa Ana), CA 92709
M61801	Marine Corps Reserve Training Center Lawrence, MA 01843
M61807	Marine Corps Reserve Training Center Springfield, MA 01104
M61809	Marine Corps Reserve Training Center Manchester, NH 03102
M61815	Marine Corps Reserve Training Center Worcester, MA 01605
M61821	Marine Corps Reserve Training Center Providence, RI 02905
M61835	Marine Corps Reserve Training Center Hartford, CT 06114
M61839	Marine Corps Reserve Training Center Rochester, NY 14617
M61842	Marine Corps Reserve Training Center Buffalo, NY 14201
M61843	Marine Corps Reserve Training Center Bronx, NY (Fort Schuyler) 10465
M61846	Marine Corps Reserve Training Center New Rochelle, NY 10801

M61858	Marine Corps Reserve Training Center Newark, NJ 07114
M61861	Marine Corps Reserve Training Center Albany, NY 12203
M61866	Marine Corps Reserve Training Center New Haven, CT 06512
M61869	Marine Corps Reserve Training Center Huntington, L.I., NY 11743
M61876	Marine Corps Reserve Training Center Wilmington, DE 19808
M61877	Marine Corps Reserve Training Center Harrisburg, PA 17101
M61881	Marine Corps Reserve Training Center Reading, PA 19610
M61884	Marine Corps Reserve Training Center Folsom, PA 19033
M61888	Marine Corps Reserve Training Center Camden, NJ 08103
M61894	Marine Corps Reserve Training Center Washington, DC 20390
M61899	Marine Corps Reserve Training Center Portsmouth, VA 23709

M61902	Marine Corps Reserve Training Center Cumberland, MD 21502
M61910	Marine Corps Reserve Training Center Augusta, GA 30904
M61912	Marine Corps Reserve Training Center Columbia, SC 29201
M61915	Marine Corps Reserve Training Center Atlanta, GA
M61917	Marine Corps Reserve Training Center Charlotte, NC 28202
M61921	Marine Corps Reserve Training Center Greensboro, NC 27401
M61923	Marine Corps Reserve Training Center Raleigh, NC 27607
M61926	Marine Corps Reserve Training Center Jacksonville, FL 32207
M61934	Marine Corps Reserve Training Center Chattanooga, TN 37405
M61935	Marine Corps Reserve Training Center Gulfport, MS 39503
M61936	Marine Corps Reserve Training Center Norman, OK 73070
M61938	Marine Corps Reserve Training Center Tulsa, OK 74104

M61939	Marine Corps Reserve Training Center Galveston, TX 77552
M61942	Marine Corps Reserve Training Center Birmingham, AL 35208
M61944	Marine Corps Reserve Training Center Shreveport, LA 71109
M61945	Marine Corps Reserve Training Center Mobile, AL 36608
M61947	Marine Corps Reserve Training Center Montgomery, AL 36109
M61948	Marine Corps Reserve Training Center Knoxville, TN 37901
M61954	Marine Corps Reserve Training Center New Orleans, LA 70140
M61955	Marine Corps Reserve Training Center Jackson, MS 39205
M61959	Marine Corps Reserve Training Center Amarillo, TX 79106
M61963	Marine Corps Reserve Training Center Austin, TX 78704
M61964	Marine Corps Reserve Training Center Fort Worth, TX 76110

M61966	Marine Corps Reserve Training Center Beaumont, TX 77701
M61967	Marine Corps Reserve Training Center Lafayette, LA 70502
M61970	Marine Corps Reserve Training Center Little Rock, AR 72205
M61979	Marine Corps Reserve Training Center Dallas, TX 75220
M61980	Marine Corps Reserve Training Center El Paso, TX 79923
M61982	Marine Corps Reserve Training Center San Antonio, TX 78204
M61984	Marine Corps Reserve Training Center Evansville, IN 47712
M61989	Marine Corps Reserve Training Center Green Bay, WI 54305
M61992	Marine Corps Reserve Training Center St. Louis, MO 63145
M61997	Marine Corps Reserve Training Center Joliet (Rockdale), IL 60436
M61998	Marine Corps Reserve Training Center Omaha, NE 68111
M61999	Marine Corps Reserve Training Center Toledo, OH 43611

M62028	Marine Corps Reserve Training Center Trenton, NJ 08608
M62034	Marine Corps Reserve Training Center Detroit, MI 48214
M62035	Marine Corps Reserve Training Center Milwaukee, WI 53207
M62037	Marine Corps Reserve Training Center Peoria, IL 62633
M62038	Marine Corps Reserve Training Center Springfield, MO 65801
M62041	Marine Corps Reserve Training Center Topeka, KS 60607
M62042	Marine Corps Reserve Training Center Waterloo, IA 50703
M62044	Marine Corps Reserve Training Center Fort Des Moines, IA 50135
M62045	Marine Corps Reserve Training Center Steubenville, OH 43952
M62046	Marine Corps Reserve Training Center Gary, IN 46403
M62054	Marine Corps Reserve Training Center Kansas City, MO 64130

M62055	Marine Corps Reserve Training Center Dayton, OH 45417
M62058	Marine Corps Reserve Training Center Naval Air Station Minneapolis, MN 55450
M62060	Marine Corps Reserve Training Center Danville, IL 61834
M62063	Marine Corps Reserve Training Center Mansfield, OH 44901
M62071	Marine Corps Reserve Training Center Rockford, IL 61105
M62073	Marine Corps Reserve Training Center Fort Wayne, IN 46803
M62075	Marine Corps Reserve Training Center South Bend, IN 46613
M62077	Marine Corps Reserve Training Center Lexington, KY 40503
M62078	Marine Corps Reserve Training Center Louisville, KY 40214
M62080	Marine Corps Reserve Training Center Dearborn, MI 48120
M62081	Marine Corps Reserve Training Center Flint, MI 48503

M62082	Marine Corps Reserve Training Center Grand Rapids, MI 49505
M62084	Marine Corps Reserve Training Center Kalamazoo, MI 49001
M62085	Marine Corps Reserve Training Center Lansing, MI 48912
M62092	Marine Corps Reserve Training Center Akron, OH 44310
M62093	Marine Corps Reserve Training Center Canton, OH 44706
M62094	Marine Corps Reserve Training Center Cincinnati, OH 45207
M62095	Marine Corps Reserve Training Center Columbus, OH 43215
M62096	Marine Corps Reserve Training Center Lorain, OH 44052
M62098	Marine Corps Reserve Training Center Youngstown, OH 44507
M62100	Marine Corps Reserve Training Center Madison, WI 53703
M62103	Marine Corps Reserve Training Center Los Angeles, CA 90012
M62107	Marine Corps Reserve Training Center Tucson, AZ 85711

M62108	Marine Corps Reserve Training Center Albuquerque, NM 87106
M62109	Marine Corps Reserve Training Center Phoenix, AZ 85009
M62110	Marine Corps Reserve Training Center Santa Monica, CA 90405
M62111	Marine Corps Reserve Training Center Bakersfield, CA 93307
M62113	Marine Corps Reserve Training Center Pasadena, CA 91107
M62114	Marine Corps Reserve Training Center San Bernardino, CA 92402
M62115	Marine Corps Reserve Training Center San Francisco, CA 94130
M62119	Marine Corps Reserve Training Center Sacramento, CA 95818
M62121	Marine Corps Reserve Training Center Fresno, CA 93702
M62126	Marine Corps Reserve Training Center Salt Lake City, UT 84113
M62127	Marine Corps Reserve Training Center Reno, NV 89502

M62128	Marine Corps Reserve Training Center San Jose, CA 95112
M62130	Marine Corps Reserve Training Center Denver, CO 80225
M62135	Marine Corps Reserve Training Center Tacoma, WA 98402
M62138	Marine Corps Reserve Training Center Billings, MT 59101
M62139	Marine Corps Reserve Training Center Boise, ID 83701
M62145	Marine Corps Reserve Training Center Portland, OR 97217
M62146	Marine Corps Reserve Training Center Spokane, WA 99208
M62204 MW	Marine Corps Logistics Base Barstow, CA 92311
M62205	Marine Barracks Bremerton, WA 98314
M62211	Marine Barracks, Naval Base, Pearl Harbor, Hawaii FPO San Francisco, CA 96610
M62214	Marine Barracks, Fleet Activity FPO Seattle, WA 98762
M62217	Marine Barracks, Fleet Activities, Yokosuka FPO San Francisco, CA 96662

APPENDIX N — ACTIVITY ADDRESS NUMBERS

M62218	Marine Barracks, Naval Base New York, Brooklyn, NY 11201
M62222	Marine Barracks, Naval Base Boston, MA 02129
M62248	Marine Corps Reserve Training Center Lubbock, TX 79408
M62250	Marine Corps Reserve Training Center Salem, OR 97308
M62257	Marine Corps Reserve Training Center Abilene, TX 79602
M62274	Marine Corps Reserve Training Center Compton, CA 90221
M62293	Marine Barracks, Guam FPO San Francisco, CA 96630
M62298	Marine Corps Reserve Training Center Eugene, OR 97401
M62361	Marine Air Reserve Training Detachment, NAS Alameda, CA 94501
M62375	Marine Corps Reserve Training Center Greenville, SC 29601
M62378	Marine Corps Reserve Training Center East Ninth Street Cleveland, OH 44114

APPENDIX N — ACTIVITY ADDRESS NUMBERS

M62400	Marine Corps Reserve Training Center Moline, IL 61265
M62748	Marine Corps Reserve Training Center Waco, TX 76710
M62757	Marine Corps Reserve Training Center Forest Park, IL 60130
M62952	Marine Corps Reserve Training Center Pittsburgh, PA 15213
M62974 NA	Commissary Store, Marine Corps Air Station Yuma, AZ 85364
M63438	Marine Corps Reserve Training Center, Little Creek Norfolk, VA 23521
M67001 NB	Marine Corps Base Camp Lejeune, NC 28542
M67004 NC	Marine Corps Logistics Base Albany, GA 31704
M67011	Director, 1st Marine Corps District Long Island, NY 11530
M67013	Director, 4th Marine Corps District Philadelphia, PA 19112
M67015	Director, 6th Marine Corps District Atlanta, GA 30303
M67016	Director, 8th Marine Corps District New Orleans, LA 70113

M67017 Director, 9th Marine Corps District
Shawnee Mission, KA 66204

M67019 Director, 12th Marine Corps District
San Francisco, CA 94130

M67021 Marine Air Reserve Training Command
Glenview, IL 60026

M67025 Headquarters, Fleet Marine Force, Pacific, Oahu
FPO San Francisco, CA 96610

M67027 Marine Barracks, Naval Base
Key West, FL 33040

M67029 Marine Barracks
Washington, DC 20003

M67030 Marine Barracks, Mare Island
Vallejo, CA 94592

M67031 Marine Barracks, Naval Station, Treasure Island
San Francisco, CA 94130

M67032 Marine Barracks, Naval Station, Sangley Point
Luzon, Phillippines
FPO San Francisco, CA 96652

M67033 Marine Barracks, Naval Base, Subic Bay
Luzon, Phillippines
FPO San Francisco, CA 96650

M67036 Marine Barracks, San Juan, P.R.
FPO, New York, NY 09550

M67037 Marine Barracks, Fleet Activities, Sasebo
FPO San Francisco, CA 96666

M67042 Marine Barracks, Naval Ammunition Depot
Hawthorne, NV 89415

M67043 Marine Barracks, NAD, Bangor
Bremerton, WA 98314

M67044 Marine Barracks, Naval Ammunition Depot
McAlester, OK 74501

M67048 Marine Barracks, Hunters Pt. Div.
SFran Bay NSY (R)
San Francisco, CA 94135

M67054 Marine Barracks, Naval Weapons Station
Yorktown, VA 23491

M67058 Marine Barracks, Naval Base
Newport, RI 02844

M67059 Marine Barracks, Submarine Base
New London, CT 06342

M67063 Marine Barracks, Naval Ammunition Depot
Earle, NJ 07722

M67066 Marine Barracks, Naval Station
Annapolis, MD 21402

M67068 Marine Barracks, Naval Base
Portsmouth, NH 03804

APPENDIX N — ACTIVITY ADDRESS NUMBERS

M67228	Marine Barracks, Naval Base, Guantanamo Bay FPO New York, NY 09593
M67229	Marine Barracks, Naval Base Charleston, SC 29408
M67230	Marine Barracks, Naval Base Norfolk, VA 23511
M67231	Marine Barracks, Naval Base Philadelphia, PA 19146
M67232	Marine Barracks, Norfolk Naval Shipyard Portsmouth, VA 23709
M67235	Marine Air Reserve Training Detachment Naval Air Facility, Andrews AFB Washington, DC 20390
M67236	Marine Air Reserve Training Detachment, NAS Atlanta, GA 30063
M67241	Marine Air Reserve Training Detachment, NAS Glenview, IL 60026
M67242	Marine Air Reserve Training Detachment, NAS Grosse Ile, MI 48138
M67244	Marine Air Reserve Training Detachment, NAS Los Alamitos, CA 90721
M67245	Marine Air Reserve Training Detachment Memphis, TN 38115

APPENDIX N — ACTIVITY ADDRESS NUMBERS

M67247	Marine Air Reserve Training Detachment, NAS Minneapolis, MN 55450
M67248	Marine Air Reserve Training Detachment, NAS New Orleans, LA 70140
M67249	Marine Air Reserve Training Detachment, NAS Brooklyn, NY 11234
M67251	Marine Barracks, Naval Air Station Alameda, CA 94501
M67252	Marine Air Reserve Training Detachment, NAS Olathe, KS 66061
M67254	Marine Air Reserve Training Detachment South Weymouth, MA 02190
M67256	Marine Air Reserve Training Detachment, NAS Willow Grove, PA 19090
M67270	Marine Air Reserve Training Detachment Norfolk, VA 23511
M67272	Marine Barracks, Naval Air Station, Atsugi FPO San Francisco, CA 96667
M67273	Marine Barracks, Naval Weapons Station Concord, CA 94520
M67281	Marine Detachment, Naval Station, Trinidad FPO New York, NY 09655

ARMED SERVICES PROCUREMENT REGULATION

M67283 Marine Barracks, Naval Station, Bermuda
Barracks, Naval Station, Bermuda
FPO New York, NY 09560

M67284 Marine Barracks, Naval Station, Argentia
FPO New York, NY 09597

M67285 Marine Barracks, Naval Station, Adak
FPO Seattle, WA 98791

M67336 Marine Barracks, Clarksville Base
Clarksville, TN 37040

M67341 Marine Barracks, Naval Station
San Diego, CA 92136

M67342 Marine Barracks, Naval Air Station, Barbers Point
Oahu, Hawaii
FPO San Francisco, CA 96611

M67343 Marine Barracks, Naval Ammunition Depot, Oahu
FPO San Francisco, CA 96612

M67348 Marine Detachment, Naval Disciplinary Command
Naval Base
Portsmouth, NH 03804

M67350 Marine Barracks, Naval Activities, Naples
FPO New York, NY 09521

M67351 Marine Detachment, London
FPO New York, NY 09510

M67353 Headquarters Battalion, Marine Corps
Henderson Hall
Arlington, VA 22214

M67354 Post Supply Officer, Headquarters Marine Corps
Navy Annex
Arlington, VA 20380

M67385 Camp H. M. Smith, U.S. Marine Corps
Aiea, Oahu, Hawaii 96861

M67387 Marine Barracks, Fallbrook Annex, NWPSTA
Seal Beach, CA 92028

M67388 Marine Barracks, Lake Meade Base
Las Vegas, NV 89110

M67390 Director, 14th Marine Corps District
Pearl Harbor, Hawaii
FPO San Francisco, CA 96610

M67391 Headquarters Fleet Marine Force Atlantic
(Camp Elmore), Norfolk, VA 23511

M67399 Marine Corps Air Ground Combat Center
NF Twentynine Palms, CA 92278

M67400 Marine Corps Procurement Office, Okinawa
QJ Marine Corps Base, Camp Smedley D. Butler
FPO Seattle, WA 98773

M67401 Marine Barracks, Rota
FPO New York, NY 09540

M67403 Marine Barracks, NWPSTA
Seal Beach, CA 90740

M67405 Marine Barracks, NAD
Charleston, SC 29408

M67410 Marine Barracks, Naval Missile Facility
Lompoc, CA 93436

M67415 Marine Barracks, Sigonella, Sicily
FPO, New York, NY 09521

M67418 Marine Barracks, NAV Forces Iceland, Keflavik
FPO New York, NY 09571

M67422 Marine Air Reserve Training Detachment, NAS
Seattle, WA 98105

M67424 Subunit 2, Marine Air Reserve Training Detachment
Los Alamitos, Pasadena, CA 91107

M67425 Subunit 3, Marine Air Reserve Training Detachment
Alameda, CA 94501

M67426 Subunit 4, Marine Air Reserve Training Detachment
Alameda, San Jose, CA 95112

M67432 Subunit 2, Marine Air Reserve Training Detachment
Willow Grove, MCRTC
Wyoming, PA 18644

M67433 Subunit 1, Marine Corps Reserve Training Detachment
Grosse Ile, NMCRTC
Green Bay, WI 54305

DEPARTMENT OF THE AIR FORCE

(C) Denotes a Central Contracting Activity.

F01600 Maxwell AFB
5A AL 36112

F02600 Williams AFB
5B AZ 85224

F02601 Davis-Monthan AFB
5C AZ 85707

F02604 Luke AFB
5D AZ 85309

F03601 Blytheville AFB
5E AR 72315

F03602 Little Rock AFB
5F AR 72076

F04604 Castle AFB
5G CA 95342

F04605 March AFB
5H CA 92508

F04606 Sacramento ALC/PM
SM McClellan AFB, CA 95652

F04607 Norton AFB
5J CA 92409

APPENDIX N — ACTIVITY ADDRESS NUMBERS

F04609
5K
George AFB
CA 92392

F04611
QQ
AFFTC R & D Contracts (C)
Edwards AFB, CA 93523

F04612
5L
Mather AFB
CA 95655

F04614
S5
AFCMD Detachment No. 1
Vandenberg AFB, CA 93437

F04620
S6
AFPRO TRW, Defense & Space Systems Group
One Space Park
Redondo Beach, CA 90278

F04626
5M
Travis AFB
CA 94535

F04666
5N
Beale AFB
CA 95903

F04679
QR
AFPRO, Northrop Corp.
Hawthorne, CA 90250

F04681
QS
AFPRO, Rockwell International (B-1 Div)
Los Angeles International Airport
Los Angeles, CA 90009

F04682
QT
AFPRO, Hughes Acft. Co.
Centinela and Teale Streets
Culver City, CA 90230

F04684
QW
Vandenberg AFB
CA 93437

APPENDIX N — ACTIVITY ADDRESS NUMBERS

F04688
QV
AFPRO, Aerojet-General Corp.
PO Box 15846
Sacramento, CA 95813

F04689
RN
Air Force Satellite Control Facility, AFSCF/PKC
Base Contracts
Sunnyvale AFS CA 94086

F04690
Air Force Satellite Control Facility
Sunnyvale AFS CA 94086

F04691
QX
AFPRO, Lockheed Msl. & Space Co., Inc.
PO Box 504
Sunnyvale, CA 94088

F04693
SAMSO PMH Base Contracting Division
Los Angeles AFS
PO Box 92960, Worldway Postal Center
Los Angeles, CA 90009

F04696
RB
AFPRO, N-R Corp. Autonetics Div.
3370 Miraloma Ave.
Anaheim, CA 92803

F04698
RD
AFPRO, United Technology Center
PO Box 358
Sunnyvale, CA 94088

FO4699
Q5
Sacramento ALC/PMK, Base Contracting
McClellan AFB, CA 95652

F04700
Q2
AFFTC Base Contracting
Edwards AFB, CA 93523

ARMED SERVICES PROCUREMENT REGULATION

F04701
TB
SAMSO(C), Los Angeles AFS
PO Box 92960, Worldway Postal Center
Los Angeles, CA 90009

F04702
AF Audio Visual Center (AVVCP)(C)
Norton AFB, CA 92409

F04703
R8
Space and Missile Test Center (C)
Vandenberg AFB, CA 93437

F04704
R9
Minuteman System Program Office (C)
Norton AFB, CA 92409

F04705
RT
Det 6, 2762 Maintenance Sq. Special (AFLC)
Norton AFB, CA 92409

F05600
5P
Lowry AFB
CO 80230

F05604
SX
4614 Contracting Squadron
Peterson AFB, CO 80914

F05611
5Q
USAF Academy
CO 80840

F05617
RE
AFPRO Martin Marietta
Aerospace (Denver Div.)
PO Box 179
Denver, CO 80201

F06700
T5
AFPRO Pratt & Whitney
OL/AA
Commercial Products Division
East Hartford, CT 06108

F07603
5R
Dover AFB
DE 19901

F08602
5S
MacDill AFB
FL 33608

F08606
RG
Det. 1, SAMTEC (C)
Patrick AFB, FL 32925

F08620
5T
Hurlburt FLD
FL 32544

F08621
5U
Homestead AFB
FL 33030

F08635
RH
ADTC (C)
Eglin AFB, FL 32542

F08637
5V
Tyndall AFB
FL 32401

F08650
TJ
6550 ABW, Base Contracting Div.
Patrick AFB, FL 32925

F08651
Q3
ADTC, Base Contracting Div, Dir of Contracting
Eglin AFB, FL 32542

F08675
T2
AFPRO Pratt & Whitney
Government Products Division
West Palm Beach, FL 33402

F09603
RJ, RR
Warner Robins ALC/PM
Robins AFB, GA 31098

F09604 RU	Det 8, 2762 Maintenance Sq. Special (AFLC) Robins AFB, GA 31098
F09607 5W	Moody AFB GA 31601
F09609 5X	Dobbins AFB GA 30060
F09632 RK	AFPRO, Lockheed-Georgia Co. Marietta, GA 30063
F09634 5Y	AFRES Robins AFB, GA 31098
F09650 Q6	Warner Robins ALC/PMK, Base Contracting Robins AFB, GA 31098
F10603 5Z	Mountain Home AFB ID 83648
F11602 6A	Chanute AFB IL 61868
F11603 6B	Chicago O'Hare Intl Airport Chicago, IL 60666
F11623 6C	Scott AFB IL 62225
F11626 RL	HQ MAC/LGC(C) Scott AFB, IL 62225
F11628 RM	HQ AFCS(C) Scott AFB, IL 62225

F12617 6D	Grissom AFB IN 46970
F14614 6E	McConnell AFB KS 67221
F16600 6F	England AFB LA 71301
F16602 6G	Barksdale AFB LA 71110
F17600 6H	Loring AFB ME 04750
F18400 S2	AFPRO, Westinghouse Electric Corp. PO Box 1693 Baltimore, MD 21203
F18600 RQ	AFSC Andrews AFB, (C) Washington, DC 20331
F19628 RS	ESD, L.G. Hanscom Fld, (C) Bedford, MA 01730
F19650	Base Contracting Div, Dir of Contr., ESD L. G. Hanscom Fld Bedford, MA 01730
F20603 6J	Wurtsmith AFB MI 48753
F20612 6K	Kincheloe AFB MI 49788

F20613 6L	K.I. Sawyer AFB MI 49843
F21603 6M	Duluth International Airport Duluth, MN 55814
F21611 6N	Minneapolis-St. Paul Intl Aprt. St. Paul, MN 55417
F22600 RC	Keesler AFB MS 39534
F22608 6Q	Columbus AFB MS 39701
F23606 6R	Whiteman AFB MO 65301
F23608 6S	Base Contracting Division Richards-Gebaur AFB, MO 64030
F23621 RY, S1	AFPRO, McDonnell Douglas Corp. St. Louis, MO 63166
F24604 6T	Base Contracting Division PO Box 5000 Malmstrom AFB, MT 59402
F24607	Glasgow AFB MT 59231
F25600 6U	Offutt AFB NE 68113

F25606 TD	HQ SAC/LGC Offutt AFB, NE 68113
F26600 S4	Nellis AFB NV 89110
F27604 R5	Pease AFB NH 03801
F28609 6V	McGuire AFB NJ 08641
F29601 RW	AFCMD (C) Kirtland AFB, NM 87117
F29605 6W	Cannon AFB NM 88101
F29650 R3	Base Contracting Br, Contracting Div Kirtland AFB, NM 87117
F29651 6X	Holloman AFB NM 88330
F30602 RX	RADC (C) Griffiss AFB, NY 13441
F30617 6Y	Niagara Falls Intl Airport NY 14304
F30635 S3	Griffiss AFB NY 13441
F30636 6Z	Plattsburgh AFB NY 12903

F30637
TE
Northern Communications Area
Griffiss AFB, NY 13441

F30669
R7
AFPRO Fairchild Industries, Inc.
Fairchild Republic Co.
Farmingdale, NY 11735

F31601
10
Pope AFB
NC 28308

F31610
11
Seymour Johnson AFB
NC 27530

F32604
12
Minot AFB
ND 58701

F32605
13
Grand Forks AFB
ND 58201

F33600
RZ
2750 ABW/PMA & PMT
WPAFB, OH 45433

F33601
Q7
2750 ABW/PMB, Base Contracting
WPAFB, OH 45433

F33615
SG
ASD/PMR, R&D Directorate of Contracting
WPAFB, OH 45433

F33617
14
Rickenbacker AFB
OH 43217

F33630
15
Youngstown Municipal Airport
Vienna, OH 44473

F33654
SB
AFPRO, GE, Evendale Plant
PO Box 91
Cincinnati, OH 45421

F33657
SC
ASD (C)
WPAFB, OH 45433

F33659
Q8
Aerospace Guidance & Metrology Center
Newark AFS, OH 43055

F33661
AFCMC WPAFB, OH 45433
With the following codes for each detachment:

RP
Det 21, AF Contr. Maint. Center
3801 South Oliver
Wichita, KS 67210

SR
Det 27, AF Contr. Maint. Center
Tinker AFB, OK 73145

SS
Det 16, AF Contr. Maint. Center
APO New York, NY 09633

ST
Det 18, AF Contr. Maint. Center
APO New York, NY 09672

SU
Det 19, AF Contr. Maint. Center
APO New York, NY 09285

S8
AFLC Logistics Support Group, Saudi Arabia
AFCMC OL
APO New York, NY 09616

SV
Det 17, AF Contr. Maint. Ctr.
APO New York, NY 09378

R1	Det 28, AF Contr. Maint. Ctr. APO San Francisco, CA 96259
	(End of AFCMC Detachments)
F33700 S7	HQ. Acquisition Logistics Division (AFLC) WPAFB, OH 45433
F34600 16	Vance AFB OK 73701
F34601 SD,TA,TG	Oklahoma City ALC/PM Tinker AFB, OK 73145
F34608 TF	Southern Communications Area Oklahoma City AFS, OK 73145
F34612 17	Altus AFB OK 73521
F34650 Q9	Oklahoma City ALC/PMK, Base Contracting Tinker AFB, OK 73145
F35610 18	Kingsley Field Klamath Falls, OR 97601
F36629 19	Greater Pittsburgh Airport Pittsburgh, PA 15231
F36700 20	Willow Grove Air Reserve Facility Willow Grove, PA 19090

F36701 SF	AFPRO, General Electric Co. Reentry and Environmental Systems Division and Space Division PO Box 8555 Philadelphia, PA 19101
F38601 21	Shaw AFB SC 29152
F38606 22	Myrtle Beach AFB SC 29577
F38610 23	Charleston AFB SC 29404
F39601 24	Ellsworth AFB SD 57706
F40600 Q4	AEDC (C) Arnold AFS, TN 37389
F40650 25	Base Contracting Div (AEDC) Arnold AFS, TN 37389
F41608 SA, QU	San Antonio ALC/PM Kelly AFB, TX 78241
F41612 26	Sheppard AFB TX 76311
F41613 27	Carswell AFB TX 76127
F41614 28	Goodfellow AFB TX 76901

F41620 29	Reese AFB TX 79489
F41621 SJ	HQ ESC San Antonio, TX 78243
F41652 30	Dyess AFB TX 79607
F41685 31	Laughlin AFB TX 78840
F41687 32	Bergstrom AFB TX 78743
F41689 SK	3303 Contracting Squadron (C) Randolph AFB, TX 78148
F41695 SL, TH	AFPRO, Gen Dynamics PO Box 784 Fort Worth, TX 76101
F41800 T9	San Antonio Contracting Center Kelly AFB, TX 78241
F41999	AFNAF Purchasing Office, Directorate of Morale, Health and Welfare HQ AFMPC/MPCSK PO Box 8218 Randolph AFB, TX 78148
F42600 QP, SY	Ogden ALC/PM Hill AFB, UT 84056

F42650 R2	Ogden ALC/PMK Base Contracting Hill AFB, UT 84056
F42651 R6	AFPRO Thiokol Chemical Corp. Wasatch Division Box 524 Brigham City, UT 84302
F44600 33	Langley AFB VA 23665
F44650 Q1	4400 Contracting Squadron Langley AFB, VA 23665
F45603 34	McChord AFB WA 98438
F45613 35	Fairchild AFB WA 99011
F45632 SP	AFPRO, Boeing Co., PO Box 3707 Seattle, WA 98124
F45633 SQ	1929 AFCS GP 5140 Federal Ofc Bldg. Seattle, WA 98104
F47606 36	Gen. Billy Mitchell Fld. 300 College Ave. Milwaukee, WI 53207
F48608 37	F.E. Warren AFB WY 82003

F49620 SE	AFOSR(C) Bolling AFB, DC 20332
F49642 38	Washington Area Contracting Center Andrews AFB, Washington, DC 20331
F61040 39	1605th Air Base Group APO New York, NY 09406
F61051	USDAO, American Embassy APO New York, NY 09667
F61060	USDAO, American Embassy Sofia, Bulgaria
F61080	USDAO, American Embassy Prague, Czechoslovakia
F61100	USDAO, American Embassy APO New York, NY 09170
F61101 T1	USAFE Contracting Region – Denmark Det 8, 7000 Contr. Sq. APO New York, NY 09170
F61130	USDAO, American Embassy Helsinki, Finland
F61171	USDAO, American Embassy APO New York, NY 09223
F61173 40	USAFE Contracting Region – Greece Det 7, 7000 Contr. Sq. APO New York, NY 09223

F61180	USDAO, American Legation Budapest, Hungary
F61210	USDAO, American Embassy APO New York, NY 09794
F61211 41	USAFE Contracting Region – Italy Det 6, 7000 Contr. Sq. APO New York, NY 09293
F61214 42	USAFE Contracting Office OL A Det 6, 7000 Contr. Sq. APO New York, NY 09240
F61260	USDAO, American Embassy APO New York, NY 09159
F61270	USDAO, American Embassy, APO New York, NY 09085
F61271 T8	USAFE Contracting Office OL A Det 8, 7000 Contr. Sq. APO New York, NY 09085
F61280	USDAO, American Consulate Gen. APO New York, NY 09757
F61290	USDAO, American Embassy APO New York, NY 09678
F61301	USDAO, American Embassy Bucharest, Rumania
F61308 43	USAFE Contracting Region – Spain Det 5, 7000 Contr. Sq. APO New York, NY 09283

F61310
USDAO, American Embassy
APO New York, NY 09285

F61354
44
TUSLOG Det 118/LGC
APO New York, NY 09224

F61355
T4
HQ TUSLOG/LGC
APO New York, NY 09254

F61358
45
TUSLOG Det 10/LGC
APO New York, NY 09289

61503
47
435 TAW/LGC
APO New York, NY 09057

F61504
T6
7350 ABG
APO New York, NY 09611

F61517
48
USAFE Contracting Region – EIFEL
Det 3, 7000 Contr. Sq.
APO New York, NY 09132

F61519
R4
Hahn AB
50 TFW/LGC
APO New York, NY 09109

F61521
49
USAFE Contracting Region – Rhineland
Det 2, 7000 Contr. Sq
APO New York, NY 09012

F61546
50
USAFE Contracting Center
Det 1, 7000 Contr. Sq.
APO New York, NY 09633

F61708
51
USAFE Contracting Region – Thames Valley
Det 9, 7000 Contr. Sq.
APO New York, NY 09194

F61712
52
81 TFW/LGC
APO New York, NY 09755

F61730
53
10 TFW/LGC
APO New York, NY 09238

F61775
54
USAFE Contracting Region – UK – North
APO New York, NY 09179

F61815
T7
32 TFS/LGC
APO New York, NY 09292

F61817
55
USAFE Contracting Office
OL A Det 5, 7000 Contr. Sq.
APO New York, NY 09286

F61830
S9
AFPRO, Caseur-Brussels
Caserne Prince Baudouin, Place Dailly
Brussels, Belgium
APO New York, NY 09667

F62032
U.S. Military Training Mission (Saudi Arabia)
APO New York, NY 09616

F62088
John Hay Air Base
APO San Francisco, CA 96298

F62321
RA
PACAF Contracting Region, Okinawa
APO San Francisco, CA 96239

F62501
1956 Comm. Group
APO San Francisco, CA 96328

F62509 Misawa AB
QZ APO San Francisco, CA 96519

F62562 PACAF Contracting Center, Japan
SW APO San Francisco, CA 96328

F62600 5DSCS
APO San Francisco, CA 96287

F63197 USAFE Contracting Office
57 OL A Det 7, 7000 Contr. Sq.
APO New York, NY 09291

F64133 Andersen AFB
58 APO San Francisco, CA 96334

F64605 PACAF Contracting Center, Hawaii
TN Hickam AFB, HI 96853

F64608 Pacific Communications Area
Hickam AFB, HI 96853

F64620 CINCPACAF/LGC
SZ Hickam AFB, HI 96853

F64719 PACAF Contracting Center, Philippines
TK APO San Francisco, CA 96274

F65501 Elmendorf AFB
59 AK 99506

F65503 Eielson AFB
60 AK 99702

F65504 1931st Communications Group
APO Seattle, WA 98742

F65517 HQ ACC/LGC
QN Elmendorf AFB, AK 99506

F66501 24th Composite Wing
Howard AFB, Panama 34001

DEFENSE LOGISTICS AGENCY

DLAH00
YK
Hqrs., Defense Logistics Agency
Contracting Directorate
Cameron Station, Alexandria, VA 22314

DLA001
TR
Defense Logistics Services Center
50 North Washington Street
Battle Creek, MI 49016

DLA002
TS
Defense Industrial Plant Equipment Center
Defense Depot Memphis
Memphis, TN 38114

DLA003
TT
Defense Depot Ogden
Ogden, UT 84401

DLA004
TU
Defense Depot Memphis
Memphis, TN 38115

DLA005
TV
Defense Depot Tracy
Tracy, CA 95376

DLA006
W1
Defense Logistics Agency Admin. Support Center
Cameron Station, Alexandria, VA 22314

DLA100
TW
Defense Personnel Support Center
Directorate of Clothing & Textiles
2800 South 20th Street
Philadelphia, PA 19101

DLA120
TX
Defense Personnel Support Center
Directorate of Medical Materiel
2800 South 20th Street
Philadelphia, PA 19101

DLA130
W2
Defense Subsistence Office, Chicago
55 East Jackson Blvd, Rm 1400
Chicago, IL 60605

DLA131
U7
Defense Subsistence Office, Fort Worth
Federal Center Bldg. 23, Rm M18
PO Box 6838
Fort Worth, TX 76115

DLA132
U8
Defense Subsistence Office, Kansas City
911 Walnut Street, Room 1908
Kansas City, MO 64106

DLA135
W4
Defense Subsistence Office, New Orleans
440 Dauphine Street
New Orleans, LA 70146

DLA136
W5
Defense Subsistence Office, Cheatham
Cheatham Annex, Bldg 113
Williamsburg, VA 23185

DLA137
W6
Defense Subsistence Region, Pacific
2155 Mariner Square Loop
Alameda, CA 94501

DLA139
U6
Defense Subsistence Region, Europe
APO New York, NY 09052

DLA140
W7
Defense Personnel Support Center
(Installation Support)
2800 South 20th Street
Philadelphia, PA 19101

DLA400
TY
Defense General Supply Center
Richmond, VA 23297

DLA500
TZ
YQ
Defense Industrial Supply Center
700 Robbins Avenue
Philadelphia, PA 19111

DLA600
UA
Defense Fuel Supply Center
Cameron Station, Alexandria, VA 22314

DLA700
UB
Defense Construction Supply Center
Columbus, OH 43215

DLA710
YL
Defense Construction Supply Center
Local Purchase Branch, Proc. Div. II
Columbus, OH 43215

DLA720
Defense Construction Supply Center
Wood Products Branch, Proc. Div. I
Columbus, OH 43215

DLA900
UD
Defense Electronics Supply Center
1507 Wilmington Pike
Dayton, OH 45444

DLA13H
UE
Defense Personnel Support Center
Directorate of Subsistence
2800 South 20th Street
Philadelphia, PA 19101

DLA8AC
UG
DCASMA, Santa Ana
34 Civic Center Plaza
PO Box C 12700
Santa Ana, CA 92712

DLA8AG
Z3
DCASPRO, Aero
Route 7, Box 40
Lake City, FL 32055

DLA8AL
Y1
DCASMA, Atlanta
805 Walker Street
Marietta, GA 30060

DLA8AT
UL
DCASR, Atlanta
805 Walker Street
Marietta, GA 30060

DLA8BA
UN
DCASMA, Birmingham
908 South 20th Street
Birmingham, AL 35205

DLA8BC
UP
DCASMA, Bridgeport
550 South Main Street
Stratford, CT 06497

DLA8BM
UR
DCASMA, Baltimore
300 East Joppa Road
Towson, MD 21204

DLA8BN
US
DCASPRO, Western Electric Co.
204 Graham Hopedale Road
Burlington, NC 27215

DLA8BP
UT
DCASR, Boston
666 Summer Street
Boston, MA 02210

DLA8BS
Y3
DCASMA, Boston
666 Summer Street
Boston, MA 02210

DLA8BT
UU
DCASPRO, Bendix Corp.
Route 46
Teterboro, NJ 07608

DLA8BV
YT
DCASPRO, GE, Burlington
Lakeside Avenue
Burlington, VT 05402

DLA8CD
UZ
DCASMA, Cedar Rapids
200 First Street, S.E.,
Suite 1400
Cedar Rapids, IA 52401

DLA8CH
UY
DCASR, Chicago, O'Hare International Airport
PO Box 66475
Chicago, IL 60666

DLA8CL
VB
DCASR, Cleveland
Anthony J. Celebrezze Fed. Bldg.
1240 East Ninth Street
Cleveland, OH 44199

DLA8CM
VC
DCASMA, Cincinnati
Federal Office Bldg.
550 Main Street
Cincinnati, OH 45202

DLA8CN
Y5
DCASMA, Cleveland
Anthony J. Celebrezze Federal Bldg.
1240 East Ninth Street
Cleveland, OH 44199

DLA8CS
VE
DCASPRO, General Dynamics
5001 Kearny Villa Road
PO Box 80847
San Diego, CA 92138

DLA8DA
VG
DCASR, Dallas
500 South Ervay Street
Dallas, TX 75201

DLA8DB
Y6
DCASMA, Dallas
500 South Ervay Street
Dallas, TX 75201

DLA8DC
VH
DCASMA, San Diego
Bldg. 4, AF Plant 19
4297 Pacific Coast Highway
San Diego, CA 92110

DLA8DM
Y7
DCASMA, Detroit
McNamara Federal Bldg.
477 Michigan Avenue
Detroit, MI 48226

DLA8DN
VK
DCASMA, Denver
701 West Hampden Ave., Suite E-3210
Englewood, CO 80154

DLA8DP
VL
DCASMA, Dayton
c/o Defense Electronics Supply Center, Bldg. 5
1502 Wilmington Pike
Dayton, OH 45401

DLA8EC
YP
DCASMA, Chicago
O'Hara international Airport
6400 N. Manneheim Road
PO Box 66911
Chicago, IL 60666

DLA8FL
VN
DCASPRO, ITT, Defense Space Group
500 Washington Avenue
Nutley, NJ 07110

DLA8FN
VQ
DCASPRO, Northern Ordnance
Columbia Heights Branch Post Office
Minneapolis, MN 55421

DLA8FS
VR
DCASPRO, FMC
333 Brokaw, PO Box 367
San Jose, CA 95103

DLA8FT
Y2
DCASPRO, Ford Aeronutronic Div
Admin Bldg, Rm 307, Ford Road
Newport Beach, CA 92663

DLA8FW
VS
DCASMA, Fort Wayne
1616 Directors Row
Fort Wayne, IN 46808

DLA8GD
YB
DCASPRO, Gould
18901 Euclid Avenue
Cleveland, OH 44117

DLA8GL
VV
DCASPRO, General Electric
1100 Western Ave (27753)
Lynn, MA 01910

DLA8GM
VW
DCASMA, Grand Rapids
110 Michigan, N.W.
Grand Rapids, MI 49502

DLA8GN
VX
DCASMA, Garden City
605 Stewart Avenue
Garden City, LI, NY 11530

DLA8HB
WA
DCASPRO, Hayes
Hayes International Corporation
PO Box 2583
Birmingham, AL 35202

DLA8HC
WB
DCASMA, Hartford
96 Murphy, Road
Hartford, CT 06114

DLA8HD
WC
DCASPRO, Singer
1225 McBride Avenue
Little Falls, NJ 07424

DLA8HE
Z2
DCASPRO, Hayes (Dothan)
Napier Field
Dothan, AL 36303

DLA8HM
WD
DCASPRO, Honeywell
2701 Fourth Avenue South
Minneapolis, MN 55408

DLA8HR
Z9
Hawaii Residency (DCASMA-SF)
Federal Building, Room 4115
300 Ala Moana Blvd.
Honolulu, HI 96813

DLA8JJ
WG
DCASMA, Indianapolis,
Building I, Finance Center
Fort Benjamin Harrison
Indianapolis, IN 46249

DLA8JK
Z6
DCASPRO, GMC Detroit
Diesel Allison
2355 South Tibbs Avenue
Indianapolis, IN 46241

DLA8KC
WK
DCASMA, Kansas City
Noland Plaza Office Bldg. Room 201
3675 South Noland Road
Independence, MO 64055

DLA8LA
WL
DCASR, Los Angeles
11099 South La Cienega Blvd.
PO Box 45011
Los Angeles, CA 90045

DLA8LB
WM
DCASPRO, Litton
20812 Ventura Blvd.
Woodland Hills, CA 91364

DLA8LC
Y8
DCASMA, Los Angeles
9920 South La Cienega Blvd.
Inglewood, CA 90301

DLA8LT
WN
DCASPRO, E-Systems, Inc.
PO Box 379
Greenville, TX 75401

DLA8MH
X9
DCASPRO, McDonnell Douglas
Astronautics Co., West
5301 Bolsa Avenue
Huntington Beach, CA 92647

DLA8MN
WQ
DCASMA, Twin Cities
2305 Ford Parkway
St. Paul, MN 55116

DLA8MW
WR
DCASMA, Milwaukee
744 North Fourth Street
Milwaukee, WI 53203

DLA8NC
WV
DCASMA, Ottawa
6th Floor, Canadian Bldg.
219 Laurier Avenue West
Ottawa 4, ON, Canada K1A0S5

DLA8NF
WW
DCASMA, Orlando
3555 Maguire Blvd.
Orlando, FL 32803

DLA8NG
WX
DCASMA, Oklahoma City
201 N.W. Third Street, Room 241
Oklahoma City, OK 73102

DLA8NH
YS
DCASPRO, Sanders Associates, Inc.
Daniel Webster Highway South
Nashua, NH 03061

DLA8NJ
WT
DCASMA, Springfield
240 Route 22
Springfield, NJ 07081

DLA8NL
Z1
DCASMA, New Orleans
13800 Gentilly Hwy, Bldg 101
PO Box 29300
New Orleans, LA 70189

DLA8NM
YR
DCASPRO, IBM
Route 17c
Owego, NY 13827

DLA8NN
YN
DCASPRO, PRD Electronics
6801 Jericho Turnpike
Syosset, NY 11791

DLA8NY
WU
DCASR, New York
60 Hudson Street
New York, NY 10013

DLA8NZ
Y9
DCASMA, New York
60 Hudson Street
New York, NY 10013

DLA8PA
WY
DCASMA, Phoenix
3800 North Central Avenue
Phoenix, AZ 85012

DLA8PC
WZ
DCASMA, Pasadena
Gateway Towers Bldg.
3452 East Foothill Blvd.
Pasadena, CA 91107

APPENDIX N — ACTIVITY ADDRESS NUMBERS

DLA8PH
XA
DCASR, Philadelphia
PO Box 7478
Philadelphia, PA 19101

DLA8PL
X3
DCASMA, Philadelphia
PO Box 7699
Philadelphia, PA 19101

DLA8PP
XD
DCASMA, Pittsburgh
1610 South Federal Bldg.
1000 Liberty Avenue
Pittsburgh, PA 15222

DLA8PW
XE
DCASPRO, Ford Aerospace
3939 Fabian Way
Palo Alto, CA 94303

DLA8RB
XF
DCASPRO, Raytheon, Spencer Laboratory
Wayside Avenue
Burlington, MA 01803

DLA8RP
XM
DCASMA, Reading
45 South Front Street
Reading, PA 19602

DLA8RS
X4
DCASPRO, Rocketdyne
6633 Canoga Avenue
Canoga Park, CA 91304

DLA8SA
XN
DCASMA, San Antonio
615 E. Houston
San Antonio, TX 78294

DLA8SB
XP
DCASMA, South Bend
2015 Western Avenue
South Bend, IN 46629

APPENDIX N — ACTIVITY ADDRESS NUMBERS

DLA8SD
X8
DCASPRO, Sundstrand
PO Box 5066
Rockford, IL 61125

DLA8SE
Z5
DCASMA, Oxnard
500 Esplanade Drive, Suite 990
Oxnard, CA 93030

DLA8SF
XR
DCASMA, San Francisco,
1250 Bayhill Drive
San Bruno, CA 94066

DLA8SL
XS
DCASR, St. Louis
1136 Washington Avenue
St. Louis, MO 63101

DLA8SN
XU
DCASMA, Syracuse
U.S. Courthouse & Federal Bldg.
Syracuse, NY 13260

DLA8SP
XJ
DCASMA, St. Petersburg
Monroe Bldg, Suite 205
9720 Executive Center Drive
St. Petersburg, FL 33702

DLA8ST
X5
DCASMA, St. Louis
1136 Washington Avenue
St. Louis, MO 63101

DLA8SU
XV
DCASMA, Salt Lake City
1745 West 1700 South Street
Salt Lake City, UT 84104

DLA8SW
XW
DCASMA, Seattle
Bldg. 5D, Naval Support Activity
Sand Point, Seattle, WA 98115

DLA8SY
XX
DCASPRO, GTE Sylvania
189 B Street
Needham, MA 02194

DLA8TE
XZ
DCASPRO, Texas Instruments
PO Box 6016, MS 256
Dallas, TX 75222

DLA8TO
U3
DCASPRO, Douglas/Rockwell
2000 North Memorial Drive
Tulsa, OK 74115

DLA8VC
YC
DCASMA, Van Nuys
6230 Van Nuys Blvd.
Van Nuys, CA 91408

DLA8WK
YD
DCASMA, Wichita
Wichita Mid-Continent
Airport Terminal Bldg.
Wichita, KS 67209

DLA8WS
YE
DCASPRO, Westinghouse
Hendy Avenue
Sunnyvale, CA 94088

DLA8WT
Z8
DCASPRO, Grumman Aerospace Corp.
Stuart, FL 33494

DEFENSE CIVIL PREPAREDNESS AGENCY

DCPA01
Procurement Services Division
Defense Civil Preparedness Agency
Washington, DC 20301

DEFENSE MAPPING AGENCY

DMA600
Defense Mapping Agency
Bldg. 56, U.S. Naval Observatory
Washington, DC 20305

DMA650
Defense Mapping Agency
Inter-American Geodetic Survey
Drawer 934
Fort Clayton, Canal Zone

DMA700
Defense Mapping Agency
Aerospace Center
8900 South Broadway
St. Louis, MO 63125

DMA800
YZ
Defense Mapping Agency
Hydrographic/Topographic Center
6500 Brooks Lane
Washington, DC 20315

DMA920
Defense Mapping Agency Depot
Clearfield, UT 84016

APPENDIX N — ACTIVITY ADDRESS NUMBERS

DEFENSE COMMUNICATIONS AGENCY

DCA100 Defense Communications Agency
Washington, DC 20305

DCA200 Defense Communications Agency
Defense Commercial Communications Office
Scott AFB, IL 62225

DCA300 DECCO-PAC
1154 Bishop Street
Honolulu, HI 96813

DCA400 DECCO-EUR
APO New York, NY 09130

DEFENSE NUCLEAR AGENCY

DNA001 Defense Nuclear Agency
8Z Washington, DC 20305

DNA002 Headquarters Field Command
Defense Nuclear Agency
Kirtland AFB, NM 87115

DNA004 Armed Forces Radiobiology Research Institute
Defense Nuclear Agency
Bethesda, MD 20014

[FR Doc. 80-19734 Filed 6-30-80; 8:45 am]
BILLING CODE 3810-70-C

APPENDIX N — ACTIVITY ADDRESS NUMBERS

MISCELLANEOUS DEFENSE ACTIVITIES

MDA902 American Forces Radio and Television Service
1016 North McCadden Place
Los Angeles, CA 90038

MDA903 Defense Supply Service – Washington
F7 Room 1D245, The Pentagon
Washington, DC 20310

MDA904 Maryland Procurement Office
BE Procurement & Production Directorate
9800 Savage Road
Fort George G. Meade, MD 20755

MDA905 Uniformed Services University of the Health Sciences
6917 Arlington Road
Bethesda, MD 20014

MDA906 RESERVED FOR CHAMPUS

MDA907 Menwith Hill Station
Harrogate, Yorkshire, England

32 CFR Parts 1–39

[DAC 76–22]

Defense Acquisition Regulation

AGENCY: Department of Defense.

ACTION: Final rule.

SUMMARY: This document publishes changes to the Defense Acquisition Regulation contained in the Code of Federal Regulations. The changes are the same as those in Defense Acquisition Circular 76–22. Some of the changes include: certification of claims; jurisdiction over disputes appeals (SBA); DOL amendments to Walsh-Healey Act Regulations, with new Appendix R; and revised DD Form 633, Contract Price Proposals.

EFFECTIVE DATE: February 22, 1980.

FOR FURTHER INFORMATION CONTACT: J. Brannan, Director, Defense Acquisition Regulatory Council, Room 3D1080, Pentagon, Washington, D.C. 20301, Telephone 202–697–6710.

SUPPLEMENTARY INFORMATION:

Background

The Defense Acquisition Regulation (DAR) is codified in Title 32, Parts 1–39, Volumes I, II, and III, of the Code of Federal Regulations. The July 1, 1979 revision is the most recent edition of that title. It reflects amendments to the 1976 edition made by Circulars 76–1 through 76–19.

The Department of Defense announced the promulgation of the 1979 CFR edition in the **Federal Register** of December 31, 1979 (44 FR 77158). At that time, the Department also announced that any amendments made to the Regulation after Circular 76–19 would be published in the **Federal Register.**

Defense Acquisition Circular 76–22

This document contains amendments to the Defense Acquisition Regulation in the form of replacement pages which were included in DAC 76–22, issued February 22, 1980. The following is a summary of the amendments:

Use of Alternate Disclosure Statement Form by Canadian Concerns Authorized by CASB. At the request of the Canadian Government, the Cost Accounting Standards Board, on 5 July 1979, approved a waiver of the requirements of its regulations which specify that companies required to disclose their practices shall do so on Form CASB–DS–1. In lieu of this CAS Board form, Canadian firms required to disclose their cost accounting practices are authorized to use the Canadian "Statement of Cost Accounting Practices (3/79)."

Changes to Contractor Payment (or Remittance) Address. Recently the DAR Council examined the DAR provisions covering contractor payment addresses to determine if more explicit coverage is required to prevent unauthorized changes in these addresses, which result in payment sent to an improper party. The address for contractor payment specified in the contract is a part of the contract and can only be changed by a contract modification that has the written concurrence of the contractor.

Certification of Claims. Paragraph 1–342 and the clause in 7–104.102 are added to the DAR to implement Section 813 of the DoD Appropriation Authorization Act for 1979 (Pub. L. 95–485), concerning the certification of requests for adjustment or relief exceeding $100,000. A prior version of this coverage was released for use in March 1979. Of that earlier released material, 1–342(c) and paragraphs (c) and (d) of the clause have been revised in this DAC.

ACO Authority to Negotiate and Definitize Adjustments in Contracts. DAR 1–406 is revised to authorize ACOs to negotiate and definitize adjustments to contracts resulting from the exercise of an economic price adjustment provision, when authorized by the contracting office.

Jurisdiction Over Disputes Appeals Relating to Contracts With the Small Business Administration (SBA). The appropriate subparagraphs of DAR 1–705.5(c) are revised to conform to the Contracts Disputes Act of 1978.

DOL Amendments to Walsh-Healey Act Regulations. DAR Section XII, Part 6, is revised to incorporate amended regulations published by the Department of Labor concerning the Walsh-Healey Public Contracts Act. Appropriate provisions of the Department of Labor regulations are included as Appendix R (new).

Identification of Subcontracts and Purchase Orders Containing FMS Requirements. A requirement has been incorporated in the DAR to identify subcontracts and purchase orders containing FMS items. This is necessary to insure that contract administration offices are aware of such purchases and will bill the country involved in the FMS for service rendered.

Government Property Furnished for Repair. The dollar thresholds for the use of Government property clauses in small purchases (less than $10,000) have been revised. Appropriate changes are incorporated in 3–608.2.

DD Form 633, Contracts Price Proposal. A revised DD Form 633 is included in Appendix F. It replaces existing DD Forms 633 and 633–1 through 633–6. Changes to Section XVI and other related portions of the DAR are included in this DAC.

Procurement From the Blind and Other Severely Handicapped—PRICES. DAR 5–506(c) is revised to incorporate the latest provisions of regulations issued by the Committee for Purchase From the Blind and Other Severely Handicapped.

Price Adjustment for Fluid Milk for Beverage Purposes. The clauses in 7–1303.4 and 7–1303.5 have been deleted as they are no longer appropriate. DLA will provide guidance, as required, for buyers of milk products. The responsible activity is the Defense Personnel Support Center (DPSC–SPD), 2800 South 20th Street, Philadelphia, PA 19101.

Approval for Facilities, DAR 13–302 is revised to clarify the approval requirements for the use of Government-owned facilities in research and development-funded projects. In such cases the authority for projects not exceeding $1 million may be delegated to an appropriate level within a Military Department.

Contractors' Purchasing Systems. This DAC contains significant revisions to Section XXIII, Part 1, Review of Contractors' Purchasing Systems. Procedures for conducting these reviews are changed; definitions are clarified and expanded; distribution requirements are revised; and terms are updated. These revisions incorporate essential material from the DoD Manual for contract Procurement System Reviews, which is no longer to be used. Related changes to DAR Supplement No. 1 will be published in early 1980.

Change to DAR Appendix H. DAR H–604.3(e) is revised to incorporate changed instructions with regard to Air Force transactions.

Appendix Q—DoD Foreign Tax Relief Program. Appendix Q is revised to incorporate the latest version of DoD Directive 5100.64, 12 June 1979.

Editorial Changes. Editorial changes are included in this DAC to correct ambiguities, typographical and printing errors, and inconsistencies in previously published material.

Because the Defense Acquisition Regulation concerns agency management, public property, and contracts, it is not necessary to issue proposed rules for public comment. Neither is it necessary to delay the effective date until 30 days after the date of publication of these rules, 5 U.S.C. 553(a) and (d). The amendments became effective on February 22, 1980.

How to Use Replacement Pages

Reproduced at the end of this document are replacement pages from DAC 76–22. The number at the top of each page (for example, 1:16) identifies the page from the Regulation which is being replaced. The number at the bottom of the page is a reference to the last appearing numbered paragraph on that page, or if none shows, on a preceding page. The vertical line in the right margin indicates where the amendment is located.

Adoption of Amendments

Therefore, the July 1, 1979 edition of the Defense Acquisition Regulation contained in 32 CFR Parts 1–39, Volumes I, II, and III, is amended in the DAR paragraphs indicated by substitution of the replacement pages listed in the table:

DAR paragraph	Replacement pages
Volume I	
1-201.14	1:16, 1:17
1-322.1	1:39 thru 1:42
1-322.1	1:42, 1:45, 1:46
1-322.5	1:49
1-322.6	1:50
1-322.7	1:50
1-322.8	1:50 thru 1:53
1-323	1:53
1-323.1	1:53, 1:54
1-323.2	1:54
1-342	1:77-D
1-406	1:84
1-705.5	1:134, 1:134-A, 1:138, 1:138-A
1-905	1:164, 1:165
2-201	2:6
Page 3:57 (basic edition)	3:57 (DPC 76-9)
3-501	3:62
3-608.2	3:90, 3:92, 3:92-A
3-608.6	3:96
3-807.3	3:124
3-807.9	3:135
3-1204.1	3:181, 3:182
3-1204.2	3:182-A
4-116.4	4:18
5-506	5:31, 5:32
Volume II	
7-104.9	7:37, 7:39, 7:42
Page footing	7:63, 7:64
7-104.64	7:116-A
7-104.83	7:128-C
7-704.102	7:140-C, 7:140-D
7-108.1	7:157 thru 7:159
7-108.2	7:160 thru 7:164
7-109.2	7:165 thru 7:167
7-109.3	7:168
7-402.8	7:252
7-1302.5	7:417
7-1303.4	7:418
7-1303.5	7:418, 7:419
7-2003.67	7:522, 7:524-A
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12-602	12:20
12-602.1	12:20
12-602.2	12:20, 12:21
12-603	12:21, 12:22
12-603.1	12:22
12-603.2	12:22
12-603.3	12:22
12-604	12:22 thru 12:24-A
12-605	12:24-A
12-606	12:24-A
12-607	12:24-A, 12:24-B
12-1006	12:24-E
12-1007.3	12:24-E
13-302	13:9, 13:9-A
14-305.2	14:10-A
Volume III	
Page 16:1 (basic ed.)	16:1 (DPC 76-9)
16-103	16:7, 16:8
16-200	16:14
16-205	16:14
16-206.1	16:14, 16:15
16-206.2	16:15
20-704	20:32, 20:33
23-000	23:1
23-100	23:2
23-101	23:2 thru 23:4
23-102	23:4
23-103	23:4, 23:5
23-104	23:5
23-105	23:5 thru 23:7
23-106	23:8
23-106.1	23:8
23-106.2	23:8
23-107	23:8
23-108	23:8 thru 23:8-B
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F-100.33	F:34
F-200.633	F:131 thru F:134
H-604.3	H:44, H:45
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Q-000	Q:1 thru Q:8
Q-201	Q:9
Q-202	Q:9
Q-301	Q:10
(New) App. R	R:1 thru R:8

Dated: June 24, 1980.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

BILLING CODE 3810-70-M

Part 2—Definition of Terms

1–201 Definitions. As used throughout this Regulation, the words and terms defined in this paragraph 1–201 shall have the meanings set forth below, unless (i) the context in which they are used clearly requires a different meaning, or (ii) a different definition is prescribed for a particular Section or portion thereof.

1–201.1 *Change Order* means a written order signed by the contracting officer, directing the contractor to make changes which the Changes clause of the contract authorizes the contracting officer to order without the consent of the contractor (see 16–103).

1–201.2 *Contract Modification* means any written alteration in the specification, delivery point, rate of delivery, contract period, price, quantity, or other contract provisions of an existing contract, whether accomplished by unilateral action in accordance with a contract provision, or by mutual action of the parties to the contract. It includes (i) bilateral actions such as supplemental agreements, and (ii) unilateral actions such as change orders, orders for provisioned items, administrative changes, notices of termination, and notices of the exercise of a contract option.

1–201.3 *Contracting Officer* means any person who, either by virtue of his position or by appointment in accordance with procedures prescribed by this Regulation, is currently a contracting officer (see 1–400) with the authority to enter into and administer contracts and make determinations and findings with respect thereto, or with any part of such authority. The term also includes the authorized representative of the contracting officer acting within the limits of his authority. NOTE: Recent assignments of contract administration responsibilities have necessitated a separation of duties related to procurement, with some duties normally performed at a purchasing office and some normally performed at a contract administration office. For convenience of expression, when requiring performance of specific duties by a contracting officer, this Regulation may refer to a contracting officer at the purchasing office as the procuring contracting officer (PCO), and to a contracting officer at a contract administration office as an administrative contracting officer (ACO). Additionally, a contracting officer, responsible for the settlement of terminated contracts, may be referred to as the termination contracting officer (TCO). It is recognized that a single contracting officer may be responsible for duties in any or all of these areas, and reference in this Regulation to PCO, ACO, or TCO does not of itself require that duty be performed at a particular office or activity or restrict in any way a contracting officer in the performance of any duty properly assigned. For example, a duty specified by this Regulation to be performed by the ACO will be performed by a contracting officer at the purchasing office when contract administration or responsibility for that duty has been retained in the purchasing office in accordance with 20–703.3.

1–201.4 *Contracts* means all types of agreements and orders for the procurement of supplies or services. It includes awards and notices of award; contracts of a fixed-price, cost, cost-plus-a-fixed-fee, or incentive type; contracts providing for the issuance of job orders, task orders, or task letters thereunder; letter contracts, and purchase orders. It also includes supplemental agreements with respect to any of the foregoing.

1–201.5 *Department or Military Department* includes the Department of the Army, the Department of the Navy, the Department of the Air Force, the Defense Logistics Agency, the Defense Communications Agency, the Defense Nuclear Agency, the Defense Mapping Agency, and the National Security Agency.

1–201.6 *Department of Defense* comprises the Office of the Secretary of Defense and the Military Departments.

1–201.7 *Head of Procuring Activity* includes the chief, commander, or other official in charge of a Procuring Activity.

1–201.8 *Includes* means "includes but is not limited to"

1–201.9 *Labor Surplus Area Concern.* See 1–801.1.

1–201.10 *May* is permissive. However, the words "no person may . . ." mean that no person is required, authorized, or permitted to do the act prescribed.

1–201.11 *Negotiate and Negotiation*, when applied to the making of purchases and contracts, refer to making purchases and contracts without formal advertising.

1–201.12 *Possession* in a geographic sense includes the Virgin Islands, the Canal Zone, Swan Islands, Guantanamo Bay, Johnston Island, American Samoa, Guam, Wake Island, Midway Island, and the guano islands but does not include Puerto Rico, leased bases, or trust territories.

1–201.13 *Procurement* includes purchasing, renting, leasing, or otherwise obtaining supplies or services. It also includes all functions that pertain to the obtaining of supplies and services, including description (but not determination) of requirements, selection and solicitation of sources, preparation and award of contract, and all phases of contract administration.

1–201.14 *Procuring Activity* includes:

FOR THE ARMY:

Office of the Deputy for Materiel Acquisition, Assistant Secretary of the Army (Installations and Logistics);

Directorate of Procurement & Production, Headquarters, U. S. Army Materiel Development and Readiness Command;

U. S. Army Armament Materiel Readiness Command;

U. S. Army Armament Research and Development Command;

U. S. Army Missile Command;

U. S. Army Communications Research and Development Command;

U. S. Army Electronics Research and Development Command;

U. S. Army Communications and Electronics Materiel Readiness Command;

U. S. Army Troop Support Agency;

U. S. Army Troop Support and Aviation Materiel Readiness Command;

U. S. Army Tank-Automotive Materiel Readiness Command;

U. S. Army Tank-Automotive Research and Development Command;

U. S. Army Aviation Research and Development Command;

U. S. Army Training and Doctrine Command;

U. S. Army Test and Evaluation Command;

U. S. Army Forces Command;

U. S. Army Health Services Command;

Military District of Washington, U.S. Army;
U.S. Army, Europe;
National Guard Bureau;
Office of the Chief of Engineers;
U.S. Army Communications Command;
Office of The Surgeon General;
U.S. Army Western Command;
Military Traffic Management Command;
U.S. Army Ballistic Missile Defense Organization; and
Assistant Chief of Staff for Automation and Communications.

FOR THE NAVY:
Headquarters, Naval Material Command;
Office of Assistant Deputy Chief of Naval Material
for Contracts and Business Management;
Naval Air Systems Command;
Naval Data Automation Command;
Naval Electronic Systems Command;
Naval Facilities Engineering Command;
Naval Sea Systems Command;
Naval Supply System Command;
Office of Naval Research;
Navy Aviation Supply Office;
Military Sealift Command;
Ships Parts Control Center;
United States Marine Corps; and
Installations and Logistics Department,
Headquarters, U.S. Marine Corps.

FOR THE AIR FORCE:
HQ USAF, Director of Procurement Policy;
Air Force Logistics Command;
Air Force Systems Command;
Strategic Air Command;
Tactical Air Command;
Aerospace Defense Command;
Military Airlift Command;
Air Training Command;
Pacific Air Forces;
United States Air Forces in Europe; and
Alaskan Air Command.

FOR THE DEFENSE LOGISTICS AGENCY:
Office of the Deputy Director for Contract
Administration Services;
Office of the Executive Director, Procurement
and Production;
Defense Supply Centers; and
Defense Personnel Support Center.

FOR THE DEFENSE COMMUNICATIONS AGENCY:
Headquarters, Defense Communications Agency; and
Defense Commercial Communications Office.

FOR THE DEFENSE NUCLEAR AGENCY:
Headquarters, Defense Nuclear Agency.

FOR DEFENSE MAPPING AGENCY:
Headquarters, Defense Mapping Agency, Logistics Office.

FOR THE NATIONAL SECURITY AGENCY:
Headquarters, National Security Agency.

It also includes any other procuring activity hereafter established. The number and designation of particular procuring activities of any Military Department may be changed by directive of the Secretary.

1-201.15 *Secretary* means the Secretary, the Under Secretary, or any Assistant Secretary of any Military Department. Secretary shall also include the Director and Deputy Director of the Defense Supply Agency, the Director of the Defense Communications Agency, the Director, Defense Nuclear Agency, the Director, Defense Mapping Agency, and the Director of the National Security Agency, except to the extent that any law or executive order limits the exercise of authority to persons at the Secretarial level. In the latter situation, such authority shall be exercised by the Assistant Secretary of Defense (Installations and Logistics).

1-201.16 *Shall* is imperative.

1-201.17 *Small Business Concern*. See 1-701.1.

1-201.18 *Supplemental Agreement* means any contract modification which is accomplished by the mutual action of the parties. (See 16-103.)

1-201.19 *Supplies* means all property except land or interest in land. It includes public works, buildings, and facilities; ships, floating equipment, and vessels of every character, type, and description, together with parts, and accessories thereto; aircraft and aircraft parts, accessories, and equipment; machine tools; and the alteration or installation of any of the foregoing. "Supplies" as used in this Regulation is synonymous with "property" as described in 10 U.S.C. 2303(b).

1-201.20 *United States*, when used in a geographic sense, means the States and the District of Columbia.

1-201.21 *Construction*. See 18-101.1.

1-201.22 *Classified Procurement* is that which requires access to classified information ("Confidential, Secret or Top Secret") either to submit a bid or proposal, or to perform the contract; see 1-320.

1-201.23 *Designee*, as used, for example, in the phrase, "Head of a Procuring Activity or his designee", may include one or more officials.

1-201.24 *Purchasing Office* means the office which awards or executes a contract for supplies or services and performs post-award functions not assigned to a contract administration office.

1-201.25 *Contract Administration Office* means the office which performs assigned functions related to the administration of contracts, and assigned pre-award functions.

1-201.26 *Assignment of Contract Administration* means that process whereby identified functions, duties, or responsibilities related to the administration of

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1-322 Multiyear Contracting.

1-322.1 General.

(a) Description of Procedure: Multiyear contracting is a method of acquiring for DoD planned requirements for up to a 5-year period (4 years in the case of maintenance and operation of family housing), without having total funds available at time of award. Multiyear contract quantities are budgeted for and financed in accordance with the applicable program year as reflected in the DoD Five-Year Defense Program. This method may be used for either competitive or noncompetitive contracting. With respect to competitive contracting, award may be based on price only or price and other factors considered. (See 1-322.4(a)(2)). The contractor is protected against loss resulting from cancellation by contract provisions allowing reimbursement of unrecovered nonrecurring costs included in prices for canceled items. However, the cancellation ceiling for any contract may not be in excess of $5 million unless the Congress, in advance, approves such a cancellation ceiling.

(b) Policy. Contracts awarded under this multiyear procedure shall be firm fixed price or fixed price with provisions for economic price adjustment. Use of multiyear contracting is encouraged to take advantage of one or more of the following:

(i) lower costs;
(ii) enhancement of standardization;
(iii) reduction of administrative burden in the placement and administration of contracts;
(iv) substantial continuity of production or performance, thus avoiding annual startup costs, preproduction testing costs, make-ready expenses, and phaseout costs;
(v) stabilization of work forces;
(vi) avoidance of the need for establishing and "proving out" quality control techniques and procedures for a new contract each year;
(vii) broadening the competitive base with opportunity for participation by firms not otherwise willing or able to compete for lesser quantities, particularly in cases involving high startup costs; and
(viii) implementation of the Industrial Preparedness Program for planned items with planned producers.

(c) Use.

(1) The multiyear contracting method should be used

when it is determined that:

(i) the Government need for the supplies or services being acquired over the period of the contract is reasonably firm and continuing; and
(ii) such a contract will serve the best interests of the Government by encouraging effective competition or promoting economies in performance and operation.

(2) Prior to use of the multiyear method in the case of noncompetitive contracting, the head of the contracting activity or his designee must determine that (i) changes to an extent that would have a major impact on contract price, e.g., design and specification changes or changes in production methods, are not expected to occur, and (ii) the item is expected to be obtainable only from a sole source during the entire multiyear period.

(3) Prior to the use of the multiyear contracting method in the case of items regularly manufactured and offered for sale in substantial quantities in the commercial market, the head of the contracting activity or his designee must determine that the criteria in (c)(1) are met, significant benefits or cost savings would result, and either (A) the quantities to be acquired by the Government represent a substantial portion of the total market and would require special manufacturing runs for all or substantially all of the Government's requirements, or (B) the items to be acquired require repair parts support and are not susceptible to significant changes on a periodic basis.

(d) Limitations. Multiyear contracts for supplies and services shall not be used:

(1) When funds covering the acquisition are limited by statute for obligation during the fiscal year in which the contract is executed (but see 1-322.6, Multiyear Contracting of Services under Public Law 90-378, for multiyear contracting of specified service outside the 48 contiguous States and District of Columbia; and 1-322.7, for multiyear contracting of supplies and services for the maintenance and operation of familty housing under Public Law 91-142).

(2) To obtain requirements which are in excess of the Five-Year Defense Program.

(3) In the case of services, until a written determination has been made that (i) there will be a continuing requirement for the services and incidental supplies, consonant with current plans for the proposed contract period; (ii) the furnishing of such services and incidental supplies will

require a substantial initial investment in plant or equipment and the incurrence of substantial contingent liabilities for the assembly, training, or transportation of a specialized work force, or other substantial startup costs; and (iii) the use of such a contract will promote the best interests of the United States by encouraging effective competition and promoting economics of operation.

(4) In the case of services, until the determination required by (3) above has been executed by—

(i) the chief of the contracting office when the contract period will not exceed 2 years and the estimated annual expenditures thereunder do not exceed $350,000;

(ii) the head of the contracting activity or his designee (not below the chief of the contracting office) when the contract period will exceed 2 years, including any options (except see (iii) below for multiyear contracting of services under Public Law 90-378) or when the contract period will not exceed 2 years, but the estimated annual contract expenditure will exceed $350,000;

(iii) the Assistant Secretary responsible for acquisition in the respective Department, or the Directors of Defense Agencies for multiyear contracting of services performed outside the 48 contiguous States and the District of Columbia under Public Law 90-378 when the contract period will exceed 3 years, including any option, regardless of dollar value.

(e) Set-Asides. Total small business set-asides are compatible with the multiyear method of contracting. Partial set-aside procedures (both small business and labor surplus area) are generally not compatible with the multiyear procedure when high startup costs are involved (potential duplication of such costs by the set-aside contractor and the non-set-aside contractor is not offset by broader and more realistic competition). Partial set-asides are compatible when the opportunity for cost savings is based on assurance of continuity of production over longer periods of time. When considering use of this procedure, the contracting officer shall request the activity's small business specialist and the SBA representative, if one is assigned to that activity, to review all pertinent facts and make recommendations thereon.

(f) Multiyear Subcontracts. The same benefits and advantages that are derived from multiyear prime contracts may frequently be increased by multiyear subcontracts thereunder. The prime contractor in the exercise of his management responsibilities must freely choose the subcontract types that best satisfy his needs. However, multiyear prime contractors should be encouraged to employ multiyear subcontracts selectively when—

(i) the subcontract item or service is of stable design and specification;

(ii) the quantity required is reasonably firm and continuing;

(iii) effective competition is assured; and

(iv) the use of multiyear subcontracts can reasonably be expected to result in reduced prices.

In such cases, the prime contractor is adequately protected against cancellation since appropriate cancellation charges for such multiyear subcontracts are included within the cancellation charge of the multiyear prime contract. Multiyear subcontracts may be particularly desirable under a sole source multiyear prime contract since effective competition at the subcontract level may thereby be enhanced and the attendant cost reductions realized by the prime contractor and the Government.

(g) Use of Options.

(1) Options may be used when some future requirements are definite and additional quantities of supplies or services are likely, though not definitive as to amount.

(2) Options to increase quantities or options to renew the contract for a reasonable period shall be priced not to include (i) charges for plant and equipment already amortized or (ii) any other nonrecurring charges that were included in and already recovered under the basic contract price. Any such option provision shall not exceed the period described in 1-1502(d).

1-322.2 Procedures for Supply and Service Contracts.

(a) Where competition is anticipated, solicitations shall include:

(1) A statement of the requirements, separately identified for—

(i) the first program year; and

(ii) the multiyear contract including the requirements for each program year thereunder.

(2) When a first program year "buy-in" is not anticipated—

(i) provisions that (A) a price must be submitted

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years as may be funded by the Government;

(ii) the applicable Cancellation of Items clause (see 7-104.47(b), 7-1903.33(b), or 7-1903.33(d)), which allows the Government to cancel by a specified date or within a specified period, all remaining program years; and

(iii) the Cancellation ceiling set forth in the schedule.

(c) The term "cancellation" as used in multiyear contracting, except as otherwise provided for modified requirements contracts in 1-322.8(c)(9)(iv), refers only to the cancellation of the total requirements of all remaining program years. Such cancellation results from:

(1) Notification from the contracting officer to the contractor of nonavailability of funds for contract performance for any subsequent program year; or

(2) Failure of the contracting officer to notify the contractor that funds have been made available for performance of the succeeding program year requirement. For each program year except the first, the contracting officer shall establish a cancellation ceiling applicable to the requirements of the remaining program years which are subject to cancellation. Such ceilings shall be expressed in the schedule and shall apply alike to all bidders or offerors. The cancellation ceiling percentage for each program year shall be in direct proportion to the total requirements at the beginning of that year and all remaining years subject to cancellation. For example, consider that the total nonrecurring costs are estimated at 10 percent of the total multiyear price and the total multiyear requirements for 5 years are 30 percent in the first year, 30 percent in the second, 20 percent in the third, 10 percent in the fourth, and 10 percent in the fifth. Cancellation percentages would be 7, 4, 2, and 1 percent of the total multiyear price applicable at the beginning of the second, third, fourth, and fifth program years, respectively. In determining cancellation ceilings, the contracting officer must estimate reasonable preproduction or startup, labor learning, and other nonrecurring costs to be incurred by an "average" prime or subcontractor, which would be applicable to, and which normally would be amortized over, all items or services to be furnished under the multiyear requirements. They include such costs as the following, where applicable: plant or equipment relocation or rearrangement; special tooling and special test equipment; preproduction engineering; initial rework; initial spoilage;

pilot runs; allocable portions of the costs of facilities to be acquired or established for the conduct of the work; costs incurred for the assembly training and transportation of a specialized work force to and from the job site; and unrealized labor learning. They shall not include any costs of labor or materials, or other expenses (except as indicated above), which might be incurred for performance of subsequent program year requirements. The total estimate of the above costs must then be compared with the best estimate of the contract cost to arrive at a reasonable percentage figure. Cancellation dates for each program year's requirements shall be established as appropriate.

(d) Original cancellation ceilings and dates may be revised after issuance of a solicitation if it is found that such ceilings and dates are not realistic. In the case of formal advertising, such changes shall be by amendment of the invitation for bids prior to bid opening. In two-step formal advertising, discussion conducted during the first step may indicate the need for revised ceilings and dates (which may be incorporated) in step two. In a negotiated acquisition, negotiations may provide information which requires a change in cancellation ceilings and dates (see 3-805.4).

(e) In order to assure that all interested sources of supply are thoroughly aware of how multiyear contracting is accomplished, use of presolicitation or prebid conferences may be advisable.

(f) Price Adjustment/Economic Price Adjustment Clauses. In the case of supplies, the contracting officer should ascertain whether economic price adjustment provisions are appropriate in light of 3-404.3. When the Service Contract Act of 1965 clause is included in a contract (see 7-1903.41(a)), the appropriate price adjustment clause in 7-1905 shall be used. The latter clause may be modified in overseas contracts to allow for economic price adjustment when laws, regulations, or international agreements require contractors to pay higher wage rates. In cases when potential fluctuations in labor or material costs are such that contingencies therefor are not provided for in 7-1905 and are likely otherwise to be included in the multiyear contract price, the contracting officer may use a provision for economic price adjustment authorized by 3-404.3(c).

(g) For each program year requirement, funds shall be obligated to cover the full quantities to be delivered thereunder. There is presently no requirement to fund cancellation charges.

responsive bid or offer is received on the multiyear requirements from a responsible bidder or offeror, award shall be made only with the advance approval of the chief of the contracting office.

(c) In no event shall award be made at an unreasonable price (see 2-401.4 and 3-801).

(d) In the case of noncompetitive acquisitions, awards shall be made only if a detailed review of the cost and technical proposals supports the determination made under 1-322.1(c)(ii), and significant benefits or cost savings will result from multiyear acquisition.

1-322.5 Clauses. The clauses in 7-104.47 (a) and (b) shall be included in all supply contracts under the multiyear contracting method and the clauses in 7-1903.33(a) and (b) shall be included in all contracts for the contracting of services under the multiyear contracting method, except as provided in 1-322.6 and 1-322.7.

1-322.6 Multiyear Contracting of Services Under Public Law 90-378.

(a) Under Public Law 90-378 (10 U.S.C. 2306(g)), the Department of Defense is authorized to enter into multiyear acquisitions for the following listed services, to be performed outside the 48 contiguous States and the District of Columbia, to obtain requirements which are not in excess of the Five-Year Defense Program and for which funds are limited by statute for obligation during the fiscal year in which the contract is executed:

(i) operation, maintenance, and support of facilities and installations;

(ii) maintenance or modification of aircraft, ships, vehicles, and other highly complex military equipment;

(iii) specialized training necessitating high quality instructor skills (for example, pilot and other aircrew members; foreign language training); and

(iv) base services (for example, ground maintenance; in-plane refueling; bus transportation; refuse collection and disposal).

However, such acquisitions shall be entered into for no more than a 5-year period and only when such acquisitions are consistant with the policies of and satisfy the requirements set forth in 1-322.1 through 1-322.5 (except as provided in (b) and (c) below). The performance years specified in the schedule shall not extend beyond the end of any fiscal year (1 October - 30 September).

(b) Since acquisitions under this authority are limited for execution on a fiscal year basis, references to "program year" throughout 1-322.6 shall be considered to mean "fiscal year."

(c) Clauses. The clauses in 7-1903.33(c) and (d) shall be included in all service contracts for the acquisition of services under this paragraph 1-322.6 on a multiyear basis.

1-322.7 Multiyear Acquisition of Supplies and Services Under Public Law 91-142.

(a) General. Under Section 512 of Public Law 91-142, the Department of Defense is authorized to enter into contracts for periods of no more than 4 years for supplies and services required for the maintenance and operation of family housing for which funds would otherwise be available only within the fiscal year for which appropriated. Such acquisitions shall be entered into only when they are consistent with the policies and satisfy the requirements set forth in 1-322.1 through 1-322.5 (except as provided in (b) and (c) below). The performance years specified in the schedule shall not extend beyond the end of any fiscal year (1 October - 30 September).

(b) Limitations. Since acquisitions under this authority are limited for execution on a fiscal year basis, references to "program year" throughout 1-322.6 shall be considered to mean "fiscal year."

(c) Clauses. The clauses in 7-1903.33(c) and (d) shall be included in all contracts for the acquisition of supplies or services under this paragraph 1-322.7 on a multiyear basis.

1-322.8 Multiyear Acquisition Using Modified Requirements-Type Contracts.

(a) Description of Procedure. Competitive multiyear acquisition of supplies and/or services may be conducted using a requirements-type contract, modified from the 3-409.2 type as described below. This type of contract will only be used when anticipated annual requirements, expressed as the Best Estimated Quantity (BEQ), can be projected with reasonable certainty. Under this method, a firm fixed price or fixed price with provisions for economic price adjustment contract is awarded for specified supplies and/or services up to a designated maximum quantity with orders places on an as-required basis during the multiyear period. Contracts awarded on the first program year requirements only will not include provision for cancellation charges. The modified requirements-type contract differs from the 3-409.2 requirements-type contract in the following respects:

(1) Contract quantities anticipated to be acquired

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are set forth in the contract as the BEQ.

(2) Nonrecurring costs are to be amortized on the BEQ.

(3) The contractor is entitled to reimbursement for preproduction and other nonrecurring costs in accordance with the contract schedule cancellation ceiling in the event that the Government orders lesser quantities than the aggregate BEQ, or cancels program year requirements by cancellation notice.

(4) Quantities in excess of the aggregate BEQ and up to the maximum quantity set forth in the schedule will be priced exclusive of the nonrecurring costs amortized on the BEQ.

(b) Use. Multiyear acquisition using modified requirements-type contracts shall not be used unless (i) the requirement can be projected with reasonable certainty; and (ii) the requirements meet the general criteria for multiyear acquisition. (See 1-322.1(b) and (c).)

(c) Solicitation Procedures. Solicitation procedures shall be in conformance with 1-322.2 except that the term "requirements" as used in 1-322.2 will be deemed to mean BEQ. The solicitation shall include:

(1) A BEQ and a maximum quantity for each item for both the first program year and for each subsequent program year. The maximum quantity for individual program years is not separately priced.

(2) A line item, essentially as follows, to apply to quantities exceeding the aggregate multiyear BEQ:

"The price established for this line item is applicable to all units ordered in excess of the aggregate BEQ of . . . and up to the total multiyear contract maximum quantity of . . . ."

(3) Solicitation schedule notes, essentially as follows:

(i) "NOTE 1: Offeror will submit a single unit price for the single year requirement, which shall apply to all quantities up to the single year maximum in the event that a 1-year requirements contract is awarded for the single year requirement only. If a contract is awarded on the first program year requirements only, such a contract will not provide for any cancellation charges."

(ii) "NOTE 2: Offeror will submit a single unit price, inclusive of nonrecurring

costs, to be entered on the schedule as the BEQ price for each program year, applicable to quantities within and up to the aggregate BEQ, under multiyear procedures."

(iii) "NOTE 3: Offerors will also submit a single unit price, exclusive of nonrecurring costs amortized over the BEQ, applicable only to quantities ordered in excess of the aggregate BEQ and up to the total multiyear contract maximum quantity."

(4) A provision that quantities ordered in excess of the program year BEQ but which do not exceed the aggregate BEQ will be priced inclusive of nonrecurring costs.

(5) A provision that evaluation will be on the basis of the lowest unit price offered for the first program year BEQ against the lowest unit price offered for the aggregate BEQ.

(6) A provision setting forth a single cancellation ceiling, applicable only in the event of contract award on the multiyear basis.

(7) A notification that the amount of cancellation charges payable shall be determined on the basis of the ratio between the total quantity ordered at the time of cancellation and the aggregate contract BEQ.

(8) A date or specific time period for Government notification to the contractor as to the availability or nonavailability of funds and any anticipated significant changes in the BEQ for the succeeding program year.

(9) The following clauses shall be included under the multiyear requirements method:

(i) Ordering. Insert the clause at 7-1101.

(ii) Delivery Order Limitations. Insert the clause at 7-1102.2(a).

(iii) Requirements. Insert the clause at 7-1102.2(b)(5).

(iv) Cancellation of Items. Insert the clause at 7-104.47(b), 7-1903.33(b), or 7-1903.33(d) but the solicitation shall provide that in the event the contract is awarded on the alternative multiyear basis, paragraph (c) of the clause will be deleted and the following will be substituted for paragraph (b) of the clause:

"(b) As used herein, the term 'cancellation' means that the Government is cancelling, pursuant to this clause, its anticipated requirements for items as set forth in the schedule for all program years subsequent to that in which notice of cancellation is provided. Such cancellation shall occur if, by the date or within the time period specified in the schedule or such further time as may be agreed to, the contracting officer (i) notifies the Contractor that funds will not be available for contract performance for any subsequent program year or (ii) fails to notify the Contractor that funds will be available for performance of a requirement for the succeeding program year. 'Cancellation' shall also be deemed to have occurred if, upon expiration of the final program year, the Government has failed to order the specified items in quantities up to the aggregate Best Estimated Quantity set forth in the schedule. Following cancellation under this clause of any program year(s), the Government shall not be obligated to issue nor the contractor to accept any further orders under this contract."

1-323 Safety Precautions for Hazardous Materials.

1-323.1 *Safety Precautions for Ammunition and Explosives.*

(a) The safety requirements of DoD 4145.26M, "DoD Contractors' Safety Manual for Ammunition, Explosives, and Related Dangerous Material" are to be applied to all contracts involving ammunition or explosives. To accomplish this policy, all solicitations and resulting contracts involving the development, testing, storage, manufacture, modification, renovation, demilitarization, packaging, transportation, handling, disposal, inspection, repair or other use of ammunition and explosives shall include the clause set forth in 7-104.79. The clause is not to be included in contracts solely because of:

(i) inert components containing no explosives, active chemicals or pyrotechnics, or

(ii) flammable liquids, acids or other chemicals having fire or explosive characteristics unless such chemicals are intended for initiation, propulsion or detonation as an integral or component part of an ammunition or explosive end item or weapon system.

(b) It is essential that contracts containing the above clause be administered in such manner as to assure safety without unnecessary application of the requirements of the Manual to contractor operations or facilities not directly involved. As provided in the clause, the requirements of the Manual are to be applied only to the contractor's operation relating to ammunition and explosives.

(c) Omission of the clause from solicitations and contracts referred to in (a) above or waiver of mandatory requirements of the Manual prior to contract award must be approved by the HPA or his sole designee. When mandatory requirements of the Manual are to be waived prior to award, the specific requirements to be waived must be set forth in the solicitation or by modification thereto. Care must be taken to assure that the waivers granted are compatible with sound safety principles.

(d) When hazardous materials other than ammunition and explosives are involved, see 1-323.2.

1-323.2 *Safety Requirements for Hazardous Materials Other Than Ammunition and Explosives.*

(a) Safety and Health Regulations promulgated by the Occupational Safety and Health Administration (OSHA) under Public Law 85-742 (Safety and Health Regulations for Ship Repairing, Shipbuilding, and Shipbreaking) and Public Law 91-596 (Occupational Safety and Health Act of 1970) require that employees be apprised of all hazards to which they may be exposed, relative symptoms and appropriate emergency treatment and proper conditions and precautions for safe use or exposure. Federal Standard 313A (Material Safety Data Sheet, Preparation and Submission of) details criteria for identification and certification of hazardous materials. To accomplish this objective, contractors and their subcontractors and vendors are required to submit hazardous material identification data and information necessary to assure the safe operation and environmentally acceptable disposal at Government activities through positive control over hazardous characteristics of materials used.

(b) Government activities are required to comply with OSHA standards with respect to insuring that employees are apprised of all hazards to which they may be exposed, relevant symptoms and appropriate emergency treatment, and for proper conditions and precautions of safe use or exposure. Therefore, all solicitations and resultant contracts which require the delivery of hazardous substances, as defined in Federal Standard No. 313A, or under which the performance of work, use, handling, manufacture, packaging, transportation, storage, inspection or disposal of, or any other use which will involve exposure to such hazardous materials shall include the clause in 7-104.98. Hazardous material identification data shall be required for procurement of all items in the Federal Supply Classes indicated in Table I of Appendix A of Federal Standard 313A and items that would ordinarily be cataloged thereunder and only those items having hazardous characteristics in the Federal Supply Classes indicated in Table II of Appendix A of Federal Standard 313A. With respect to items not cataloged under Federal Supply Classes listed in Appendix A of Federal Standard 313A, the clause in 7-104.98 shall, on the advice of the technical representative, be included in solicitations and resultant contracts only for material which by reason of its potentially dangerous nature, requires controls to assure adequate safety to life and property.

(iii) the contractor or subcontractor agrees to come into compliance with the wage and price standards and to make any reduction of the contract price that is equitable in the circumstances.

(i) *Waiver of Certification.*

(1) Waiver of the contract certification should be considered only when the Government cannot forego or postpone the acquisition because of an urgent national security or public safety requirement and (i) there are no alternative sources or (ii) seeking alternative sources is not feasible because of urgency of requirements or disruption of essential program functions.

(2) Such waivers may be granted only by the Secretary after thoroughly exhausting all reasonable alternatives.

(3) Waivers shall be in writing, and a copy of the waiver shall be forwarded within 10 days to the Administrator for Federal Procurement Policy.

(4) Prime contractors will submit requests for subcontract award waivers to the contracting officer.

1-342 Certification of Requests for Adjustment or Relief Exceeding $100,000.

(a) Section 813 of the 1979 Department of Defense Appropriation Authorization Act, Public Law 95-485, requires the certification of contract claims, requests for equitable adjustment to contract terms, requests for relief under Public Law 85-804, and similar requests exceeding $100,000. This certification must be signed by a senior company official in charge at the plant or location involved. Although the law only requires submission of the certification with requests exceeding $100,000, even if the requirement is not set forth in the contract, the clause contained in 7-104.102 shall be inserted in all contracts expected to exceed $100,000 in value.

(b) Submission of the Section 813 certification is required in addition to any certification required by the Truth in Negotiations Act and by 3-807.

(c) Section 6(c) of the Contract Disputes Act, Public Law 95-563, also requires the certification of claims. The Section 813 certification described above is due when the claim or request for relief is first asserted to the Government. However, the certification under the Contract Disputes Act is due only after a dispute has come into being and the contractor submits a written claim for the purpose of obtaining a contracting officer's decision. A single certification, using the language prescribed by the Contract Disputes Act but signed by a senior company official in charge at the plant or location involved, can be used to comply with both statutes in those situations where the first assertion of a claim or request for relief coincides with the inception of a contract dispute.

Part 4—Procurement Responsibility and Authority

1–400 Scope of Part. This Part deals with the procurement responsibility and authority of (i) the Head of a Procuring Activity, (ii) purchasing offices, (iii) contract administration offices, and (iv) contracting officers, and with the appointment of contracting officers. This Part also imposes limitations upon the authority to enter into and administer contracts. For the purpose of this Part, the term "contracting officer" does not include authorized representatives of the contracting officer.

1–401 Responsibility of Each Procuring Activity. Except as otherwise prescribed by procedures of each respective Department, the Head of a Procuring Activity is responsible for the procurement of supplies and services under or assigned to the procurement cognizance of his activity.

1–402 Authority of Contracting Officers. Contracting officers at purchasing offices (see 1–201.24) are authorized to enter into contracts for supplies or services on behalf of the Government, and in the name of the United States of America, by formal advertising, by negotiation, or by coordinated or interdepartmental procurement; and when authorized by 20–703 to administer such contracts, in accordance with this Regulation. This authority is subject to the requirements prescribed in 1–403 and 1–404 and any further limitations, consistent with this Regulation, imposed by the appointing authority. Contracting officers at contract administration offices (see 1–201.25) are, except as provided in 20–703.3, authorized to perform the applicable contract administration functions (see 1–406) and to perform additional procurement functions when delegated by the purchasing office.

1–403 Requirements To Be Met Before Entering Into Contracts. No contract shall be entered into unless all applicable requirements of law and of this Regulation, and all other applicable procedures, including business clearance and approval, have been met.

1–404 Special Requirements To Be Met Before Entering Into Negotiated Contracts. In addition to the requirements in 1–403, no negotiated contract shall be entered into until the determinations and findings required by Section III, Parts 3 and 4, with respect to the circumstances justifying negotiation and with respect to any use of a special method of contracting have been made.

1–405 Selection, Appointment, and Termination of Appointment of Contracting Officers. The selection, appointment, and termination of appointment of contracting officers shall be made only by the Secretary of the Department, the Head of a Procuring Activity, or their designees.

1–405.1 *Selection.*

(a) *Considerations.* In selecting contracting officers, the appointing authority shall consider experience, training, education, business acumen, judgment, character, reputation, and ethics.

(b) *Evaluation of Experience, Training, and Education.* In considering experience, training, and education, the following shall be evaluated:

(i) experience in a Government procurement office, commercial procurement, or related fields;

(ii) formal education or special training in business administration, law, accounting, or related fields;

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the ISR and ISM (See Appendix C, Industrial Security Regulation, DoD 5220.22-R, for partial listing of primary responsibilities (also see 1-320).);

(liii) make payments on assigned contracts (but see 20-706);

(liii) assign and perform supporting administration;

(liv) assure timely submission of required reports;

(lv) will advise and assist defense contractors regarding their priorities and allocations responsibilities and assist defense purchasing activities in processing requests for special assistance and for priority ratings for privately-owned capital equipment;

(lvi) process and execute novation and change of name agreements in accordance with Section XXVI, Part 4;

(lvii) when authorized by the purchasing office, negotiate or negotiate and execute supplemental agreements accelerating or decelerating contract delivery schedules;

(lviii) when authorized by the purchasing office, negotiate or negotiate and execute supplemental agreements providing for the de-obligation of unexpended dollar balances considered excess to known contract requirements;

(lix) determine adequacy of prime contractor's Disclosure Statements;

(lx) determine whether prime contractor's Disclosure Statements are in compliance with Section XV and Cost Accounting Standards;

(lxi) determine contractor compliance with Cost Accounting Standards and Disclosure Statements, if applicable;

(lxii) negotiate price adjustments and execute supplemental agreements pursuant to the Cost Accounting Standards clauses in 7-104.83;

(lxiii) perform post award surveillance of contractor progress toward demonstration of Cost/Schedule Control Systems to meet the Cost/Schedule Control Systems Criteria (see 7-104.87), provide assistance in the review and acceptance of contractors' Cost/Schedule Control Systems, and perform post acceptance surveillance to insure continuing operation of contractors' accepted systems;

(lxiv) when authorized by the purchasing office, issue amended shipping instructions and, when necessary, negotiate and execute supplemental agreements incorporating contractor proposals resulting from the amended shipping instructions;

(lxv) when authorized by the purchasing office, issue change orders and negotiate and execute resultant supplemental agreements under contracts for ship construction, conversion and repair;

(lxvi) issue contract modifications requiring the contractor to provide packing, crating and handling services on excess Government property. When the ACO determines it to be in the Government's best interests, he may secure such services from other than the contractor in possession of the property;

(lxvii) approve contractor acquisition/fabrication of special test equipment as provided in paragraph (b) of the clause in 7-104.26;

(lxviii) negotiate and execute contractual documents for settlement of cancellation charges under multi-year contracts;

(lxix) evaluate and monitor contractor's procedures for complying with the Restrictive Markings on Technical Data clause in 7-104.9(p);

(lxx) monitor the contractor's costs as set forth in 20-1000;

(lxxi) issue Notice of Intent to Disallow or Not Recognize Costs (see 15-206);

(lxxii) negotiate forward pricing rate agreements;

(lxxiii) analyze quarterly limitation on payments statements and recover overpayments from the contractor;

(lxxiv) when authorized by the contracting office, negotiate changes to interim billing prices; and

(lxxv) when authorized by the contracting office, negotiate and definitize adjustments to contract prices resulting from exercise of an Economic Price Adjustment clause.

Contracting functions not designated as contract administration functions shall remain the responsibility of the contracting office.

Utilization or his designee of the intent to proceed with the acquisition without further regard to the Section 8(a) procedures, unless additional time is requested by the SBA and such additional time can be granted considering the urgency of the requirement.

(D) It will be the responsibility of the SBA to provide written certification as to its competency to perform the contract in the form of a provision in the SBA contract with the DoD contracting office substantially as follows:

> SBA certifies that it is competent to perform the requirement as stated in this contract.

(E) A pre-award survey of the SBA's contractor, as required by 1-905.4, will not generally be requested by the DoD contracting officer. The SBA or the DoD contracting officer may request a cognizant contract administration office to assist in a review of a specific element pertaining to the SBA's contractor's responsibility.

(F) Certified cost or pricing data, when required by 3-807.3, or needed to determine an estimated current fair market price, shall be obtained by the contracting officer. The request shall provide for the submission in writing by the SBA's contractor of cost or pricing data with a supporting certificate.

(G) Subsequent to agreement with SBA on satisfactory terms and conditions, including an estimated current fair market price and receipt of the SBA's reimbursable order for any business development expense (if appropriate), the contracting officer shall proceed with the award of a contract to the SBA, after approval has been obtained from: Department of the Army, the Deputy for Materiel Acquisition, OASA (RDA); Department of the Navy, the Director of Acquisition and Contract Policy, OASN (M,RA&L); Department of the Air Force, AF/RDC, Defense Logistics Agency, the Executive Director Contracting; Defense Communications Agency, The Director; Defense Nuclear Agency, Deputy Director, Operations and Administration; Defense Mapping Agency, Deputy Director of Logistics; or their designees.

(H) For follow-on year acquisitions in support of the SBA requested commitment, the SBA will initiate individual requests to the Department concerned for each ensuing proposed Section 8(a) contract. This process will permit, prior to actual negotiations of follow-on Section 8(a) awards, the Department to verify the availability of requirements, funding and other pertinent factors. It will be the responsibility of the SBA to provide certification for each Section 8(a) contract in accordance with 1-705.5(c)(1)(D).

(I) To assist the SBA, DoD contracting offices shall prepare two contract sets, as follows:

(i) Prepare Standard Form 26 for use by the SBA with the SBA's contractor. The Standard Form 26 shall show "15 USC 637(a)" in Block 13 and contain all of the information required with the exception of the following, which will be inserted by the SBA:

(*a*) Block 1, the SBA contract number, which will be constructed in general conformance with Section XX, Part 2;
(*b*) Block 2, the effective date;
(*c*) Block 24, the signature of the SBA's contractor;
(*d*) Block 25, the SBA contractor's date;
(*e*) Block 27, the signature of the SBA's contracting officer;
(*f*) Block 28, the name of the SBA's contracting officer; and
(*g*) Block 29, the date signed.

The contract shall incorporate the general provisions of Standard Form 32, including DoD alterations thereto, and other appropriate provisions as required, recognizing that this contract will be executed between the SBA and the SBA's contractor. The contract also shall include the appropriate one of the following clauses:

(*a*) For all contracts excepting civil works contracts of the Corps of Engineers—

> JURISDICTION OVER DISPUTES APPEALS (1979 MAR)
>
> For the purposes of Section 8(d) of the Contract Disputes Act of 1978, Public Law 95-563, the agency board designated as having the jurisdiction to decide appeals from decisions of the Contracting Officer relative to disputes relating to this contract is the Armed Services Board of Contract Appeals.

(*b*) For civil works contracts of the Corps of Engineers—

> JURISDICTION OVER DISPUTES APPEALS (1979 MAR)
>
> For the purposes of Section 8(d) of the Contract Disputes Act of 1978, Public Law 95-563, the agency board designated as having the jurisdiction to decide appeals from decisions of the Contracting Officer relative to disputes relating to this contract is the Engineer Board of Contract Appeals.

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The contract set prepared as shown herein will be provided to the SBA at the time of distribution of the contract set prepared in accordance with (ii) below.

(ii) Prepare a Standard Form 26 for execution with the SBA without incorporating any general provisions of Standard Form 32. The general provisions are not applicable to the SBA. "10 USC 2304(a)(17)" shall be cited as the authority for negotiation of this contract. This contract shall include a statement as follows:

> It is agreed that the provisions of the "Termination for Convenience," "Changes," "Disputes," "Default," and "Price Reduction" clauses which are included in the contract between the SBA and its Contractor shall be invoked in appropriate cases when requested by the DoD Contracting Officer. If the SBA does not agree with the DoD Contracting Officer's request, the case shall be referred to the Secretary or his designee for decision.

(J) Contract administration functions will be performed by the cognizant contract administration office as listed in DoD Directive 4105.59-H (DoD Directory of Contract Administration Services Components). Since the contractual relationship between the SBA and its

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(i) a summary of the scope of the proposed work;
(ii) detailed Government cost estimates;
(iii) plans and specifications;
(iv) required performance schedules;
(v) any other pertinent and reasonably available data.

The Department, through the Director of Small and Disadvantaged Business Utilization or his designee will notify the appropriate contracting office to reserve the work project(s) for negotiation of a Section 8(a) contract with the SBA. Within ten working days after notification, the SBA will establish contact with the contracting office and initiate negotiation of the Section 8(a) contract in support of the SBA and initiate requested commitments. If negotiations with the contracting office have not been initiated by the SBA within the time indicated, the contracting office will notify the Departmental Director of Small and Disadvantaged Business Utilization or his designee of the intent to proceed with the acquisition without further regard to the Section 8(a) procedures, unless additional time is requested by the SBA and such additional time can be granted considering the urgency of the work project.

(D) Provisions of the Miller Act with respect to performance and payment bonds do not apply to the prime contract between the contracting office and the SBA, but shall apply to the contract between the SBA and its contractor unless the SBA waives the bond requirement as provided for in 1-705.5(b)(5).

(E) Certified cost or pricing data, when required by 3-807.3 or needed to determine an estimated current fair market price, shall be obtained by the contracting officer. The request shall provide for the submission in writing by the SBA's contractor of appropriate cost or pricing data with a supporting certificate.

(F) It will be the responsibility of the SBA to provide written certification as to its competency to perform the contract. Such certification may be made in accordance with 1-705.5(c)(1)(D).

(G) Subsequent to agreement with SBA on satisfactory terms and conditions, including an estimated current fair market price, and receipt of the SBA's reimbursable order for any business development expense (if appropriate), the contracting officer shall proceed with the award of a contract to the SBA, after approvals have been obtained from: Department of the Army, the Deputy for Materiel Acquisition, OASA (RDA); Department of the Navy, Director of Acquisition and Contract Policy, OASN(M,RA&L); Department of the Air Force, AF/RDC; Defense Logistics Agency, Executive Director Contracting; Defense Communications Agency, the Director; Defense Nuclear Agency, Deputy Director, Operations and Administration; Defense Mapping Agency, Staff Director of Logistics; or their designees.

(H) To assist the SBA, contracting offices shall prepare two contract sets as follows:

(i) prepare appropriate contractual documents for use by the SBA with the SBA's contractor. These documents shall be completed, except for signatures and award information (see (c)(I)(i)), based on information requested or furnished by the SBA. This contract shall incorporate the mandatory general provisions and standard forms as required and also shall include the appropriate one of the following statements:

(*a*) For all contracts excepting civil works contracts of the Corps of Engineers—

JURISDICTION OVER DISPUTES APPEALS (1979 MAR)

For the purposes of Section 8(d) of the Contract Disputes Act of 1978, Public Law 95-563, the agency board designated as having the jurisdiction to decide appeals from decisions of the Contracting Officer relative to disputes relating to this contract is the Armed Services Board of Contract Appeals.

(b) For civil works contracts of the Corps of Engineers—

JURISDICTION OVER DISPUTES APPEALS (1979 MAR)

For the purposes of Section 8(d) of the Contract Disputes Act of 1978, Public Law 95-563, the agency board designated as having the jurisdiction to decide appeals from decisions of the Contracting Officer relative to disputes relating to this contract is the Engineer Board of Contract Appeals.

(ii) prepare Standard Form 19 or Standard Form 23 or other appropriate forms for execution with the SBA without incorporating any general provisions. The general provisions are not applicable to the SBA. "10 USC 2304(a)(17)" shall be cited as the authority for negotiations of this contract. This contract shall include a statement as follows:

It is agreed that the provisions of the "Termination for Convenience," "Changes," "Differing Site Conditions," "Default-Damages for Delay-Time Extensions," "Suspension of Work," "Disputes," "Price Reduction" and "Payments to Contractor" clauses which are included in the contract between the SBA and its Contractor shall be invoked in appropriate cases when requested by the DoD Contracting Officer. If the SBA does not agree with the DoD Contracting Officer's request, the case shall be referred to the Secretary or his designee for decision.

(I) Contract administration functions will be performed by the cognizant contracting office.

(J) The execution and distribution of contract documents shall be in accordance with Section XX. The SBA will be responsible for effecting execution and distribution to the DoD contracting offices and others of contracts executed with its contractor.

(K) Pricing of Construction Acquisitions, and Business Development Expense.

(i) In the determination of an estimated current fair market price for proposed construction contracts, the PCO shall consider data submitted by SBA and its subcontractor, current cost experience for like or similar work, and initial or revised Government estimates of costs of work to be done. When the proposed total 8(a) contract price is no greater than the estimated current fair market price, the award will be made to SBA with full funding by DoD.

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(ii) *From the prospective contractor*—including representation and other information contained in or attached to bids and proposals; replies to questionnaires; financial data, such as balance sheets, profit and loss statements, cash forecasts, financial history of the contractor and affiliated concerns; current and past production records; personnel records; and lists of tools, equipment, and facilities; written statements or commitments concerning financial assistance and subcontracting arrangements; and analyses of operational control procedures. Where it is considered necessary by the contracting officer to prevent practices prejudicial to fair and open competition or for other reasons, prospective contractors may be required to submit affidavits concerning their ability to meet any of the minimum standards set forth in 1-903, and company ownership and control (see 2-201(a)B(ii) and (b)(xvii)).

(iii) *Existing information within the Department of Defense*—including records on file and knowledge of personnel within the purchasing office making the procurement, other purchasing offices, related activities, contract administration offices, audit activities, and offices concerned with contract financing.

(iv) *Publications*—including credit ratings, trade and financial journals, business directories and registers.

(v) *Other sources*—including suppliers, subcontractors and customers of the prospective contractor; banks and financial companies; commercial credit agencies; Government departments and agencies; purchasing and trade associations; better business bureaus and chambers of commerce.

1-905.4 *Pre-Award Surveys.*

(a) *General.* A pre-award survey is an evaluation by a contract administration office of a prospective contractor's capability to perform under the terms of a proposed contract. Such evaluation shall be used by the contracting officer in determining the prospective contractor's responsibility. The evaluation may be accomplished by use of (i) data on hand, (ii) data from another Government agency or commercial source, (iii) an on-site inspection of plant and facilities to be used for performance on the proposed contract, or (iv) any combination of the above. Pre-award surveys shall be conducted in accordance with Appendix K, Pre-Award Survey Procedures.

(b) *Circumstances Under Which Performed.* A pre-award survey shall be required when the information available to the purchasing office is not sufficient to enable the contracting officer to make a determination regarding the responsibility of a Prospective Contractor (but see (c) below). The contracting officer shall request a pre-award survey on Pre-Award Survey of Offeror-General (DD Form 1524) (see F-200.1524) in the detail commensurate with the dollar value and complexity of the procurement. A pre-award survey should not be requested for a procurement valued at $25,000 or less, except where risk associated with any factor is judged by the contracting officer to warrant the cost of a pre-award survey, or where the case requires referral to the SBA for possible Certificate of Competency action, in accordance with 1-705.4. If during the performance of a

pre-award survey, the applicable contract administration activity conducting the survey discovers that the small business being surveyed has received preferential treatment on an ongoing contract in accordance with Section 8a of the Small Business Act, or has received an SBA Certificate of Competency during the last 12 months, the appropriate SBA field office shall be contacted and its advice sought prior to making an affirmative recommendation on the responsibility of the contractor. In requesting a pre-award survey, the contracting officer shall call to the attention of the contract administration office any factors which should receive special emphasis and state whether the purchasing office will participate in the survey (see Appendix K-203.1(b). The factors selected by the contracting officer shall be applicable to all firms responding to the solicitation and shall be considered in all pre-award surveys performed for the same solicitation. In the absence of specific instructions from the purchasing office, the scope of the pre-award survey shall be determined by the contract administration office and a normal time frame of seven working days after receipt of request shall be allowed for conducting the survey and submitting the report, recognizing that in unusual circumstances exception from the normal time frame may be requested.

(c) *Workload and Financial Capacity.* Regardless of the apparent sufficiency of information available to the purchasing office indicating responsibility with respect to the standards set forth in 1-903.1(i) and (ii), in procurements which are significant either in dollar value or in the critical nature of the requirement, consideration shall be given to requesting the contract administration office to verify information regarding current workload and financial capacity.

(d) *Walsh-Healey Public Contracts Act Eligibility Determination.* The contracting officer shall accept the representation by the offeror that the firm is either a manufacturer or regular dealer pursuant to the requirements of the Walsh-Healey Public Contracts Act (Section XII, Part 6) unless—

(i) the contracting officer has knowledge that raises the question of the validity of the representation;

(ii) a protest has been lodged pursuant to 12-604;

(iii) the offeror in line for contract award has not previously been awarded a contract subject to the Act by the individual acquisition office; or

(iv) a preaward investigation or survey of such offeror's operations is otherwise made to determine the technical and production capability, plant facilities and equipment, and subcontracting and labor resources of such offeror.

Where these conditions exist, the PCO shall determine the Walsh-Healey Act eligibility status of the offeror, based on available evidence, including preaward surveys, experience of other acquisition offices, information available from the cognizant contract administration office or information provided directly by the offeror.

1-906 Subcontractor Responsibility.

(a) To the extent that a prospective contractor proposes to perform the contract by subcontracting, determinations of prospective subcontractors' responsibility may be necessary in order to determine the responsibility of the prospective prime contractor. Determinations concerning prospective subcontractor's responsibility shall generally be a function performed by the prospective prime contractor. (But see 1-603(c) relating to subcontractors listed on the Joint Consolidated List of Debarred, Ineligible, and Suspended Contractors.) A prospective prime contractor may be required to (i) indicate, in writing, the responsibility of proposed subcontractors, or (ii) show evidence of an acceptable and effective purchasing and subcontracting system which encompasses a method for determining subcontractor capability.

(b) Notwithstanding the general responsibility of a prospective contractor to demonstrate the responsibility of his prospective subcontractors, it may be in the Government's best interest to make a direct determination of the responsibility of one or more prospective subcontractors prior to award of the prime contract. Examples of when this may be particularly suitable are the procurements of (i) medical items, (ii) supplies or services which are so urgently needed that it is necessary for the Government to go beyond the normal process in determining contractor responsibility, and (iii) supplies or services, a substantial portion of which will be subcontracted. The determination of responsibility of a proposed subcontractor by the Government shall be based on the same factors as are applicable in a determination of responsibility of a prospective prime contractor.

1-907 Disclosure of Pre-Award Data. Except as provided in 1-329, data including information obtained from a pre-award survey, accumulated for purposes of determining the responsibility of a prospective contractor shall not be released outside the Government and shall not be made available for inspection by individuals, firms, or trade organizations (see 1-329.3(c)(5)). Such data may be disclosed to, or summarized for, other elements within the Government on their request, and shall be made available to Department of Defense procurement personnel upon request in accordance with 1-905.1. Prior to making a determination of responsibility, such data may be discussed with the prospective contractor as determined necessary by the purchasing office. After an award, the findings of the pre-award survey may be discussed by the contracting officer with the company surveyed as provided in 2-408 and 3-508, or if appropriate, by the head of the contract administration office or his designee.

Part 10—Publicizing Procurement Actions

1-1001 General Policy. It is Department of Defense policy to increase competition by publicizing procurements which offer competitive opportunities for prospective prime contractors or subcontractors, thus assisting small business and labor surplus area concerns and broadening industry participation in Defense procurement programs.

1-1002 Dissemination of Information Relating to Invitations for Bids and Requests for Proposals.

1-1002.1 *Availability of Invitations for Bids and Requests for Proposals at the Contracting Office.* A reasonable number of copies of invitations for bids and requests for proposals, which are required to be publicized in the *Commerce Business Daily*, including specifications and other pertinent information, shall be maintained at the contracting office. Upon request, prospective contractors not initially solicited may be mailed or otherwise provided copies of such invitations for bids or requests for proposals to the extent they are available. However, for any contract to be let by any department, it shall provide to any small business concern upon its request: (i) a copy of bid sets and specifications with respect to such contract; (ii) the name and telephone number of any employee of such department to answer questions with respect to such contract; and (iii) adequate citations to each major Federal law or departmental rule with which such business concern must comply in performing such contract. When a solicitation for proposals has been limited as a result of a determination that only a specified firm or firms possess the capability to meet the requirements of an acquisition, requests for proposals shall be mailed or otherwise provided upon request for firms not solicited, but only after advice has been given to the firm making the request as to the reasons for the limited solicitation and the unlikelihood of any other firm being able to qualify for a contract award under the circumstances; but see 4-106.2. In addition, to the extent that invitations for bids or requests for proposals are available, they shall be provided on a "first-come-first-served" basis, for pick up at the contracting office, to publishers, trade associations, contracting information services, and other members of the public having a legitimate interest therein (for construction, see 18-205(c)); otherwise the contracting office will make copies available to members of the public pursuant to Appendix L. In determining the "reasonable number" of copies to be maintained, the contracting officer shall consider, among other things, the extent of initial solicitation, reproduction costs, the nature of the acquisition, whether access to classified matter is involved, the anticipated requests for copies based upon responses to synopses and other means of publication in previous similar situations, and the fact that publishers and others who disseminate information regarding proposed acquisitions normally

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SECTION D - Packaging and Marking.

(i) packaging and marking requirements, if any (see 1-1204).

SECTION E - Inspection and Acceptance.

(i) place of inspection and place of acceptance, and any other instructions required to supplement the requirements of Section XIV, Part 3.

SECTION F - Deliveries or Performance.

(i) the time of delivery or performance (see 1-305);

(ii) place and method of delivery (see Section XIX); and

(iii) when MILSTAMP procedures apply to shipments of supplies, a provision setting forth the obligations of the contractor under such procedures (see 19-101).

SECTION G - Contract Administration Data.

(i) accounting and appropriation data not included on Standard Form 33; and

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

SECTION H - Special Provisions.

(i) if the contract is to include option provisions, a clear statement of such provisions (see 1-1506);

(ii) if 1-1503(d) applies, a conspicuous notice cautioning offerors that an offer containing an option price higher than the base price may be accepted only if the acceptance does not prejudice any other offeror. (This may be placed elsewhere as long as the notice is adjacent to the limitation as to option price.)

(iii) if the contract is to be conditioned on the availability of funds, include one of the clauses in 7-104.91;

(iv) if the contract will involve multiyear acquisition, the provisions required by 1-322.2(a) or (f);

(v) any applicable Service Contract Act wage determinations of the Secretary of Labor (see Section XII, Part 10);

(vi) in accordance with 1-1208, the Government Surplus Clause in 7-104.49;

(vii) in accordance with 1-1208, the New Material Clause in 7-103.48;

(viii) any special provisions relating to the Government's providing Government production and research property for the performance of the contract (see Section XIII, Part 3);

(ix) if the contract is to contain the Safety Precautions for Ammunition and Explosives clause prescribed by 7-104.79, a specific list of any of the mandatory requirements of DOD Manual 4145.26-M that are being waived;

(x) when the contract is expected to contain requirements for provisioned items, include the information prescribed in 4-302.1;

(xi) when clause 7-104.62 is included in the contract and Appendix I, Table 2, does not list addresses of the required special distribution recipients, the applicable names and addresses shall be included in this Section H. The contracting office issuing the contract shall include, referencing the line item as necessary, the addresses of the status control activity/inventory manager and, if applicable, the processing contracting office cited in the Military Interdepartmental Purchase Request (MIPR).

(xii) for acquisitions involving Military Assistance Program (MAP)(Grant Aid), include the MAP Record Control/Program/Directive Number identifier and special markings, if appropriate. For Foreign Military Sales (FMS) acquisitions, include the special markings, if appropriate, and specify the FMS case identifier code by line/subline item number, e.g., FMS Case Identifier GY-D-DCA. These identification entries are required to permit the contractor to comply with Appendix I-301, Block 16(12), and to facilitate collection of contract administration charges from foreign governments on FMS acquisitions.

(xiii) if the contract is for supplies purchased for resale, include the clause in 7-104.88;

(xiv) if international air transportation of personnel and cargo is possible during the performance of the contract, include the clause in 7-104.95;

(xv) if the contract is for goods or services for MAPIMET, or FMS, include the clause in 7-104.97;

(xvi) if the contract is to involve materials of a hazardous nature, include the clause in 7-104.98 as prescribed by 1-323.2;

(xvii) when the proposed contract is to require the contractor to prepare production progress reporting in accordance with the clause in 7-104.51, the contract schedule shall contain instructions as prescribed in 25-202; and

(3) The Government shall neither make any final commitment nor authorize any work by the contractor pursuant to an order under a basic ordering agreement until prices have been established, unless the order establishes a monetary limitation on the obligation of the Government and either:

(i) the order is subject to provisions contained in the basic ordering agreement which set forth adequate procedures for arriving at prices as early in contract performance as practical, but in no event shall such procedures permit the price of the entire order to be established on a retroactive basis (however, incentive provisions consistent with this part are permitted); or

(ii) the need for the supplies or services is compelling and of unusual urgency, as when the Government would be seriously injured, financially or otherwise, if the supplies or services were not furnished by a certain date and when they could not be furnished by that date if the contractor is not allowed to proceed with work until prices have been established. The circumstances listed in 3-202.2 are indicative of instances in which the contractor may be permitted to proceed with work prior to establishment of prices.

As a general rule, prices should be established prior to authorizing the contractor to begin work. However, where the contractor is allowed to begin work prior to pricing in accordance with this paragraph, the contractor and the contracting officer shall proceed with pricing as soon as practicable. The basic ordering agreement shall provide that failure to reach agreement on price in such circumstances will constitute a dispute subject to the procedures of the Disputes clause.

(4) Each order issued under a basic ordering agreement shall cite the applicable negotiation authority and shall be subject to such reviews, approvals, determinations and findings (including those pertaining to types of contracts), and other requirements (including those pertaining to synopsis of the proposed procurement and contract awards) specified in this Regulation as would be applicable if the order were a contract entered into apart from the basic ordering agreement. When the use of a BOA is restricted to the procurement of specific supplies or services available from only one source and the placement of all future orders to the contractor holding the basic ordering agreement is supported by a determination that competition by formal advertising or negotiation is impractical, the purchasing office shall be responsible for synopsizing the proposed procurement prior to issuance of the BOA. If the contract administration office is authorized to issue orders under the basic ordering agreement, the purchasing office shall be responsible for providing the contract administration office with evidence of synopsis, appropriate approvals, and determinations and findings required above.

(5) A basic ordering agreement shall be modified only by a revision of the basic ordering agreement itself and shall not be modified or superseded by individual orders issued thereunder. To minimize modifications, revisions to ASPR involving changes in authorized contract clauses, utilized in basic ordering agreements shall provide appropriate direction with respect to any required modifications of basic ordering agreements; and, to the extent possible, modifications shall be required only in matters resulting from changes in statutes, or Executive Orders. Basic ordering agreements shall be reviewed at least annually, before the anniversary of their effective dates, and revised to conform with the current requirements of this Regulation. Modifications shall not have retroactive effect.

(6) The contracting officer issuing an order under a basic ordering agreement shall be responsible for assuring compliance with the provisions of (1) through (4) above.

Part 5—Solicitations of Proposals and Quotations

3-500 Scope of Part. This part applies to all negotiated acquisition except that described by Part 6 of this Section III.

3-501 Preparation of Request for Proposals or Request for Quotations.

(a) *General.* Forms used for requesting proposals or quotations on negotiated acquisition shall be as required by (b) and (c) below and by Section XVI, or if not required by such Section, as prescribed by Departmental regulations. Generally, requests for proposals and requests for quotations shall be in writing. However, in appropriate cases as prescribed in (d) below, proposals or quotations may be solicited orally, *provided* that the resulting definitive contract is prepared on the prescribed contract form for signature by both parties, except that in the acquisition of perishable subsistence, DPSC Form 300, Order for Subsistence, may be used. Solicitations shall contain the information necessary to enable a prospective offeror or quoter to prepare a proposal or quotation properly. All such information shall be set forth in full in the solicitation rather than incorporated by reference, except that:

(1) Standard and DD ASPR Forms consisting of general provisions (contract clauses) prescribed by Section VII may be incorporated by reference to the form number, form name, and edition date; *provided*, the instructions for use of the form do not prohibit the incorporation of the form by reference; and

(2) other contract clauses set forth in Section VII may be incorporated by reference if authorized by 7-001.

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

(b) *Contract Forms and Uniform Contract Format.*

(1) This paragraph (b) applies to all negotiated acquisitions except:

a. small purchases and other simplified purchase agreements;
b. basic agreements;
c. pre-invitation notices;
d. the first step of two-step formal advertising;
e. construction and architect-engineer contracts;
f. ship construction including shipbuilding, conversion and repair;
g. acquisitions for which special contract forms inconsistent herewith are prescribed by Part 5 of Section XVI; and
h. acquisitions of subsistence.

Those acquisitions enumerated *f* through *h* need not be in the Uniform Contract Format, but must contain all applicable items. The applicability of this paragraph to acquisitions outside the United States, its possessions and Puerto Rico is optional.

(2) Requests for proposals shall be prepared on Standard Form 33, Solicitation, Offer and Award (see 16-102.3), or on forms prescribed by Departmental regulations; requests for quotations shall be prepared on Standard Form 18, Request for Quotations (see 16-102.1) or on forms prescribed by Departmental regulations.

SECTION F - Deliveries or Performance.

(i) the time of delivery or performance (see 1-305);
(ii) place and method of delivery (see Section XIX);
(iii) when MILSTAMP procedures apply to shipments of supplies, a provision setting forth the obligations of the contractor under such procedures (see 19-101).

SECTION G - Contract Administration Data.

(i) accounting and appropriation data (Note: where SF 33 is used, include only data not set forth on that form);
(ii) instructions to paying offices and administrative contracting offices, including name, organization code, and telephone area code, number, and extension of contracting office representative.

SECTION H - Special Provisions.

(i) if the contract is to include option provisions, a clear statement of the provisions (see 1-1506);
(ii) if the contract is to include design-to-cost requirements, provisions in accordance with 1-338;
(iii) if 1-1503(d) applies, a conspicuous notice cautioning offerors that an offer containing an option price higher than the base price may be accepted only if the acceptance does not prejudice any other offeror (this may be placed elsewhere as long as the notice is adjacent to the limitation as to option price);
(iv) if the price negotiated is not predicated on allowability of the cost of money for facilities capital employed, the contract shall include a statement that: the cost of money for facilities capital (15-202.50) is unallowable.
(v) if the contract is to be conditioned on the availability of funds, include one of the clauses in 7-104.91;
(vi) if the contract is multiyear, the provisions required by 1-322.2(a), (b), or (f);
(vii) any progress payments provisions (see Appendix E);
(viii) any applicable Service Contract Act wage determinations of the Secretary of Labor (see Section XII, Part 10);
(ix) any special provisions relating to the Government's providing Government production and research property (see Section XIII, Part 3);
(x) when the clause in 7-104.62 is included in the contract and Appendix I, Table 2, does not list

addresses of the required special distribution recipients, the applicable names and addresses shall be included in this Section H. The contracting office issuing the contract shall reference the line item as necessary, the addresses of the status control activity/inventory manager, and, if applicable, the processing contracting office cited in the Military Interdepartmental Purchase Request (MIPR);
(xi) in accordance with 1-1208, the clause in 7-104.48 and the clause in 7-104.49;
(xii) if the contract is to contain the Safety Precautions for Ammunition and Explosives clause in 7-104.79, a specific list of any of the mandatory requirements of DoD Manual 4145.26-M that are being waived;
(xiii) when the contract is expected to contain requirements for provisioned items, include the information prescribed in 4-302.1;
(xiv) for acquisitions involving Military Assistance Program (MAP)(Grant Aid), include the MAP Record Control/Program/Directive Number identifier and special markings, if appropriate. For Foreign Military Sales (FMS) acquisitions, include the special markings, if appropriate, and specify the FMS case identifier code by line/subline item number, e.g., FMS Case Identifier GY-D-DCA. These identification entries are required to permit the contractor to comply with Appendix I-301, Block 16(12), and to facilitate collection of contract administration charges from foreign governments on FMS acquisitions.
(xv) if the contract is for supplies acquired for resale, include the clause in 7-104.88;
(xvi) if international air transportation of personnel and cargo is possible during performance of the contract, include the clause in 7-104.95;
(xvii) in accordance with 9-603(b), insert the Identification of Restricted Rights Computer Software provision in 7-2003.76;
(xviii) if the contract is to involve materials of a hazardous nature, include the clause in 7-104.98 as prescribed by 1-323.2;
(xix) when the proposed contract is to require the contractor to prepare production progress reporting in accordance with the clause in 7-104.51, the contract schedule shall contain instructions as prescribed in 25-202; and
(xx) if the contract is expected to be $500,000 or more, include the clause in 7-104.78 (Geographic Distribution of Defense Subcontract Dollars).

Part II—General Provisions

SECTION I - General Provisions.

(i) such general contract provisions (contract clauses) as are required by law or by this Regulation;

of paid reimbursement vouchers ordinarily will suffice for the records of the imprest fund cashier.

(j) *Review.* The imprest fund cashier shall be required to account for the established fund at any time, by cash on hand, paid suppliers' receipts, unpaid reimbursement vouchers, and interim receipts for cash. Unannounced inspections, including cash counts are required to be made of each imprest fund at least quarterly by qualified individuals who are under the jurisdiction of the Comptroller or Chief Accounting Officer of the installation, where such positions exist, but in any case by individuals, excluding the disbursing officer advancing the funds and subordinates of the imprest fund cashier.

3–608 Purchase Orders.

3–608.1 *General.*

(a) Negotiated purchases of supplies, nonpersonal services and construction not in excess of $10,000 may be effected by using DD Form 1155 (*Order for Supplies or Services/Request for Quotations*) and its ancillary forms (for construction see also 16–402.2); Standard Form 44 (*Purchase Order - Invoice Voucher*) may also be used for material and nonpersonal services not in excess of $2,500.

(b) The DD Form 1155 provides for the arrangement of information in fixed locations, including sequential numbering of all blocks, and within certain of these blocks a code box for inserting alpha-numeric codes. The uniform arrangement of data and the provision for codes will facilitate manual and automated processing of contractual documents and interchange of information between purchasing offices and contract administration activities.

3–608.2 *Order for Supplies or Services Request for Quotations (DD Forms 1155, 1155r, 1155r–1; Standard Form 36; DD Form 1155c–1 and Standard Form 30).*

(a) *Forms.* The following forms may be used to issue purchase orders:

(i) DD Form 1155 (Order for Supplies or Services/Request for Quotations) which when used with DD Form 1155r in accordance with 3–608.2(b)(1) or with DD Form 1155r–1 in accordance with 3–608.2(b)(2) as appropriate, provides in one document—

(A) a purchase order, a blanket purchase agreement, a delivery order under a contract, or delivery order on Government agencies outside the Department of Defense (see Section V);

(B) a receiving and inspection report;

(C) a property voucher;

(D) a public voucher; and

(E) a document for acceptance by the supplier.

(ii) Standard Form 36 (Continuation Sheet) provides additional space or a blank sheet of paper may be used;

(iii) DD Form 1155c–1 (Commissary Continuation Sheet) (for use on optional basis), provides columns suited for commissary procurements; and

(iv) Standard Form 30 (Amendment of Solicitation/Modification of Contract) shall be used in all modifications to DD Form 1155 (see 3–608.4).

The foregoing forms may be used as snap-out manifold forms, as cut sheets, or as reproducible masters. In addition, DD Form 1155r or DD Form 1155r–1 may be printed on the reverse of DD Form 1155.

(b) *Conditions for Use.*

(1) *Use as a Purchase Order of Not More Than $10,000 in the United States, its Possessions, and Puerto Rico.* DD Form 1155 is authorized for negotiated purchases of not more than $10,000 within the United States, its possessions, and Puerto Rico, *provided:*

(i) The procurement is unclassified, except that DD Form 1155 may be used for classified procurements if:

(A) the Military Security Requirements clause in 7–104.12 is inserted in the Schedule;

(B) DD Form 254 (Contract Security Classification Specification) (see 16–811) is incorporated in the purchase order; and

(C) the contractor's acceptance of the purchase order is obtained by use of DD Form 1155r at the time of issuance of the order.

(ii) No clause covering the subject matter of any clause set forth in this Regulation, other than clauses on DD Form 1155r (see also 16–303) and clauses referred to in (iii) through (xxxi) below, in 3–608.3, 3–608.4, 14–302, 14–303, 14–304, and 14–306(c), is to be used.

(iii) When the contract specifies the delivery of data, one of the clauses in 7–104.9 shall be added as appropriate in accordance with the instructions contained in Section IX, Part 2.

(iv) When required by Section VI, Part 4, the *Communist Areas* clause in 7–103.15 shall be added.

(v) When required, the *Extent of Quantity Variation* clause in 7–103.4(b) shall be added.

(vi) When required by Section IV, Part 6, Humane Slaughter of Livestock, the procedures in 7–104.30 shall be followed.

(vii) The *Material Inspection and Receiving Report (MIRR)* clause shall be inserted in the Schedule as provided by 7–104.62 when the purchase is to be assigned to another activity for administration. The clause may also be inserted when otherwise desired by the purchase office.

(viii) When Government property having an acquisition cost in excess of $50,000 is to be furnished (for use in performance of contract or for repair), the appropriate Government Property clause or clauses in 7–104.24 shall be inserted in the Schedule. When Government property having an acquisition cost not in excess of $50,000 is to be furnished for use in performance of the contract or for repair, the Government-Furnished Property (Short Form) clause in 7–104.24(f) shall be inserted in the Schedule; *provided* that use of the clause shall be optional when the acquisition cost of property furnished for repair is not in excess of $10,000. When a Government Property clause is inserted in the Schedule, the contractor's signature shall be obtained on DD Form 1155r.

(ix) When the contract is for Military Assistance Program items, the "United States Products (Military Assistance Program)" certificate

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in 7-2003.50 and the clause in 7-2003.51 shall be inserted in the Schedule, and Clause 6 of the General Provisions (Foreign Supplies) deleted. In addition, the contractor's signature shall be obtained on DD Form 1155r.

(x) Reserved.

(xi) The clauses in 7-104.48 and 7-104.49 may be used in accordance with the provisions of 1-1208.

(xii) When the contract is for mortuary services:

(A) the following clauses shall be inserted in the Schedule—

(I) the Specification clause in 7-1201.4;

(II) the Delivery and Performance clause in 7-1201.7;

(III) the Subcontracting clause in 7-1201.8;

(IV) the Inspection clause in 7-1902.4;

(V) the Professional Requirements clause in 7-1201.11;

(VI) the Facility Requirements clause in 7-1201.12; and

(VII) the Preparation History clause in 7-1201.13;

(B) the Additional Default Provision clause in 7-1201.9 shall be inserted in the Schedule, with the following substitution for paragraph (a) and the first sentence of paragraph (b) of that clause:

(a) This clause supplements the "Termination for Default" clause of this contract.

(b) This contract may be terminated for default by written notice if during the performance of this contract:

(C) The Changes clause in 7-1902.2 shall be substituted for paragraph 17 of the Additional General Provisions on DD Form 1155r.

(xiii) When required by Section VI, Part 8, the certificate in 7-2003.52 and the clause in 7-2003.53 shall be added.

(xiv) When required by 6-305, the clauses in 7-104.13 and 7-104.93 shall be added.

(xv) When required by Section XII, Part 10, the clause in 7-1903.41(a) or (b) shall be added.

(xvi) When required by 19-213.2, the clause in 7-104.74 shall be added.

(xvii) In accordance with 1-330, the clause in 7-104.45(a) or 7-1912 may be inserted.

(xviii) When the contract requires the use of a Government bill of lading or mailing indicia, the clause in 7-104.85 shall be added.

(xix) When a bid guarantee is required in accordance with 10-102, the clause in 7-2003.25 shall be included together with the instructions in 10-102.4.

(xx) When performance and payment bonds are required in accordance with 10-103, pertinent instructions with regard thereto shall be added.

(xxi) When required by 6-605, the *Duty Free Entry - Canadian Supplies* clause in 7-104.32 shall be added.

(xxii) When required by 12-302, the *Contract Work Hours and Safety Standards Act* clause in 7-103.16(a) shall be added.

(xxiii) When required by 7-1903.41(d), one of the Linen Supply Service Contract clauses therein shall be added.

(xxiv) When required by 10-405, the *Insurance* clause in 7-104.65 or 7-603.10 shall be added.

(xxv) When required by 1-706.5, the *Notice of Total Small Business Set-Aside* clause in 7-2003.2 shall be added.

(xxvi) The changes authorized by 16-402.2 shall be incorporated when construction procurements are negotiated in accordance with 18-302.

(xxvii) When required by 19-208.3(a), the clause in 7-104.76 shall be added.

(xxviii) When required by 1-2207.3(c)(1)(iii), the clause in 7-104.38 shall be added.

(xxix) When required by 1-2207.4(c)(1)(iii), the clause in 7-104.46 shall be added.

(xxx) When the contract covers the procurement of goods and services for MAP, IMET, and FMS, the clause in 7-104.97 shall be added.

(xxxi) When required by 12-1302(a), insert the clause in 7-103.28.

(xxxii) If the contract is to involve materials of a hazardous nature, include the clause in 7-104.98 as prescribed by 1-323.2.

(xxxiii) When the contract involves the purchase of gas in contractor-furnished returnable cylinders and the contractor retains title to the cylinders, the clause in 7-104.60 shall be added. The clause may also be used, with appropriate modification, in contracts for other supplies under the circumstances specified in 7-104.60.

(xxxiv) In accordance with 12-807.1, insert the applicable clause in 7-103.18.

(xxxv) When the purchase order includes FMS requirements, clearly indicate "FMS Requirement" on its face and specify within the order each FMS case identifier code by line/subline item number, e.g., FMS Case Identifier GY-D-DCA.

(2) *Use as a Purchase Order of Not More than $10,000 Outside the United States, its Possessions, and Puerto Rico.* DD Form 1155 and 1155r-1, with executed contractor's acceptance when required, are authorized for negotiated purchases of not more than $10,000 when such purchases are for supplies and services procured and used outside the United States, its possessions, and Puerto Rico, *provided:*

(i) the procurement is unclassified;

(ii) no clauses covering the subject matter of any clause set forth in this Regulation, other than clauses set forth in DD Form 1155r-1, are to be used, except that—

(A) either the standard foreign Disputes clauses in 7-103.12(b) or that clause as modified in accordance with 7-103.12(c) shall be inserted in the Schedule.

(B) When the contract is translated into another language, the Schedule shall contain the provision in 7-2003.44.

(C) When Government property having acquisition cost in excess of $50,000 is to be furnished (for use in performance of contract or for repair), the Government Property clause in 7-104.24(a) shall be inserted in the Schedule in accordance with instructions in 7-104.24(b). When Government property having an acquisition cost not in excess of $50,000 is to be furnished for use in performance of the contract or for repair, the Government-Furnished Property (Short Form) clause in 7-104.24(f) shall be inserted in the Schedule in accordance with instructions in that paragraph; *provided* that use of the clause shall be optional when the acquisition cost of property furnished for repair is not in excess of $10,000. When a Government Property clause is inserted in the Schedule, the contractor's signature shall be obtained on DD Form 1155r-1.

price is established. Each unpriced purchase order shall contain the provision in 7-2003.46. The contracting officer or his designated representative shall review the invoice price and, if reasonable (see 3-604.2(b)), process it for payment. Controls of outstanding unpriced purchase orders shall be maintained to assure regular followup with suppliers until the order is priced.

3-608.4 *Obtaining Contractor Acceptance and Modifying the Purchase Order.*

(a) When it is desired to consummate a binding contract between the parties before the contractor undertakes performance, the contracting officer shall mark in Block 16 on the DD Form 1155 the box requiring acceptance by the contractor.

(b) Standard Form 30 shall be used to modify the purchase order for administrative or other changes.

(i) Modifications making administrative changes such as the correction of typographical errors, changes in paying office and changes in accounting and appropriation data do not require contractor acceptance. In addition, the issuance of no cost Amended Shipping Instructions (ASIs) which modify unilateral purchase orders and which have been concurred in by the contractor by telephone or letter do not require contractor acceptance by signature on the Standard Form 30.

(ii) To otherwise modify the purchase order, and if not previously included in the purchase order, the Additional General Provisions (Clauses 17-20 of DD Form 1155r) shall be incorporated by reference in the Standard Form 30 (Amendment of Solicitation/Modification of Contract), and the contractor acceptance obtained by his signature on the Standard Form 30. Subsequent changes pursuant to the Changes clause shall not require contractor acceptance. However, other modifications outside the scope of the Changes clause, such as the addition of the Government Property Clause, shall require contractor acceptance by signature on the Standard Form 30.

(c) No additional clauses are authorized except as provided in 3-608.2(b) above. A superseding DD Form 1155 shall not be used to issue a change to an outstanding purchase order.

3-608.5 *Termination of Purchase Order.* A purchase order which has not been accepted in writing by the contractor may be withdrawn or canceled by the contracting officer any time prior to the supplier's initiation of performance. Notice of withdrawal or cancellation should be in writing and should request the contractor's acknowledgement thereof. If the contractor has begun performance on such purchase order, however, or if the contractor has accepted the purchase order in writing other than by signature on the DD Form 1155r or on a subsequently issued Standard Form 30, and it later becomes necessary to terminate the purchase order, the contractor should be asked to agree to cancellation of the order without cost or liability to either party. If he agrees, the cancellation shall be effected by use of Standard Form 30, incorporating the Additional General Provisions (DD Form 1155r), signed by the contracting officer and the contractor. If the contractor does not agree to a no-cost settlement, the case will be

referred to the legal office serving the installation and action will be withheld pending receipt of advice from that office. Termination of a purchase order which the contractor has accepted in writing by means of the Contractor Acceptance on DD Form 1155r, or a subsequently issued Standard Form 30 will be processed in accordance with the guidance set forth in Section VIII of this Regulation.

3–608.6 *Use of DD Form 1155 as a Delivery Order.*

(a) Except as to specialized procurements for which other instructions are given by this Regulation (as for example, where utility purchases are procured under General Services Administration area contracts, as provided in Section V, Part 8), DD Form 1155 shall be used without monetary limitation as a delivery order for ordering supplies and services:

(i) under indefinite delivery type contracts (see 3–409) including such contracts made by Government agencies outside the Department of Defense; *provided*, (A) the order is issued in accordance with, and subject to the terms and conditions of such contract, and (B) the order refers to the particular contract involved;

(ii) from Government agencies outside the Department of Defense; and

(iii) from designated Agencies for the Blind and Other Severely Handicapped in accordance with 5–504.1(c).

(b) All delivery orders shall contain the typewritten name of the contracting officer or ordering officer and the original thereof shall be manually signed; when reproducible masters are used, only the masters need be manually signed; when interleaved carbon forms are used, manual signature on the original shall suffice. Facsimile signatures may be used in the production of delivery orders by automated methods.

(c) Duplication of the DD Form 1155r or DD Form 1155r–1 is not required when DD Form 1155 is used as a delivery order.

(d) Within the monetary limitations of 3–605.2, the DD Form 1155 may be used to order against a blanket purchase agreement.

(e) If the delivery order includes FMS requirements, clearly indicate "FMS Requirement" on its face and specify within the order each FMS case identifier code by line/subline item number. e.g., FMS Case Identifier GY-D-DCA.

3–608.7 *Use of DD Form 1155 as a Public Voucher.* DD Form 1155 is authorized for use as a public voucher:

(i) not exceeding $10,000 when the form is used as a purchase order under 3–608.2(b)(1) above.

(ii) without monetary limitation when the form is used as a delivery order, and

(iii) without monetary limitation as the basis for payment of an invoice against blanket purchase agreements, or basic ordering agreements when a firm price has been established.

3–608.8 *Instructions for Entries on DD Form 1155 and Standard Form 36.*

(a) The instructions herein are mandatory for the preparation of orders if administration is assigned: (i) to DCAS, or (ii) to a non-DCAS office listed in the DoD Directory of Contract Administration Services components and the contractor is located in the continental United States or Canada.

(b) The organizational entity codes (address codes) referenced throughout 3–608.8 are as follows:

(i) *Codes published in DoD Activity Address Directory (DODAAD), DoD 4000.25D.* These codes will be used for Government entities in Blocks 6, 7, 9, 14,

(i) actual costs previously incurred by the contractor or offeror;

(ii) either his last prior cost estimate or a series of prior estimates for the same or similar items;

(iii) current cost estimates from other possible sources;

(iv) prior estimates or historical costs of other contractors manufacturing the same or similar items; and

(v) forecasts or planned expenditures.

(4) Forecasting future trends in costs from historical cost experience is of importance, but care must be taken to assure that the effect of past inefficient or uneconomical practices are not projected into the future. An adequate cost analysis must include an evaluation of trends and changes in circumstances, if any, and their effect on future costs.

3–807.3 *Requirement for Cost or Pricing Data.*

(a) When appropriate, the contracting officer shall require the contractor to submit, either actually or by specific identification in writing, cost or pricing data in support of his proposal. The contracting officer also shall require the contractor, in circumstances specified in (b) below, to certify, using the certificate set forth in 3–807.6, that the cost or pricing data submitted are accurate, complete, and current. Cost or pricing data shall not be required merely in anticipation of post-award review of the contract.

(b) Cost or pricing data are required as part of a proposal leading to, and certification is required prior to:

(i) the award of any negotiated contract (except for unpriced actions such as letter contracts) expected to exceed $100,000 in amount;

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

(iii) the award of any negotiated contract not expected to exceed $100,000 in amount, or any contract modification not expected to exceed $100,000 in amount to any contract whether or not cost or pricing data were required in connection with the initial pricing of the contract, provided the contracting officer considers that the circumstances warrant such action;

unless the price negotiated is based on adequate price competition, established catalog or market prices of commercial items sold in substantial quantities to the general public, or prices set by law or regulation. The requirements under (i) and (ii) above may be waived in exceptional cases when the Secretary (or, in the case

of a contract with a foreign government or agency thereof, the Head of a Contracting Activity) authorizes such waiver and states in writing his reasons for such determination. A copy of each waiver shall be sent to the Director, Contracts and System Acquisition, Office of Under Secretary of Defense, Research and Engineering.

(c) Unless required to be submitted on one of the termination forms set forth in 16-700, data will be submitted on the DD Form 633. The requirement for submission of cost or pricing data is met when all cost or pricing data reasonably available to the contractor have been submitted or identified in writing at the time of agreement on price. The data shall be submitted to the contracting officer or his representative. There is a clear distinction to be made between "submitting" cost or pricing data and merely "making available" books, records and other documents without identification. The latter does not constitute submission of cost or pricing data.

(d) Certified cost or pricing data shall not be requested prior to the award of any contract anticipated to be for $25,000 or less and generally should not be requested for modifications in those amounts. There should be relatively few instances where certified cost or pricing data and the inclusion of defective pricing clauses would be justified in awards between $25,000 and $100,000. In most such awards, the administrative costs will outweigh the benefits which might otherwise accrue from receipt of certified cost or pricing data; hence all other means of determining reasonableness of price should be utilized. When less than complete cost analysis (*e.g.*, analysis of only specific factors) will provide a reasonable pricing result on awards under $100,000 without the submission of complete cost or pricing data, the contracting officer shall request only that data which he considers adequate to support the limited extent of the cost analysis required and he will not require certification.

(e) When it is anticipated from the outset that there will be adequate price competition, cost or pricing data shall not be requested regardless of the dollar amount involved. If, after cost or pricing data were initially requested and received, it is determined that adequate price competition does exist, the data need not be certified. As a general rule, cost or pricing data should not be requested when it has been determined that proposed prices are, or are based on, established catalog or market prices of commercial items sold in substantial quantities to the general public or are prices set by law or regulation. When, however, despite the existence of an established catalog or market price of commercial items sold in substantial quantities to the general public, the contracting officer finds that the price is not reasonable and supports such finding by an enumeration of the facts upon which it is based, cost or pricing data may be requested if necessary to establish a reasonable price; *provided*, that such finding is approved by the Chief of the Purchasing Office.

(f) When economic price adjustment provisions are included in competitive procurements, see 3-404.3(e).

(iii) the prime contractor was denied access to the subcontractor's records; or

(iv) the PCO determines that, because of factors such as the magnitude of the proposed subcontract price, a subcontract or subcontracts at any tier are critical to a fully detailed analysis of the prime contract proposal. The purpose is to satisfy the PCO, notwithstanding the prime contractor analysis, that these elements of the total proposed price are reasonable.

(4) In those instances when PCO/ACO requests the cognizant ACO to review subcontractor's cost estimates, the request shall be accompanied by a copy of the review package accomplished by the prime contractor or higher-tier subcontractor, including: (i) the subcontractor's proposal; (ii) DD Form 633; (iii) other related cost and pricing data provided by the subcontractor; and (iv) when available, the results of the prime contractor's or higher-tier subcontractor's cost/price analysis.

(5) The appropriate contract administration activities will be notified by the HCA when review and evaluation of subcontractors' proposals: (i) will require extensive field pricing assistance in connection with the acquisition of a major new weapon system, or (ii) require special or expedited action by field pricing personnel and such action is being, or has been, delayed.

(d) *Review of Subcontract After Award of the Prime Contract.*

(1) In the review of subcontracting there should be assurance that the contractors obtain competition, if available, from qualified sources in their award of subcontracts to the extent consistent with the procurement of the required services or supplies. Contractors shall be required to undertake price analysis in all significant subcontract transactions, and to undertake cost analysis when certified subcontract cost or pricing data are required. Where the contracting officer's consent to subcontract is required in accordance with 23-200, price or cost analysis shall be required as a condition of such consent and the policies and procedures set forth in 3-807.9(c)(1), (2), and (3) shall be used to evaluate the subcontract price.

(2) When the Government performs the analysis of the subcontract proposal in lieu of the prime contractor because access to the subcontract records was denied to the prime contractor or higher-tier subcontractor, the Government will furnish, to the prime contractor or higher-tier subcontractor, with the consent of the subcontractor reviewed, the summary of the analysis performed by the Government in arriving at a determination of the unacceptable costs included by element in the subcontract proposal. Absent such consent, a range of unacceptable costs for each element will be furnished.

(3) When subcontracts have been placed on a price redetermination or fixed-price incentive basis and the prime contract is to be repriced, it may be appropriate to negotiate a firm prime contract price, even though the contractor has not yet established final subcontract prices. The contracting officer may do this when convinced the amount included for subcontracting is reasonable, *e.g.*, where realistic cost or pricing data on subcontract efforts are available. However, even though the available cost data are highly indefinite and there is a distinct chance that one or more of the subcontracts eventually may be redetermined at prices

that are lower than those predicted in redetermining the prime contract price, other circumstances may require the prompt negotiation of the final contract price. In such a case, the contract modification which evidences the revised contract prices should provide for adjustment of the total amount paid or to be paid under the contract on account of subsequent redetermination of the specified subcontracts. This may be done by including in the contract modification a provision substantially as follows:

> "Promptly upon the establishment of firm prices for each of the subcontracts listed below, the Contractor shall submit, in such form and detail as the Contracting Officer may reasonably require, a statement of costs incurred in the performance of such subcontract and the firm price established therefor. Thereupon, notwithstanding any other provisions of this contract as amended by this modification, the Contractor and the Contracting Officer shall negotiate an equitable adjustment in the total amount paid or to be paid under this contract to reflect such subcontract price revision. The equitable adjustment shall be evidenced by a modification to this contract.
>
> List Subcontracts"

(4) In considering cost-plus-fee subcontracts the contracting officer shall make every effort to insure that fees under such subcontracts never exceed the fee limitations identified in 3–405.6(c)(2).

3–807.10 *Defective Cost or Pricing Data.*

(a) When any price to the Government must be negotiated largely on the basis of cost or pricing data submitted by the contractor, the data must be accurate, complete and current and in appropriate cases so certified by the contractor or subcontractor. If such certified cost or pricing data are subsequently found to have been inaccurate, incomplete or noncurrent as of the effective date of the certificate, the Government is entitled to an adjustment of the negotiated price, including profit or fee, to exclude any significant sum by which the price was increased because of the defective data. The clauses in 7–104.29 give the Government an enforceable contract right to a price adjustment, that is, to a reduction in the price to what it would have been if the contractor had submitted accurate, complete and current data. They also give the Government a right to a price adjustment for defects in cost or pricing data submitted by a prospective or actual subcontractor. In arriving at a price adjustment under a clause, the contracting officer should, after review of the record of the contract negotiation, consider the following:

(1) *The time when cost or pricing data was reasonably available to the contractor.* Certain data such as overhead expenses and production records may not be reasonably available except on normal periodic closing dates. Also, the data on numerous minor material items each of which by itself would be insignificant may be reasonably available only as of a cut-off date prior to agreement on price because the volume of transactions would make the use of any later data impracticable. Furthermore, except where a single item is used in substantial quantity, the net effect of any changes to the prices of such minor items would likely be insignificant. Closing or cut-off dates should be included as a part of the data submitted with the contractor's proposal and should be updated by the contractor to

thresholds, he will be required to follow consistently the disclosed practices for those contracts awarded during a period in which he was obligated to submit a Disclosure Statement(s). A change to such practices may be proposed by either the contractor or the Government and negotiated by the contractor and his CAS cognizant ACO.

3-1204 Contract Clauses.

3-1204.1 Prime Contracts and Solicitations.

(a) The clauses in 7-104.83(a)(1) and (b) shall be inserted in all negotiated solicitations and contracts exceeding $100,000, except the following:

(i) when the price is based on established catalog or market prices of commercial items sold in substantial quantities to the general public, or is set by law or regulations. Catalog or market price exemption is determined to exist even though the award is made on the basis of adequate competition. It is the offeror's responsibility to request and to provide justification for a catalog or market price exemption. In providing such justification, the offeror shall (A) indicate in his proposal, and in any changes in his offered price, that the proposed price is based on an established catalog or market price of a commercial item sold in substantial quantities to the general public, rather than derived from the stimulus of competition which may be present in the particular procurement; and (B) complete and submit a DD Form 633-7 or otherwise furnish the necessary information in accordance with 3-807.7(b) However, the procuring activity must make a determination whether or not the exemption applies in each case;

(ii) contracts awarded to an offeror who has certified he is a small business concern pursuant to 1-702(c);

(iii) contracts awarded to an educational institution subject to cost principles in Section XV, Part 3, except for contracts to be performed by a federally funded research and development center operated by such an institution;

(iv) contracts with contractors who are eligible for and have elected to use modified contract coverage under Part 332 of Appendix O (see (b) below);

(v) contracts which are executed and performed in their entirety outside the United States, its territories and possessions;

(vi) contracts with a foreign government or an agency or instrumentality of such government; and

(vii) contracts for which the Cost Accounting Standards Board has approved other waivers of exemptions pursuant to 331.30 of Appendix O.

(A) The Cost Accounting Standards Board has provided for the exemption of contracts of $500,000 or less under certain circumstances. Paragraph 331.30(b)(8) of Appendix O prescribes the circumstances under which such an exemption is applicable. In order to effectively administer the requirements of that paragraph, the solicitation notice 7-2003.67(b) shall be inserted in all solicitations requiring the inclusion of the solicitation notice in 7-2003.67(a).

(B) Contracts and subcontracts with foreign concerns are exempt from the requirements of Cost Accounting Standard 403 and all subsequent standards. This exemption does not relieve foreign concerns of any obligation to comply with CAS 401, CAS 402 or disclosure requirements.

(b) With respect to (a)(iv) and vii) above, the clauses in 7-104.83(a)(2) and (b) shall be inserted in--

(i) all negotiated solicitations which are likely to result in a negotiated contract exceeding $100,000, unless otherwise exempt in accordance with 3-1204.1 (a),

(ii) all such contracts with a foreign concern, and

(iii) all such contracts exceeding $100,000 but under $10,000,000 when the offeror certifies he is eligible for and elects to use modified contract coverage under provisions of Part 332 of Appendix O (see (a)(iv) above).

In order to effectively administer the exemption in (iii) above, the solicitation notice in 7-2003.67(c) shall be inserted in all solicitations requring the inclusion of the solicitation notice in 7-2003.67(a).

(c) When a contract contains the Administration of Cost Accounting Standards clause (7-104.83(b)), there is a requirement that a flow of information relative to CAS-covered subcontract(s) awarded under a CAS-covered prime contract be transmitted from the contractor placing the CAS-covered subcontract, at whatever tier, to his Cost Accounting Standards cognizant ACO and, subsequently, through Government channels, to the ACO cognizant of the subcontractor receiving the order. When the ACO is advised by the contractor of such an award, he will forward, within 10 days, the information required of the contractor in 7-104.83(b)(e) to the contract administration office (CAO) having Cost Accounting Standards cognizance. (See 3-1208.)

3-1204.2 Subcontracts.

(a) The clauses in 7-104.83 require contractors and subcontractors to flow down the requirement to comply with Cost Accounting Standards in effect on the date of final agreement on price, as shown on the subcontractor's signed certificate of current cost or pricing data, or date of award, whichever is earlier, unless the subcontractor is exempt from CAS requirements or the subcontractor qualifies for and elects to comply with the modified contract coverage clause.

(b) When a subcontractor accepts a CAS-covered subcontract he is responsible for providing to the higher tier contractor the information specified in 7-104.83(b)(e). The higher tier contractor will follow the procedure set forth in 3-1204.1(c) in transmitting the information through Government channels to the ACO cognizant of the subcontractor facility.

3-1205 Review of Prime Contractor Disclosure Statements and Changed Practices.

(a) ACO and Auditor Support Responsibility. When DOD has contract administration cognizance of a contractor, required Disclosure Statements will be reviewed by the cognizant ACO and auditor for all Government agencies including, but not limited to DOD, NASA, DOE, and GSA.

(b) Determination of Adequacy. The cognizant contract auditor shall perform an initial review of a Disclosure Statement to ascertain whether it adequately describes the offeror's cost accounting practices. In order to be deemed adequate, the Disclosure Statement must be current, accurate, and complete. Upon completion of this initial review the results shall be reported to the ACO. When the ACO determines that adequate disclosure has not been made, he shall identify the areas of inadequacy and request a revised Statement and so advise the auditor and PCO. When the ACO determines that the Disclosure Statement is adequate, he shall notify the offeror in writing with a copy to the auditor and the PCO. Notification of adequacy or inadequacy shall normally be made within 30 days after receipt of a Disclosure Statement by the ACO. In addition, the notice shall state that a disclosed practice shall not, by virtue of such disclosure, be deemed to be a proper, approved, or agreed to practice for pricing proposals or accumulating and reporting contract performance cost data. The contract may be awarded when it is determined that an adequate disclosure has been made (see 3-1203(b)).

4–116.2 *Control of Government Property in Possession of Research and Development Contractors.* The basic requirements to be observed by the Departments for establishing and maintaining control over Government Property as set forth in Appendix B to this Regulation are applicable to research and development contracts except, in contracts with educational or other nonprofit organizations, Appendix C of this Regulation is applicable.

4–116.3 *Providing Government Production and Research Property.* See Section XIII, Part 3. Nonprofit institutions of higher education or nonprofit organizations whose primary purpose is the conduct of scientific research may acquire and be reimbursed therefor the cost of any item of equipment costing less than $1,000 consistent with 15–303.4 and 15–309.13, subject to:

(i) prior approval of the contracting officer of the acquisition, either on a line item basis, or for clearly defined classes of items; and

(ii) a determination by the contracting officer that the proposed acquisition is essential to performance of the contract.

4–116.4 *Transfer of Title to Equipment to Nonprofit Educational or Research Institutions.*

(a) *General.* This paragraph 4–116.4 implements 42 U.S.C. 1892 which gives the Department of Defense discretionary authority to vest in nonprofit institutions of higher education or nonprofit organizations whose primary purpose is the conduct of scientific research, without further obligation to the Government or on such other terms and conditions as may be appropriate, title to equipment purchased with funds available for grants or contracts for the conduct of basic or applied research.

(b) *Purpose of the Legislation.* The general purpose of the legislation implemented by this paragraph is to facilitate the scientific research performed under contract for the Government by the nonprofit institutions and organizations described in (a). It is intended to permit the elimination of the record-keeping required when the Government retains title to equipment furnished or purchased under a research contract, in those cases where the cost of such record-keeping to the contractor or to the Government is out of proportion to the value of the equipment. It is further intended to reduce where desirable the time and labor involved in formally circulating through the Government long lists of highly specialized or minor items of equipment or in relocating major equipment when such relocation is impracticable or uneconomical and not required for other research programs of the Government. Finally, it is intended to provide a measure of administrative flexibility when, from the standpoint of increased research effectiveness and in the absence of other Departmental or Governmental requirements, it is desirable to transfer title to equipment to such research contractors.

(c) *Transfer of Title.*

(1) Contracts with nonprofit institutions of higher education or nonprofit organizations whose primary purpose is the conduct of scientific research, shall provide, or shall be amended to provide, for transfer to contractors of title to each item of equipment having an acquisition cost of less than $1,000 and purchased with funds available for contracts for the conduct of basic and applied research. Title to such equipment acquired pursuant to 4–116.3 above shall vest in the contractor upon acquisition or as soon thereafter as feasible. Title to such

equipment already in the possession of the contractor shall be vested in the contractor at the time of amendment of the appropriate contract or as soon as practicable thereafter. A list of all such equipment shall be provided to the contracting officer within ten days following the end of the calendar quarter in which the transfer of title occurs.

(2) With respect to equipment having an acquisition cost of $1,000 or more, contracts with such institutions shall provide that title to equipment purchased with funds available for the conduct of basic and applied research shall:

(i) vest in the institution upon acquisition or as soon thereafter as feasible without further obligation to the Government;

(ii) vest in the institution subject to a right of the Government to direct transfer of the title to the Government or a third party within twelve months after completion or termination of the particular contract. The contract shall further provide that the transfer of title back to the Government or third parties shall not be the basis for any claim by the institution, or

(iii) vest in the Government when it is determined that vesting of title in the institution under (i) or (ii) above would not be in furtherance of the objectives of the Department's research program. For items having an acquisition cost of $5,000 or less this determination may be made by the contracting officer; for items having an acquisition cost of more than $5,000, this determination must be made at a level higher than the contracting officer.

(3) When title to equipment is vested pursuant to (1) or (2) above, the contractor must agree, as a condition to taking title, that no charge will be made to the Government for any depreciation, amortization, or use charge with respect to such equipment under any existing or future Government contract or subcontract thereunder.

(4) Notwithstanding the provisions of 4–116.4(c)(1), (2) or (3) above relative to the transfer of title when the contractor is performing at a Government installation and there will be a continuing need for the equipment at that location following completion of the contract, title to such equipment need not be transferred to the contractor.

(d) *Requirement for a Letter of Assurance.* Vesting title to equipment pursuant to (c) above is subject to the provisions of the Civil Rights legislation (42 USC 2000d). Before title is vested, the contracting officer must insure that the contractor has furnished a Letter of Assurance to the Department of Defense that provides: "No person in the United States shall, on the ground of race, color or national origin be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under this contemplated financial assistance (title to equipment)." Headquarters, Air Force Systems Command (AFSC), (PMPR), Andrews Air Force Base, Maryland 20334, is responsible in the Department of Defense for obtaining and maintaining files of Letters of Assurance from nonprofit institutions of higher education and other nonprofit institutions. AFSC(PMPR) will distribute, and periodically update, a list of institutions which furnished a Letter of Assurance. Contracting organizations may request a copy of

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(b) Purchase exceptions will be granted by the central nonprofit agency when both of the following conditions are met:

(i) the commodity or service cannot be provided by the workshops within the time period required; and

(ii) the commodity or service is available from other sources in the quantities and at an earlier time than is available from workshops.

(c) Purchase exceptions may be granted by central nonprofit agencies whenever the quantity required is insufficient for economical production or provision by the workshops.

(d) Purchase exceptions will be provided promptly by the central nonprofit agency and will specify the quantities and delivery or performance period covered by the exception. When an exception is granted under (b) above:

(i) purchase action shall be initiated within 15 days following the date of the exception, or as may be extended by the central nonprofit agency; and

(ii) a copy of the solicitation shall be provided the central nonprofit agency at the time it is issued.

5-506 Prices.

(a) The prices included in the Procurement List are fair market prices established by the Committee. DoD purchasing activities having responsibility for procurement of commodities or services will generally be requested by the Committee to assist in establishing fair market prices when a new commodity or service is proposed by a central nonprofit agency for addition to the Procurement List or when a price revision has been requested by a central nonprofit agency. It is within the Committee's authority, however, to establish prices without prior coordination with the responsible procurement agency. When assistance has been requested by the Committee, and a purchasing activity does not agree with an initial price or price revision requested by a central nonprofit agency, the nonconcurrence to the Committee, with the recommended price and the basis therefor, will be forwarded through:

(i) *for the Army:*
Headquarters, U.S. Army Materiel Development & Readiness Command,
Attn: DRCPP-SC
5001 Eisenhower Avenue
Alexandria, VA 22333

(ii) *for the Navy:*
Headquarters Naval Supply Systems Command
Attn: SUP 02
Washington, DC 20390

(iii) *for the Air Force:*
Headquarters, U.S. Air Force,
Directorate of Contracting and Acquisition Policy,
Attn: RDCL
Washington, DC 20330

(iv) *for the Defense Logistics Agency:*
Headquarters, DLA,
Executive Director for Purchasing,
Attn: DLA-P
Alexandria, VA 22314

(b) Recommendations for price revisions for commodities or services on the Procurement List may be made at any time to the Committee by responsible procuring activities. Such recommendations will be forwarded to the Committee through the offices listed in (a) above.

(c) Price changes for commodities and services shall apply to orders received by the workshop on or after the effective date of the change. In special cases, after considering the views of the ordering office, the Committee may make price changes applicable to orders received by the workshop before the effective date of the change.

5-507 Payments. Payments for products or services of the blind or other severely handicapped shall normally be made within 20 days, but in no event later than 30 days, after delivery or receipt of a correct invoice.

5-508 Compliance with Delivery Orders.

(a) Supplies and services provided by the blind and other severely handicapped workshops shall be in accordance with applicable Government specifications and standards as cited in the delivery order. When no specification or standards exist, supplies will be of the highest quality and equal to similar items available on the commercial market, and services shall be performed in accordance with good commercial practices.

(b) Other terms of the delivery order (*e.g.*, packing, marking, dates of delivery or performance) shall be as agreed to during one of the processes described in 5-504.1(a) or (b).

(c) If a workshop fails to perform in accordance with the terms of an order, the purchasing office shall make every effort to resolve the noncompliance with the workshop involved and to negotiate an adjustment before taking action to cancel the order. However, if a problem related to the quality of the item or of performance of a service cannot be resolved with the workshop, the matter will be referred for resolution to the central nonprofit agency and the Committee. When an order is canceled for failure to comply with its terms, the central nonprofit agency shall be notified, and requested to reallocate the order if practicable. When reallocation cannot be accomplished, a purchase exception will be given by the central nonprofit agency to procure from commercial sources.

5-509 Optional Procurement of Supplies or Services From Blind or Other Severely Handicapped Activities.

(a) Supplies and services not contained in the Procurement List may be procured from an agency or workshop of the blind and other severely handicapped when such activity is the low responsive, responsible offeror under a solicitation issued in accordance with other authorized procurement methods.

(b) When it is known that any of the agencies listed in the Procurement List is or may be qualified to furnish supplies or services which are not on the Procurement List, solicitations shall be forwarded to such agency.

5-510 Procuring Activity Actions With the Committee. Any matters required by these regulations to be referred to the Committee will be addressed to the Executive Director of the Committee at the address contained in the current issue of the Procurement List.

(ii) release to a foreign government, as the interest of the United States may require, only for information or evaluation within such government or for emergency repair or overhaul work by or for such government under the conditions of (i) above.

(9) *Restricted Rights* apply only to computer software, and include, as a minimum, the right to:

(i) use computer software with the computer for which or with which it was acquired, including use at any Government installation to which the computer may be transferred by the Government;

(ii) use computer software with a backup computer if the computer for which or with which it was acquired is inoperative;

(iii) copy computer programs for safekeeping (archives) or backup purposes;

(iv) modify computer software, or combine it with other software, subject to the provision that those portions of the derivative software incorporating restricted rights software are subject to the same restricted rights.

In addition, any other specific rights not inconsistent therewith listed or described in this contract or described in a license or agreement made a part of this contract.

(b) *Government Rights.*

(1) *Unlimited Rights.* The Government shall have unlimited rights in:

(i) technical data and computer software resulting directly from performance of experimental, developmental or research work which was specified as an element of performance in this or any other Government contract or subcontract;

(ii) computer software required to be originated or developed under a Government contract, or generated as a necessary part of performing a contract;

(iii) computer data bases, prepared under a Government contract, consisting of information supplied by the Government, information in which the Government has unlimited rights, or information which is in the public domain;

(iv) technical data necessary to enable manufacture of end-items, components and modifications, or to enable the performance of processes, when the end-items, components, modifications or processes have been, or are being, developed under this or any other Government contract or subcontract in which experimental, developmental or research work is, or was specified as an element of contract performance, except technical data pertaining to items, components, processes, or computer software developed at private expense (but see (2)(ii) below);

(v) technical data or computer software prepared or required to be delivered under this or any other Government contract or subcontract and constituting corrections or changes to Government-furnished data or computer software;

(vi) technical data pertaining to end-items; components or processes, prepared or required to be delivered under this or any other Government contract or subcontract, for the purpose of identifying sources, size, configuration, mating and attachment characteristics, functional characteristics and performance requirements ("form, fit and function" data, *e.g.*, specification control drawings, catalog sheets, envelope drawings, etc.);

(vii) manuals or instructional materials prepared or required to be delivered under this contract or any subcontract hereunder for installation, operation, maintenance or training purposes;

(viii) technical data or computer software which is in the public domain, or has been or is normally released or disclosed by the Contractor or subcontractor without restriction on further disclosure; and

(ix) technical data or computer software listed or described in an agreement incorporated into the schedule of this contract which the parties have predetermined, on the basis of subparagraphs (i) through (viii) above, and agreed will be furnished with unlimited rights.

(2) *Limited Rights.* The Government shall have limited rights in:

(i) technical data, listed or described in an agreement incorporated into the Schedule of this contract, which the parties have agreed will be furnished with limited rights; and

(ii) unpublished technical data pertaining to items, components or processes developed at private expense, and unpublished computer software documentation related to computer software that is acquired with restricted rights, other than such data as may be included in the data referred to in (b)(1)(i), (v), (vi), (vii), and (viii);

provided that only the portion or portions of each piece of data to which limited rights are to be asserted pursuant to (2)(i) and (ii) above are identified (for example, by circling, underscoring, or a note), and that the piece of data is marked with the legend below in which is inserted:

A. the number of the prime contract under which the technical data is to be delivered,

B. the name of the Contractor and any subcontractor by whom the technical data was generated, and

C. an explanation of the method used to identify limited rights data.

LIMITED RIGHTS LEGEND

Contract No. .....

Contractor: .....

Explanation of Limited Rights Data Identification Method Used

....

....

Those portions of this technical data indicated as limited rights data shall not, without the written permission of the above Contractor, be either (a) used, released or disclosed in whole or in part outside the Government, (b) used in whole or in part by the Government for manufacture or, in the case of computer software documentation, for preparing the same or similar computer software, or (c) used by a party other than the Government, except for: (i) emergency repair or overhaul work only, by or for the Government, where the item or process concerned is not otherwise reasonably available to enable timely performance of the work, *provided* that the release or disclosure hereof outside the Government shall be made subject to a prohibition against further use, release or disclosure; or (ii) release to a foreign government, as the interest of the United States may require, only for information or evaluation within such government or for emergency repair or overhaul work by or for such government under the conditions of (i) above. This legend, together with the indications of the portions of this data which are subject to such limitations shall be included on any reproduction hereof which includes any part of the portions subject to such limitations.

(3) *Restricted Rights.* The Government shall have restricted rights in computer software, listed or described in a license or agreement made a part of this contract, which the parties have agreed will be furnished with restricted rights, *provided*, however, notwithstanding any contrary provision in any such license or agreement, the Government shall have the rights in (a)(9)(i) through (iv). Such restricted rights are of no effect unless the computer software is marked by the Contractor with the following legend:

RESTRICTED RIGHTS LEGEND

Use, duplication or disclosure is subject to
restrictions stated in Contract No. .....,.....
with .....*Name of Contractor*)..... .

and the related computer software documentation includes a prominent statement of the restrictions applicable to the computer software. The Contractor may not place any legend on computer software indicating restrictions on the Government's rights in such software unless the restrictions are set forth in a license or agreement made a part of this contract prior to the delivery date of the software. Failure of the Contractor to apply a restricted rights legend to such computer software shall relieve the Government of liability with respect to such unmarked software.

(4) No legend shall be marked on, nor shall any limitation or restriction on rights of use be asserted as to, any data or computer software which the Contractor has previously delivered to the Government without restriction. The limited or restricted rights provided for by this para-

graph shall not impair the right of the Government to use similar or identical data or computer software acquired from other sources.

(c) Copyright

(1) In addition to the rights granted under the provisions of (b) above, the Contractor hereby grants to the Government a nonexclusive, paid-up license throughout the world, of the scope set forth below, under any copyright owned by the Contractor, in any work of authorship prepared for or acquired by the Government under this contract, to reproduce the work in copies or phonorecords, to distribute copies or phonorecords to the public, to perform or display the work publicly, and to prepare derivative works thereof, and to have others do so for Government purposes. With respect to technical data and computer software in which the Government has unlimited rights, the license shall be of the same scope as the rights defined in (a)(7). With respect to technical data in which the Government has limited rights, the scope of the license is limited to the rights defined in (a)(8). With respect to computer software which the parties have agreed in accordance with (b)(3) will be furnished with restricted rights, the scope of the license is limited to such rights.

(2) Unless written approval of the Contracting Officer is obtained, the Contractor shall not include in technical data or computer software prepared for or acquired by the Government under this contract any works of authorship in which copyright is not owned by the Contractor without acquiring for the Government any rights necessary to perfect a copyright license of the scope specified in (c)(1).

(3) As between the Contractor and the Government, the Contractor shall be considered the "person for whom the work was prepared" for the purpose of determining authorship under Section 201(b) of Title 17, United States Code.

(4) Technical data delivered under this contract which carries a copyright notice shall also include the following statement which shall be placed thereon by the Contractor, or should the contractor fail, by the Government:

> This material may be reproduced by or for the U.S. Government pursuant to the copyright license under DAR clause 7-104.9(a)(date).

(d) *Removal of Unauthorized Markings.* Notwithstanding any provision of this contract concerning inspection and acceptance, the Government may correct, cancel, or ignore any marking not authorized by the terms of this contract on any technical data or computer software furnished hereunder, if:

(i) the Contractor fails to respond within sixty (60) days to a written inquiry by the Government concerning the propriety of the markings, or

(ii) the Contractor's response fails to substantiate, within sixty (60) days after written notice, the propriety of limited rights markings by clear and convincing evidence, or of restricted rights markings by identification of the restrictions set forth in the contract.

In either case the Government shall give written notice to the Contractor of the action taken.

(e) *Relation to Patents.* Nothing contained in this clause shall imply a license to the Government under any patent or be construed as affecting the scope of any license or other right otherwise granted to the Government under any patent.

(f) *Limitation on Charges for Data and Computer Software.* The Contractor recognizes that the Government or a foreign government with funds derived through the Military Assistance Program or otherwise through the United States Government may contract for property or services with respect to which the vendor may be liable to the Contractor for charges for the use of technical data or computer software on account of such a contract. The Contractor further recognizes that it is the policy of the Government not to pay in connection with its contracts, or to allow to be paid in connection with contracts made with funds derived through the Military Assistance Program or otherwise through the United States Government, charges for data or computer software which the Government has a right to use and disclose to others, which is in the public domain, or which the Government has been given without restrictions upon its use and disclosure to others. This policy does not apply to reasonable reproduction, handling, mailing, and similar administrative costs incident to the furnishing of such data or computer software. In recognition of this policy, the Contractor agrees to participate in and make appropriate arrangements for the exclusion of such charges from such contracts, or for the refund of amounts received by the Contractor with respect to any such charges not so excluded.

(g) *Acquisition of Data and Computer Software from Subcontractors.*

(1) Whenever any technical data or computer software is to be obtained from a subcontractor under this contract, the Contractor shall use this same clause in the subcontract, without alteration, and no other clause shall be used to enlarge or diminish the Government's or the Contractor's rights in that subcontractor data or computer software which is required for the Government.

(2) Technical data required to be delivered by a subcontractor shall normally be delivered to the next-higher tier Contractor. However, when there is a requirement in the prime contract for data which may be submitted with limited rights pursuant to (b)(2) above, a subcontractor may fulfill such requirement by submitting such data directly to the Government rather than through the prime Contractor.

(3) The Contractor and higher-tier subcontractors will not use their power to award subcontracts as economic leverage to acquire rights in technical data or computer software from their subcontractors for themselves.

(End of clause)

(b) *Notice of Certain Limited Rights.* The paragraph (h) set forth below may be added to the clause in (a) above in any contract in which the contracting officer desires notification of limited rights data (see 9-202.2(g)).

(h) (1) Unless the Schedule provides otherwise, and subject to (2) below, the Contractor will promptly notify the Contracting Officer in writing of the intended use by the Contractor or a subcontractor in performance of this contract of any item, component or process for which technical data would fall within paragraph (b)(2) above.

(2) Such notification is not required with respect to:

(i) standard commercial items which are manufactured by more than one source of supply; or

(ii) items, components or processes for which such notice was given pursuant to predetermination of rights in technical data in connection with this contract.

(3) Contracting Officer approval is not necessary under this clause for the Contractor to use the item, component or process in the performance of the contract. (1972 APR)

(c) *Technical Data Clause—Specific Acquisition.* In accordance with 9-203(c), insert the following clause.

RIGHTS IN TECHNICAL DATA—SPECIFIC ACQUISITION (1979 MAR)

(a) *Definition. Technical Data* means recorded information, regardless of form or characteristic, of a scientific or technical nature. It may, for example, document research, experimental, developmental or engineering work; or be usable or used to define a design or process or to procure, produce, support, maintain, or operate materiel. The data may be graphic or pictorial delineations in media such as drawings or photographs; text in specifications or related performance or design type documents; or computer printouts. Examples of technical data include research and engineering data, engineering drawings and associated lists, specifications, standards, process sheets, manuals, technical reports, catalog item identifications, and related information, and documentation related to computer software. Technical data does not include computer software or financial, administrative, cost and pricing, and management data, or other information incidental to contract administration.

(b) *Government Rights.* The Government may duplicate, use and disclose in any manner and for any purpose whatsoever, and have others so do, all or any part of the technical data delivered by the Contractor to the Government under this contract.

(c) Copyright

(1) In addition to the rights granted under the provisions of (b) above, the Contractor hereby grants to the Government a nonexclusive, paid-up license throughout the world, of the scope set forth below, under any copyright owned by the Contractor, in any work of authorship prepared for or acquired by the Government under this contract, to reproduce the work in copies or phonorecords, to distribute copies of phonorecords to the public, to perform or display the work publicly, and to prepare derivative works thereof, and to have others do so for Government purposes. With respect to technical data and computer software in which the Government has unlimited rights, the license shall be of the same scope as the rights defined in (a)(7). With respect to technical data in which the Government has limited rights, the scope of the license is limited to the rights defined in (a)(8). With respect to computer software which the parties have agreed, in accordance with (b)(3), will be furnished with restricted rights, the scope of the license is limited to such rights.

(2) Unless written approval of the Contracting Officer is obtained, the Contractor shall not include in technical data or computer software prepared for or acquired by the Government under this contract any works of authorship in which copyright is not owned by the Contractor without acquiring for the Government any rights necessary to perfect a copyright license of the scope specified in (c)(1).

(3) As between the Contractor and the Government, the Contractor shall be considered the "person for whom the work was prepared" for the purpose of determining authorship under Section 201(b) of Title 17, United States Code.

(4) Technical data delivered under this contract which carries a copyright notice shall also include the following statement which shall be placed thereon by the Contractor, or should the contractor fail, by the Government:

> This material may be reproduced by or for the U.S. Government pursuant to the copyright license under DAR clause 7-104.9(a)(date).

(d) *Relation to Patents.* Nothing contained in this clause shall imply a license to the Government under any patent, or be construed as affecting the scope of any license or other right otherwise granted to the Government under any patent.

(e) *Limitation on Charges for Data.* The Contractor recognizes that the Government, or a foreign government with funds derived through the Military Assistance Program or otherwise through the United States Government, may contract for property or services with respect to which the vendor may be liable to the Contractor for charges for the use of technical data on ac-

count of such a contract. The Contractor further recognizes that it is the policy of the Government not to pay in connection with its contracts, or to allow to be paid in connection with contracts made with funds derived through the Military Assistance Program or otherwise through the United States Government, charges for data which the Government has a right to use and disclose to others, which is in the public domain, which the Government has been given without restrictions upon its use and disclosure to others. This policy does not apply to reasonable reproduction, handling, mailing, and similar administrative costs incident to the furnishing of such data. In recognition of this policy, the Contractor agrees to participate in and make appropriate arrangements for the exclusion of such charges from such contracts, or for the refund of amounts received by the Contractor with respect to any such charges not so excluded.

(End of clause)

(d) *Deferred Delivery of Technical Data or Computer Software.* In accordance with 9-502(b), insert the following clause.

DEFERRED DELIVERY OF TECHNICAL DATA OR COMPUTER SOFTWARE (1974 NOV)

The Government shall have the right to require, at any time during the performance of this contract, within two (2) years after either acceptance of all items (other than data or computer software) to be delivered under this contract or termination of this contract, whichever is later, the delivery of any technical data or computer software item identified in this contract as "deferred delivery" data or computer software. The obligation to furnish such technical data required to be prepared by a subcontractor and pertaining to an item obtained from him shall expire two (2) years after the date contractor accepts the last delivery of that item from that subcontractor for use in performing this contract.

(End of clause)

(e) Production of Special Works. In accordance with 9-204.2, insert the following clause:

RIGHTS IN DATA-SPECIAL WORKS (1979 MAR)

(a) The term "works" as used herein includes literary, musical, and dramatic works; pantomimes and choreographic works; pictorial, graphic, and sculptural works; motion pictures and other audiovisual works; sound recordings; and works of similar nature. The term does not include financial reports, cost analyses, and other information incidential to contract administration.

(b) All works first produced in the performance of this contract shall be the sole property of the Government, which shall be considered the "person for whom the work was prepared" for the purpose of authorship in any copyrightable work under Section 201(b) of Title 17, United States Code, and the Government shall own all of the rights comprised in the copyright. The Contractor agrees not to assert or authorize others to assert any rights, or establish any claim to copyright, in such works. The Contractor, unless directed to the contrary by the Contracting Officer, shall place on any such works delivered under this contract the following notice:

> © (Year date of delivery) United States Government as represented by the Secretary of (department). All rights reserved.

In the case of a phonorecord, the © will be replaced by Ⓟ.

(g) *Risk of Loss.*

(1) The Contractor shall not be liable for loss or destruction of or damage to the Government property provided under this contract except as provided in (2) below. If the Contractor transfers Government property to the possession and control of a subcontractor, the transfer shall not affect the liability of the Contractor for loss or destruction of or damage to the property as set forth above. However, the Contractor shall require the subcontractor to assume the risk of, and be responsible for, any loss or destruction of or damage to the property while in the latter's possession or control, except to the extent that the subcontract, with the prior approval of the Contracting Officer, provides for the relief of the subcontractor from such liability. In the absence of such approval, the subcontract shall contain appropriate provisions requiring the return of all Government property in as good condition as when received, except for reasonable wear and tear or for the utilization of the property in accordance with the provisions of the prime contract.

(2) The Contractor shall be responsible for any loss or damage (i) to the extent specifically provided in the clause or clauses of this contract designated in the schedule, or (ii) which results from:

(A) willful misconduct or lack of good faith of any of the Contractor's managerial personnel; or

(B) a failure on the part of the Contractor, due to willful misconduct or lack of good faith of the Contractor's managerial personnel, (i) to maintain and administer the program for maintenance, repair, protection, and preservation of the Government property as required by paragraph (f) hereof, or (ii) to establish, maintain and administer a system for control of Government property as required by paragraph (d) of this clause.

Any failure of the Contractor to act, as provided in this (B), shall be conclusively presumed to be a failure resulting from willful misconduct, or lack of good faith on the part of one of the Contractor's managerial personnel if the Contractor is notified by the Contracting Officer by registered or certified mail addressed to one of the Contractor's managerial personnel, of the Government's disapproval, withdrawal of approval, or nonacceptance of the Contractor's program or system. In such event, it shall be presumed that any loss of or damage to Government property resulted from such failure. The Contractor shall be liable for such loss or damage unless he can establish by clear and convincing evidence that such loss or damage did not result from his failure to maintain an approved program or system, or occurred during such time as an approved program or system for control of Government property was maintained.

The term "Contractor's managerial personnel" as used herein means the Contractor's directors, officers and any of his managers, superintendents, or other equivalent representatives who have supervision or direction of:

(i) all or substantially all of the Contractor's business;

(ii) all or substantially all of the Contractor's operation at any one plant or separate location at which the contract is being performed; or

(iii) a separate and complete major industrial operation in connection with the performance of this contract.

(3) The Contractor represents that he is not including in the price hereunder, and agrees that he will not hereafter include in any price to the Government, any charge or reserve for insurance (including any self-insurance funds or reserve) covering loss or destruction of or damage to the Government property.

(4) Upon the happening of loss or destruction of or damage to any Government property, the Contractor shall notify the Contracting Officer thereof, and shall communicate with the Loss and Salvage Organization, if any, now or hereafter designated by the Contracting Officer, and with the assistance of the Loss and Salvage Organization so designated (unless the Contracting Officer has directed that no such organization be employed), shall take all reasonable steps to protect the Government property from further damage, separate the damaged and undamaged Government property, put all the Government property in the best possible order, and furnish to the Contracting Officer a statement of:

(i) the lost, destroyed, and damaged Government property;

(ii) the time and origin of the loss, destruction, or damage;

(iii) all known interests in commingled property of which the Government property is a part; and

(iv) the insurance, if any, covering any part of or interest in such commingled property.

The Contractor shall be entitled to an equitable adjustment in the contract price for the expenditures made by him in performing his obligations under this subparagraph (4) (including charges made to the Contractor by the Loss and Salvage Organization, except any of such charges the payment of which the Government has, at its option, assumed directly), in accordance with the procedures provided for in the "Changes" clause of this contract.

(5) With the approval of the Contracting Officer after loss or destruction of or damage to Government property, and subject to such conditions and limitations as may be imposed by the Contracting Officer, the Contractor may, in order to minimize the loss to the Government or in order to permit resumption of business or the like, sell for the account of the Government any item of Government property which has been damaged beyond practicable repair, or which is so commingled or combined with property of others, including the Contractor, that separation is impracticable.

(6) In the event the Contractor is reimbursed or compensated for any loss or destruction of or damage to the Government property, he shall equitably reimburse the Government. The Contractor shall do nothing to prejudice the Government's rights to recover against third parties for any such loss, destruction or damage and, upon the request of the Contracting Officer, shall at the Government's expense, furnish to the Government all reasonable assistance and cooperation (including the prosecution of suit and the execution of instruments of assignment in favor of the Government) in obtaining recovery. In addition, where a subcontractor has not been relieved from liability for any loss or destruction of or damage to the Government property, the Contractor shall enforce the liability of the subcontractor for such loss or destruction of or damage to the Government property for the benefit of the Government.

*(7) If this contract is for the development, production, modification, maintenance or overhaul of aircraft, or otherwise involves the furnishing of aircraft by the Government, the "Ground and Flight Risk" clause of this contract shall control, to the extent it is applicable, in the case of loss or destruction of, or damage to, aircraft. (1978 SEP)

*This subparagraph may be omitted where it is clearly inapplicable and shall be deleted when the Ground and Flight Risk clause is omitted pursuant to 10-404 (b) (2).

(6) *"Special"RDT&E and nonrecurring production costs* are those incurred for and paid by an FMS customer in developing a special feature or unique requirement under a DOD Offer and Acceptance (DD Form 1513).

(7) *Fair market price of technology*, such as that sold or licensed under a licensing or technical assistant agreement, is a price negotiated between a buyer and seller when the monetary return to the seller is primarily determined by the buyer's need for the technology and the potential market for the product(s) produced from the technology.

(8) *Model* is the generic term applied to a basic item and all modifications to that item. The model can generally be identified by a basic alphanumeric designation, such as a ship hull series, an equipment or system series, an airframe series, or a vehicle series. Recoupment within a model series is identified by determining total nonrecurring investment (RDT&E or production, as appropriate) applicable to that model series and dividing by the total number of units of the model series estimated to be produced for DOD requirements, FMS, and commercial sales.

(9) *Major defense equipment*, as applicable herein, means any item of significant combat equipment on the United States Munitions List having a nonrecurring research and development cost of more than $50 million or a total production cost of more than $200 million.

(b) In the event the Contractor intends to enter into domestic or foreign commercial sales for items in this contract, or essentially similar items, or enter into license or technical assistance agreements for the technology developed under this contract, he shall promptly notify the Contracting Officer (or the original DOD Contracting Office in the event the contract is closed) to obtain the applicable nonrecurring recoupment charge.

(1) The Contractor agrees that, with respect to (2) below, he will:

(i) Reimburse the U.S. Government for a fair share of U.S. Government expenditures for nonrecurring costs applicable to the items, or, in the case of technology, the Government's proportionate share of the fair market price of the technology for the commercial customer. In the event that the current charge is unavailable, the Contractor will submit information required to support the development of the appropriate charge.

(ii) Reimburse a fair share of nonrecurring costs related to a special feature or product paid by a foreign government or international organization under a U.S. Government Foreign Military Sales case when the Contractor enters into a commercial sale or license agreement for the same or similar special feature or product.

(2) The Government will require reimbursement under the provisions of this clause when:

(i) The Government's investment in research, development, test, and evaluation (RDT&E) equals or exceeds $5 million.

(ii) The Government's investment in nonrecurring production costs equals or exceeds $5 million.

(iii) A foreign government's RDT&E and nonrecurring production costs for a special feature or product equal or exceed $5 million (when requested under an FMS case and agreed to by the U.S. Government).

(iv) Reimbursement for investment costs below the thresholds in (i) through (iii) are specifically approved by the Secretary of Defense or his designee.

(3) For each commercial sale of the item, the amount to be reimbursed to the U.S. Government for nonrecurring costs shall be determined by dividing the total nonrecurring costs incurred and projected to be incurred by the total production quantity of the item, past and projected, including the production quantity for the Department of Defense (or FMS purchaser in the case of special feature or product recoupment), and multiplying the result by the quantity involved in each commercial sale or license agreement. In principle, for defense equipment for which several model designators exist, the nonrecurring costs and the total production quantity should be accumulated over the entire range of models and major subsystems that are basically similar to the model and subsystems being sold. In a combination FMS and commercial sale of a product, the Contractor agrees to reimburse the Government for the nonrecurring costs associated with the commercial portion of the customer's purchase.

(4) For each commercial sale of technology, these factors will be considered in determining fair market price: (i) the costs incurred by the Department of Defense in developing the technology being considered for sale; (ii) the costs that would be incurred by the buyer in independently developing the technology; and (iii) the estimated dollar value of the product(s) that will be produced by the buyer upon transfer of the technology. In the case of sale or license of technology to a domestic organization, the fair market price will be the lower of either a fair share of the DOD investment cost identified to the development of the technology or a proportionate share of the fair market price for the technology based on demand or the potential monetary return on investment. For sales or licenses of technology to foreign commercial customers, this price will be the greater of these two alternatives. The foregoing domestic pricing criterion will only be applied if the prospective commercial purchaser agrees that, in the event the

(3) Follow consistently the cost accounting practices disclosed pursuant to (2) above and the established cost accounting practices of the business unit. A change to such practices may be proposed, however, by either the Government or the Contractor, and the Contractor agrees to negotiate with the Contracting Officer the terms and conditions under which a change may be made. After the terms and conditions under which the change is to be made have been agreed to, the change must be applied prospectively to this contract, and the Disclosure Statement if affected must be amended accordingly. No agreement may be made under this provision that will increase costs paid by the United States.

(4) Agree to an adjustment of the contract price of cost allowance, as appropriate, if he or a subcontractor fails to comply with the applicable Cost Accounting Standards or to follow any practice disclosed or established pursuant to subparagraph (a)(2) or (a)(3) above and such failure results in any increased costs paid by the United States. Such adjustment shall provide for recovery of the increased cost to the United States together with interest thereon computed at the rate determined by the Secretary of the Treasury pursuant to Public Law 92-41, 85 Stat. 97, or 7 percent per annum, whichever is less, from the time the payment by the United States was made to the time the adjustment is effected.

(5) When the parties agree to a change to either a disclosed cost accounting practice or an established cost accounting practice, negotiate an equitable adjustment as provided in the changes clause of this contract.

(b) If the parties fail to agree whether the Contractor has complied with an applicable Cost Accounting Standard, rule or regulation of the Cost Accounting Standards Board and as to any cost adjustment demanded by the United States, such failure to agree shall be a dispute concerning a question of fact within the meaning of the disputes clause of this contract.

(c) The Contractor shall permit any authorized representatives of the head of the agency, of the Cost Accounting Standards Board, or of the Comptroller General of the United States to examine and make copies of any documents, papers, or records relating to compliance with the requirements of this clause.

(d) The Contractor shall include in all negotiated subcontracts into which he enters the substance of this clause except paragraph (b) of this section, and shall require such inclusion in all other subcontracts of any tier, except that:

(1) If the subcontract is awarded to a business unit which pursuant to Part 331 is required to follow all Cost Accounting Standards, the clause entitled "Cost Accounting Standards" set forth in DAR 7-104.83(a)(1) shall be inserted in lieu of this clause, or

(2) This requirement shall not apply to negotiated subcontracts where the price negotiated is based on:

(i) Established catalog or market prices of commercial items sold in substantial quantities to the general public or

(ii) Prices set by law or regulation.

(e) The requirement shall not apply to negotiated subcontracts otherwise exempt from the requirement to accept a Cost Accounting Standards clause by reason of Section 331.30(b) of the Board's regulation.

NOTE: The terms defined in Section 331.20 of Part 331 of Title 4, Code of Federal Regulations (4 CFR 331.20) shall have the same meaning herein. As there defined, "negotiated subcontract" means "any subcontract except a firm fixed-price subcontract made by a Contractor or subcontractor after receiving offers from at least two firms not associated with each other or such Contractor or subcontractor, providing (1) the solicitation to all competing firms is identical, (2) price is the only consideration in selecting the subcontractor from among the competing firms solicited, and (3) the lowest offer received in compliance with the solicitation from among those solicited is accepted."

(End of clause)

(b) *Administration of Cost Accounting Standards.* In accordance with 3-1204, insert the following clause.

ADMINISTRATION OF COST ACCOUNTING STANDARDS (1978 MAY)

For the purpose of administering Cost Accounting Standards requirements under this contract, the Contractor shall:

(a) Submit to the cognizant Contracting Officer a description of the accounting change and the general dollar magnitude of the change to reflect the sum of all increases and the sum of all decreases for all contracts containing the Cost Accounting Standards clause (7-104.83(a)(1)) or the Disclosure and Consistency of Cost Accounting Practices clause (7-104.83(a)(2)):

(i) for any change in cost accounting practices required to comply with a new cost accounting standard in accordance with paragraph (a)(3) and (a)(4)(A) of the clause entitled "Cost Accounting Standards" within sixty (60) days (or such other date as may be mutually agreed to) after award of a contract requiring such change:

(a) The Contractor hereby certifies, as of the date of this contract, to be in compliance with the Wage and Price Standards issued by the Council on Wage and Price Stability (6 CFR 705, Appendix, and Part 706).

(b) If it is later determined, after notice and opportunity to be heard, that the Contractor was willfully not in compliance with such standards as of the date of this contract, then this contract may be terminated in accordance with the provisions of the Termination for Default clause.

(c) Should the Government determine that termination for default would not be in the public interest, the Contractor agrees to accept an equitable reduction of the contract price or cost allowance and profit or fee, as appropriate under the circumstances.

(d) The Contractor shall require a Certification - Wage and Price Standards, limited to (a) above, as a condition of award of any first-tier subcontract which exceeds $5 million. The Contractor further agrees that should any price adjustment in subcontract prices result from the operation of this provision as to subcontracts, he will advise the Contracting Officer and an equitable adjustment of the contract price will be made. The operation of this provision in any subcontract shall not excuse the Contractor from performance of this contract in accordance with its terms and conditions. Any waiver or relaxation of the certification requirements with respect to such first-tier subcontractors can only be made by the Secretary.

(End of clause)

7-104.102 *Certification of Requests for Adjustment or Relief Exceeding $100,000.* In accordance with 1-342, insert the following clause.

CERTIFICATION OF REQUESTS FOR ADJUSTMENT OR RELIEF EXCEEDING $100,000 (1980 FEB)

(a) Any contract claim, request for equitable adjustment to contract terms, request for relief under Public Law 85-804, or other similar request exceeding $100,000 shall bear, at the time of submission, the following certificate given by a senior company official in charge at the plant or location involved:

I certify that the claim is made in good faith, that the supporting data are accurate and complete to the best of my knowledge and belief; and that the amount requested accurately reflects the contract adjustment for which the Contractor believes the Government is liable.

_____
(Official's Name)

_____
(Title)

(b) The certification in paragraph (a) requires full disclosure of all relevant facts, including cost and pricing data.

(c) The certification requirement in paragraph (a) does not apply to:

(i) requests for routine contract payments—for example, those for payment for accepted supplies and services, routine vouchers under cost reimbursement-type contracts, and progress payment invoices;

(ii) final adjustments under incentive provisions of contracts;

(d) In those situations where no claim certification for the purposes of Section 813 has been submitted prior to the inception of a contract dispute, a single certification, using the language prescribed by the Contract Disputes Act but signed by a senior company official in charge at the plant or location involved, will be deemed to comply with both statutes.

(End of clause)

7-105 Additional Clauses. The following clauses shall be inserted in fixed-price supply contracts in accordance with Departmental procedures when it is desired to cover the subject matter thereof in such contracts.

7-105.1 *Alterations in Contract.*

(a)

ALTERATIONS IN CONTRACT (1949 JUL)

The following alterations have been made in the provisions of this contract.

(End of clause)

(e) The Contracting Officer may examine the Contractor's books, records, and other supporting data relevant to the cost of labor (including fringe benefits) and materials during all reasonable times until the expiration of three (3) years from the date of final payment under this contract or for the time periods specified in Appendix M of the Armed Services Procurement Regulation, whichever expires earlier.

(End of clause)

7–108 Incentive Price Revision Clauses.

7–108.1 *Firm Targets.* When in accordance with the provisions of Section III, Part 4, the fixed-price incentive contract described in 3–404.4(a) (2) is to be used, the following clause shall be made a part of the contract. As to each item which is to be subject to incentive price revision, the contract schedule shall set forth the target cost, target profit, target price.

INCENTIVE PRICE REVISION (FIRM TARGET)

(a) *General.* The supplies or services identified in the Schedule as items ..... are subject to price revision in accordance with the provisions of this clause; *provided*, that in no event shall the total final price of such items exceed ..... dollars ($.....). Any supplies or services which are to be ordered separately under, or otherwise added to, this contract, and which are to be subject to price revision in accordance with the provisions of this clause, shall be identified as such in a modification to this contract.

(b) *Definition of Cost.* For the purposes of this clause, "cost" or "costs" means allowable cost in accordance with Section XV of the Defense Acquisition Regulation as in effect on the date of this contract.

(c) *Submission of Data.* Within ..... (.....) days after the end of the month in which the Contractor has delivered the last unit of supplies and completed the services called for by those items referred to in paragraph (a) above, the Contractor shall submit, on DD Form 633 or other form as the Contracting Officer may require, (i) a detailed statement of all costs incurred up to the end of that month in performing all work under such items, (ii) an estimate of costs of such further performance, if any, as may be necessary to complete performance of all work with respect to such items, and (iii) a list of all residual inventory and an estimate of the value thereof.

(d) *Price Revision.* Upon submission of the data required by paragraph (c) above, the Contractor and the Contracting Officer shall promptly establish the total final price in accordance with the following:

(1) On the basis of the information required by paragraph (c) above, together with any other pertinent information, there shall be established by negotiation the total final cost incurred or to be incurred for the supplies delivered (or services performed) and accepted by the Government, which are subject to price revision under this clause.

(2) The total final price shall be established by adjusting the total final negotiated cost by an amount for profit or loss determined as follows:

WHEN THE TOTAL FINAL NEGOTIATED COST IS:	THE ADJUSTMENT FOR PROFIT OR LOSS IS:
Equal to the total target cost _____	Total target profit.
Greater than the total target cost ___	Total target profit less ___ percent (___%) of the amount by which the total final negotiated cost exceeds the total target cost.
Less than the total target cost _____	Total target profit plus ___ percent (___%) of the amount by which the total final negotiated cost is less than the total target cost.

(3) The total final price of the items referred to in paragraph (a) above shall be evidenced by a modification to this contract signed by the Contractor and the Contracting Officer. Such price shall not be subject to revision notwithstanding any changes in the cost of performing the contract, with the following exceptions:

(i) insofar as the parties may agree in writing, prior to the determination of the total final price, (A) to exclude any specific elements of cost from the total final price and (B) to a procedure to provide subsequent disposition of such elements; and

(ii) to the extent any adjustment or credit is explicitly permitted or required by this or any other clause of this contract.

(4) When the Contractor fails to submit the data required by paragraph (c) above within the time required therein and it is later determined that the Government has overpaid the Contractor, the excess shall be repaid to the Government immediately. Unless repaid within thirty (30) days after the end of the data submittal period, the amount of such excess shall bear interest at the rate established in accordance with the Interest clause in DAR 7–104.39. Interest shall be computed for the period from the date the data was due to the date of repayment.

(e) *Subcontracts.* No subcontract placed under this contract shall provide for payment on a cost-plus-a-percentage-of-cost basis.

(f) *Adjustment of Payments.* Pending execution of the contract modification referred to in subparagraph (d)(3) above, the Contractor shall submit invoices or vouchers in accordance with billing prices as provided in this paragraph. The billing prices shall be the target prices set forth in this contract; *provided*, that if at any time it appears that the then current billing prices will be substantially greater than the estimated final price in light of information provided by the Contractor in accordance with the provisions of subparagraph (g)(2) below, a reduction in the billing prices shall be negotiated. Similarly, the parties may negotiate an increase in billing prices by any or all of the difference between the target price and the ceiling price upon submission of factual data from the Contractor showing that final costs under this contract will be substantially greater than target cost. Any adjustment of billing prices shall be reflected in a modification to this contract, and shall not affect the determination of the total final price under paragraph (d) above. After execution of the contract modification referred to in subparagraph (d)(3) above, the total amount paid or to be paid on all invoices or vouchers shall be adjusted to reflect the total final price and any additional payments, refunds, or credits, resulting therefrom shall be promptly made.

(g) *Quarterly Limitation on Payments Statement.*

(1) This paragraph (g) shall not apply after final price revision.

(2) Within forty-five (45) days after the end of each quarter of the Contractor's fiscal year, beginning for the quarter in which a delivery is first made (or services are first performed) and accepted by the Government under this contract, and as of the end of each quarter, the Contractor shall submit to the Contract Administration Office, with a copy to the purchasing activity and the cognizant contract auditor, a cumulative statement setting forth:

(i) the total contract price of all supplies delivered (or services performed) and accepted by the Government for which final prices have been established;

(ii) the total costs (estimated to the extent necessary) reasonably incurred for and properly allocable solely to the supplies delivered (or services performed) and accepted by the Government for which final prices have not been established;

(iii) that portion of the total target profit which is in direct proportion to the supplies delivered (or services performed) and accepted by the Government for which final prices have not been established, increased or decreased in accordance with the incentive profit formula set forth in (d)(2) above when the amount of costs stated under (ii) above differs from the aggregate target costs of such supplies or services; and

(iv) the total amount of all invoices or vouchers for supplies delivered (or services performed) and accepted by the Government (including amounts applied or to be applied to liquidate progress payments).

(3) Notwithstanding any provision of this contract authorizing greater payments, if on any quarterly statement the amount of (2)(iv) above exceeds the sum of (2)(i), (ii), and (iii) above, the Contractor shall immediately refund or credit to the Government against existing unpaid invo-

ices or vouchers covered by such statement the amount of such excess less (i) the cumulative total of any previous refunds or credits under this clause (exclusive of any tax credits under Section 1481 of the Internal Revenue Code of 1954) and (ii) any applicable tax credits under Section 1481 of the Internal Revenue Code of 1954. If any portion of such excess has been applied to the liquidation of progress payments, such amount (less all tax credits under the Internal Revenue Code) may be added or restored to the unliquidated progress payment account, to the extent consistent with the "Progress Payments" clause of this contract, instead of direct refund thereof.

(4) When the Contractor fails to submit the quarterly statement within forty-five (45) days after the end of each quarter and it is later determined that the Government has overpaid the the Contractor, the excess shall be repaid to the Government immediately. Unless repaid within thirty (30) days after the end of the statement submittal period, the amount of such excess shall bear interest at the rate established in accordance with the Interest clause in DAR 7-104.39. Interest shall be computed for the period from the date the quarterly statement was due to the date of repayment.

(5) The Contractor shall (i) insert in each price redetermination or incentive price revision subcontract hereunder the substance of this paragraph (g), including this subparagraph (5), modified to omit mention of the Government and reflect the position of the Contractor as purchaser and of the subcontractor as vendor, and to omit that portion of subparagraph (3) relating to tax credits, and (ii) include in each cost-reimbursement type subcontract hereunder a requirement that each price redetermination and incentive price revision subcontract thereunder will contain the substance of this paragraph (g), including this subparagraph (5) modified as outlined in (i) above.

(h) *Disagreements.* If the Contractor and the Contracting Officer fail to agree upon the total final price within sixty (60) days after the date on which the data required by (c) above are to be submitted, or within such further time as may be specified by the Contracting Officer, such failure to agree shall be deemed to be a dispute concerning a question of fact within the meaning of the "Disputes" clause of this contract and the Contracting Officer shall promptly issue a decision thereunder.

(i) *Termination.* If this contract is terminated prior to establishment of the total final price, prices of supplies or services subject to price revision under this clause shall be established pursuant to this clause for (i) completed supplies accepted by the Government and services performed and accepted by the Government, and (ii) in the event of a partial termination, supplies and services which are not terminated. The termination shall be otherwise accomplished pursuant to other applicable provisions of this contract.

(j) *Equitable Adjustment Under Other Clauses.* If an equitable adjustment in the contract price is made under any other clause of this contract before the total final price is established, the adjustment shall be made in the total target cost and may be made in the maximum dollar limit on the total final price, the total target profit or both. If such an adjustment is made after the total final price is established, adjustment shall be made only in the total final price.

(k) *Exclusion From Target Price and Total Final Price.* Whenever any clause of this contract provides that the contract price does not or will not include an amount for a specific purpose, such provision shall mean that neither any target price nor the total final price includes or will include any amount for such purpose.

(l) *Separate Reimbursement.* The cost of performance of an obligation that any clause of this contract expressly provides is at Government expense shall not be included in any target price or in the total final price, but shall be reimbursed separately.

(m) *Taxes.* As used in the "Federal, State, and Local Taxes" clause of this contract or any other clause of this contract that provides for certain taxes or duties to be included in, or excluded from, the contract price, the term "contract price" includes the total target price, or if it has been established, the total final price. When a provision in such clause or clauses requires that the contract price be increased or decreased as a result of changes in the obligation of the Contractor to pay or bear the burden of certain taxes or duties, such increase or decrease shall be made in the total target price or, if it has been established, in the total final price, so as not to affect the contractor's profit or loss on this contract.

(End of clause)

In contracts of the Department of the Navy, add the words "and the office or offices designated in this contract to make payments thereunder" after the words "cognizant contract auditor" in paragraph (g)(2) above. In the event the contract calls for parts or other supplies or services which are to be ordered under a provisioning document or Government option and the prices of such supplies or services are to be made subject to incentive price revision in accordance with the above clause, the following provision (n) shall be included in such clause:

(n) *Parts.* Parts, other supplies, or services, which are to be furnished under this contract pursuant to a provisioning document or Government option, shall be subject to price revision in accordance with the provisions of this clause, and any prices established for such parts, other supplies, or services, pursuant to such provisioning document or Government option, shall be deemed to be target prices. Target cost and profit covering such parts, other supplies, or services may be established either separately, in the aggregate, or in any combination thereof, as the parties may agree. (1970 SEP)

7-108.2 *Successive Targets.* When in accordance with the provisions of Section III, Part 4, the fixed-price incentive contract described in 3-404.4(a)(3) is to be used, the following clause shall be made a part of the contract. As to each item which is to be subject to incentive price revision, the contract schedule shall set forth the initial target cost, initial target profit, and initial target price.

INCENTIVE PRICE REVISION (SUCCESSIVE TARGETS) (1980 FEB)

(a) *General.* The supplies or services identified in the Schedule as Items — are subject to price revision in accordance with the provisions of this clause; *provided*, that in no event shall the total final price of such items exceed ..... dollars ($.....). The prices of these items as shown in the Schedule are the initial target prices, which include an initial target profit of ..... percent (—%) of the initial target cost. Any supplies or services which are to be ordered separately under, or otherwise added to, this contract, and which are to be subject to price revision in accordance with the provisions of this clause, shall be identified as such in a modification to this contract.

(b) *Definition of Cost.* For the purposes of this clause, "cost" or "costs" means allowable costs in accordance with Section XV of the Defense Acquisition Regulation in effect on the date of this contract.

(c) *Submission of Data for Establishment of Firm Fixed-Price or Final Profit Adjustment Formula.*

(1) Within — (—) days after the end of the month in which the Contractor has completed .....*, the Contractor shall submit:

(*Footnote for preceding paragraph*)
* The degree of completion may be based on a percentage of contract performance or any other reasonable basis.

(i) a proposed firm fixed-price or total firm target price for supplies delivered and to be delivered and the services performed and to be performed;
(ii) a detailed statement of all costs incurred in the performance of this contract through the end of the month specified above, on DD Form 633 or in such other form as the parties may agree, together with sufficient supporting data to disclose unit costs and cost trends for:
(A) supplies delivered and services performed, and
(B) inventories of work in process and undelivered contract supplies on hand (estimated to the extent necessary);

(iii) an estimate of costs of all supplies delivered and to be delivered and all services performed and to be performed under this contract, using the statement of costs incurred plus an estimate of costs to complete performance, on DD Form 633 or in such other form as the parties may agree, together with:

(A) sufficient data to support the accuracy and reliability of such estimate, and

(B) an explanation of the differences between such an estimate and the original estimate used in establishing the initial target prices set forth in this contract for the same supplies or services.

(2) In addition to the data submitted under subparagraph (1) above, the Contractor shall submit the following:

(i) supplemental statements of costs incurred subsequent to the end of the month specified in (1) above for:

(A) supplies delivered and services performed, and

(B) inventories of work in process and undelivered contract supplies on hand (estimated to the extent necessary); and

(ii) any other relevant data which may reasonably be required by the Contracting Officer;

as and to the extent that such information becomes available prior to the conclusion of negotiations establishing the total firm target price.

(d) *Establishment of Firm Fixed-Price or Final Profit Adjustment Formula.* Upon submission of the data required by paragraph (c) above, the Contractor and the Contracting Officer shall promptly establish either a firm fixed-price or a profit adjustment formula for determining final profit in accordance with the following:

(1) A total firm target cost shall be negotiated, based upon the data submitted under paragraph (c) above.

(2) If the total firm target cost is more than the total initial target cost, the total initial target profit will be decreased, or if the total firm target cost is less than the total initial target cost, the total initial target profit will be increased by ..... percent (—%) of the difference between the total initial target cost and the total firm target cost** and the resulting amount shall be the total firm target profit, *provided*, that in no event will such total firm target profit be less than ..... percent (—%) or more than ..... percent (—%) of the total initial target cost.

(*Footnote for preceding paragraph*)

** The language may be changed as necessary to set forth the negotiated adjustment pattern where the percentage figure to be used for adjustment of the initial target profit is not the same for all levels of cost variation.

(3) If the total firm target cost plus the total firm target profit present a reasonable price for performance of that part of the contract subject to price revision under this clause, the parties may agree on a firm fixed-price. In this event, the firm fixed-price shall be evidenced by a modification to this contract signed by the Contractor and the Contracting Officer.

(4) Failure of the parties to agree as to a firm fixed-price shall not constitute a dispute under the "Disputes" clause of this contract. In such event or, if establishment of a firm fixed-price is considered to be inappropriate, the Contractor and the Contracting Officer shall establish a profit adjustment formula for determining final profit or loss in accordance with the following:

WHEN THE TOTAL FINAL NEGOTIATED COST IS:	THE ADJUSTMENT FOR FINAL PROFIT OR LOSS IS:
Equal to the total firm target cost	Total firm target profit.
Greater than the total firm target cost	Total firm target profit less _____ percent (_____%) of the amount by which the total final negotiated cost exceeds the total firm target cost.

Less than the total firm target cost	Total firm target profit plus _____ percent (_____%) of the amount by which the total final negotiated cost is less than the total firm target cost.

The total firm target cost, total firm target profit, and profit adjustment formula for determining final profit shall be evidenced by a modification to this contract signed by the Contractor and the Contracting Officer.

(5) When the Contractor fails to submit the data required by paragraph (c) above within the time required therein and it is later determined that the Government has overpaid the Contractor, the excess shall be repaid to the Government immediately. Unless repaid within thirty (30) days after the end of the data submittal period, the amount of such excess shall bear interest at the rate established in accordance with the Interest clause in DAR 7-104.39. Interest shall be computed for the period from the date the data was due to the date of repayment.

(e) *Submission of Data for Final Price Revision.* Unless a firm fixed-price has been agreed to pursuant to paragraph (d) above, the Contractor shall submit on DD Form 633 or in such form as the Contracting Officer may require and within ..... (—) days after the end of the month in which the Contractor has delivered the last unit of supplies and completed the services called for by those items referred to in paragraph (a) above, (i) a detailed statement of all costs incurred up to the end of that month in performing all work under such items, (ii) an estimate of costs of such further performance, if any, as may be necessary to complete performance of all work with respect to such items, and (iii) a list of all residual inventory and an estimate of the value thereof.

(f) *Final Price Revision.* Unless a firm fixed-price has been agreed to pursuant to paragraph (d) above, the Contractor and the Contracting Officer shall, as soon as practicable after submission of the data required by paragraph (e) above, establish the total final price in accordance with the following:

(1) On the basis of the information required by paragraph (e) above, together with any other pertinent information, there shall be established by negotiation the total final negotiated cost incurred or to be incurred for the supplies delivered (or services performed) and accepted by the Government, which are subject to price revision under this clause.

(2) The total final price shall be established by adjusting the total final negotiated cost by an allowance for final profit or loss determined in accordance with the formula agreed to pursuant to subparagraph (d)(4) above.

(3) The total final price of the items referred to in paragraph (a) above shall be evidenced by a modification to this contract signed by the Contractor and the Contracting Officer. Such price shall not be subject to revision notwithstanding any changes in the cost of performing the contract with the following exceptions:

(i) insofar as the parties may agree in writing, prior to the determination of the total final price,

(A) to exclude any specific elements of cost from the total final price and

(B) to a procedure to provide subsequent disposition of such elements; and

(ii) to the extent any adjustment or credit is explicitly permitted or required by this or any other clause of this contract.

(g) *Subcontracts.* No subcontract placed under this contract shall provide for payment on a cost-plus-a-percentage-of-cost basis.

(h) *Adjustment of Payments.* Pending execution of the contract modification referred to in subparagraph (f)(3) above, the Contractor shall submit invoices or vouchers in accordance with billing prices as provided in this paragraph. The billing prices shall be the initial target prices set forth in this contract until firm target prices are established pursuant to paragraph (d) above; thereafter, the firm target prices shall be used for billing; *provided*, that if at any time it appears that the then current billing prices will be substantially greater than the estimated final price in light of information provided by the Contractor in accordance with the provisions of subparagraph (i)(3) below, a reduction in the billing prices shall be negotiated. Similarly, the parties may negotiate an increase in billing prices by any or all of the difference between the target price and the ceiling price upon submission of factual data from the Contractor showing that the final costs

under this contract will be substantially greater than target cost. Any adjustment of billing prices shall be reflected in a modification to this contract, and shall not affect the determination of any price under paragraph (d) or (f) above. After execution of the contract modification referred to in subparagraph (f)(3) above, the total amount paid or to be paid on all invoices or vouchers shall be adjusted to reflect the total final price and any additional payments, refunds, or credits resulting therefrom shall be promptly made.

(i) *Quarterly Limitation on Payments Statement.*

(1) This paragraph (i) shall not apply after a firm fixed-price or a total final price is established pursuant to subparagraph (d)(3) or (f)(2).

(2) Within forty-five (45) days after the end of each quarter of the Contractor's fiscal year, beginning for the quarter in which a delivery is first made or services are first performed and accepted by the Government under this contract, and as of the end of each quarter, the Contractor shall submit to the Contract Administration Office, with a copy to the purchasing activity and the cognizant contract auditor, a cumulative statement setting forth:

(i) the total contract price of all supplies delivered (or services performed) and accepted by the Government for which final prices have been established;

(ii) the total costs (estimated to the extent necessary) reasonably incurred for and properly allocable solely to the supplies delivered (or services performed) and accepted by the Government for which final prices have not been established;

(iii) that portion of the total firm target profit which is in direct proportion to the supplies delivered (or services performed) and accepted by the Government for which final prices have not been established, increased or decreased in accordance with the incentive profit formula set forth in subparagraph (d)(4) above when the amount of costs stated under (ii) above differs from the aggregate firm target costs of such supplies or services; and;

(iv) the total amount of all invoices or vouchers for supplies delivered (or services performed) and accepted by the Government (including amounts applied or to be applied to liquidate progress payments).

(3) Notwithstanding any provision of this contract authorizing greater payments, if on any quarterly statement the amount stated in (2)(iv) above exceeds the sum stated in (2)(i), (ii), and (iii) above, the Contractor shall immediately refund or credit to the Government against existing unpaid invoices or vouchers covered by such statement the amount of such excess less (i) the cumulative total of any previous refunds or credits under this clause (exclusive of any tax credits under Section 1481 of the Internal Revenue Code of 1954) and (ii) any applicable tax credits under Section 1481 of the Internal Revenue Code of 1954. If any portion of such excess has been applied to the liquidation of progress payments, such amount (less all tax credits under the Internal Revenue Code) may be added or restored to the unliquidated progress payment account, to the extent consistent with the "Progress Payments" clause of this contract instead of direct refund thereof.

(4) When the Contractor fails to submit the quarterly statement within forty-five (45) days after the end of each quarter, and it is later determined that the Government has overpaid the Contractor, the excess shall be repaid to the Government immediately. Unless repaid within thirty (30) days after the end of the statement submittal period, the amount of such excess shall bear interest at the rate established in accordance with the Interest clause in DAR 7-104.39. Interest shall be computed for the period from the date the data was due to the date of repayment.

(5) The Contractor shall (i) insert in each price redetermination or incentive price revision subcontract hereunder the substance of this paragraph (i), including this subparagraph (5), modified to omit mention of the Government and reflect the position of the Contractor as purchaser and of the subcontractor as vendor, and to omit that portion of subparagraph (3) relating to tax credits, and (ii) include in each cost-reimbursement type subcontract hereunder a requirement that each price redetermination and incentive price revision subcontract thereunder will contain the substance of this paragraph (i), including this subparagraph (5) modified as outlined in (i) above.

(j) *Disagreements.* If the Contractor and the Contracting Officer fail to agree upon (i) total firm target cost and a final profit adjustment formula, or (ii) a total final price, within sixty (60) days after the date for the submission of the data required by paragraphs (c) and (e) respectively, or within such further time as may be specified by the Contracting Officer, such failure to agree shall

be deemed to be a dispute concerning a question of fact within the meaning of the "Disputes" clause of this contract, and the Contracting Officer shall promptly issue a decision thereunder.

(k) *Termination.* If this contract is terminated prior to establishment of the total final price, prices of supplies or services subject to price revision under this clause shall be established pursuant to this clause for (i) completed supplies accepted by the Government and services performed and accepted by the Government, and (ii) in the event of a partial termination, supplies and services which are not terminated. The termination shall be otherwise accomplished pursuant to other applicable provisions of this contract.

(l) *Equitable Adjustments Under Other Clauses.* If an equitable adjustment in the contract price is made under any other clause of this contract before the total final price is established, the adjustment shall be made in the total target cost and may be made in the maximum dollar limit on the total final price, the total target profit or both. If such an adjustment is made after the total final price is established, adjustment shall be made only in the total final price.

(m) *Exclusion From Target Price and Total Final Price.* Whenever any clause of this contract provides that the contract price does not or will not include an amount for a specific purpose, such provision shall mean that neither any target price nor the total final price includes or will include any amount for such purpose.

(n) *Separate Reimbursement.* The cost of performance of an obligation that any clause of this contract expressly provides is at Government expense shall not be included in any target price or in the total final price, but shall be reimbursed separately.

(o) *Taxes.* As used in the clause of this contract entitled "Federal, State, and Local Taxes" or any other clause of this contract that provides for certain taxes or duties to be included in, or excluded from, the contract price, the term "contract price" includes the total target price or if it has been established, the total final price. When a provision in such clause or clauses requires that the contract price be increased or decreased as a result of changes in the obligation of the Contractor to pay or bear the burden of certain taxes or duties, such increase or decrease shall be made in the total target price or, if it has been established in the total final price, so as not to affect the Contractor's profit or loss on this contract.

(End of clause)

In contracts of the Department of the Navy, add the words "and the office or offices designated in the contract to make payments thereunder" after the words "cognizant contract auditor" in paragraph (i)(2). In the event the contract calls for parts or other supplies or services which are to be ordered under a provisioning document or Government option and the prices of such supplies or services are to be made subject to incentive price revision in accordance with the above clause, the following provision (p) shall be included in such clause:

(p) *Parts.* Parts, other supplies, or services, which are to be furnished under this contract pursuant to a provisioning document or Government option, shall be subject to price revision in accordance with the provisions of this clause, and any prices established for such parts, other supplies, or services, pursuant to such provisioning document or Government option, shall be deemed to be initial target prices or target prices as agreed upon and stipulated in the pricing document supporting the provisioning or added items. Initial or firm target costs and profits and final prices covering such parts, other supplies, or services may be established either separately, in the aggregate, or in any combination thereof, as the parties may agree.

7-108.3 *Special Termination Costs.* In accordance with 8-712, insert the following clause.

SPECIAL TERMINATION COSTS (1975 FEB)

(a) Notwithstanding the *Limitation of Cost/Limitation of Funds*, clause of this contract, the Contractor shall not include in his estimate of costs incurred or to be incurred, any amount for

special termination costs, as herein defined, to which the Contractor may be entitled in the event this contract is terminated for the convenience of the Government. The Contractor agrees to perform this contract in such a manner that its claim for such special termination costs will not exceed $..... The Government shall have no obligation to pay the Contractor any amount for the special termination costs in excess of this amount. Special termination costs are defined as costs only in the following categories:

(i) severance pay as provided in 15-205.39(b)(ii);
(ii) reasonable costs continuing after termination as provided in 15-205.42(b);
(iii) settlement expenses as provided in 15-205.42(f);
(iv) costs of return of field service personnel from sites as provided in 15-205.25, and 15-205.46(d); and
(v) costs in categories (i), (ii), (iii), and (iv) above to which subcontractors may be entitled in the event of termination.

(b) In the event of termination for the convenience of the Government, this clause shall not be construed as affecting the allowability of special termination costs in any manner other than limiting the maximum amount payable therefor by the Government.

(c) This clause shall remain in full force and effect until this contract is fully funded.

(End of clause)

7-109 Price Redetermination Clauses.

7-109.1 *General.* When it is determined, in accordance with 3-404.5 or 3-404.6, to use a fixed-price contract providing for redetermination of price, the applicable clause of those set forth below shall be used.

7-109.2 *Prospective Periodic Price Redetermination at Stated Intervals.*

(a) *Description, Applicability, and Limitations.* See 3-404.5.

(b) *Clause.*

PRICE REDETERMINATION (TYPE A) (1980 FEB)

(a) *General.* The unit prices and the total price set forth in this contract shall be periodically redetermined in accordance with the provisions of this clause.* The prices for supplies delivered and services performed prior to the first effective date of price redetermination shall remain fixed. (*See footnotes at end of clause*)

(b) *Price Redetermination Periods.* For the purpose of price redetermination the performance of this contract is divided into successive periods. The first period shall extend from the date of the contract to .....,** and the second and each succeeding period shall extend for ..... (—) months from the end of the last preceding period, except that the final period may be varied by agreement of the parties. The first day of the second and each succeeding period shall be the effective date of price redetermination for the period. (*See footnotes at end of clause*)

(c) *Price Redetermination.* Not more than .....*** (*See footnotes at end of clause*) days nor less than .....*** days before the end of each redetermination period, except the last, and as otherwise provided in (iii) below, the Contractor shall submit:

(i) proposed prices for supplies which may be delivered or services which may be performed in the next succeeding period under this contract, together with—
(A) an estimate and breakdown of the costs of such supplies or services on DD Form 633 or in any other form on which the parties may agree;
(B) sufficient data to support the accuracy and reliability of such estimate; and
(C) an explanation of the differences between such estimate and the original (or last preceding) estimate for the same supplies or services;

(ii) a statement of all costs incurred in the performance of this contract through the end of the .....**** (*See Footnotes at end of clause*) month prior to the date of the submission of proposed prices, on DD Form 633 or in any other form on which the parties may agree, together with sufficient supporting data to disclose unit costs and cost trends for—
(A) supplies delivered and services performed; and

(B) inventories of work in process and undelivered contract supplies on hand (estimated to the extent necessary);

(iii) supplemental statements of costs incurred subsequent to the date set forth in (ii) above for—
(A) supplies delivered and services performed; and
(B) inventories of work in process and undelivered contract supplies on hand (estimated to the extent necessary);
as and to the extent that such information becomes available prior to the conclusion of negotiations on redetermined prices; and

(iv) any other relevant data which may reasonably be required by the Contracting Officer.

For the purposes of the foregoing submission, "costs" means allowable costs in accordance with Section XV of the Defense Acquisition Regulation as in effect on the date of this contract. Upon receipt of the data required by this paragraph (c), the Contractor and the Contracting Officer shall promptly negotiate to redetermine fair and reasonable contract prices for supplies which may be delivered and services which may be performed in the period following the effective date of price redetermination. Where the Contractor fails to submit the data as required above within the time specified, payments under this contract may be suspended by the Contracting Officer until the data are furnished and if it is later determined that the Government has overpaid the Contractor, the excess shall be repaid to the Government immediately. Unless repaid within thirty (30) days after the end of the data submittal period, the amount of such excess shall bear interest at the rate established in accordance with the Interest clause in DAR 7-104.39. Interest shall be computed for the period from the date the data was due to the date of repayment.

(d) *Subcontracts.* No subcontract placed under this contract shall provide for payment on a cost-plus-a-percentage-of-cost basis.

(e) *Contract Modifications.* Each negotiated redetermination of prices shall be evidenced by a modification to this contract, signed by the Contractor and the Contracting Officer, setting forth the redetermined prices for supplies delivered and services performed hereunder during the applicable price redetermination period.

(f) *Adjustment or Payments.* Pending execution of the contract modification referred to in paragraph (e) above, the Contractor shall submit invoices or vouchers in accordance with billing prices as provided in this paragraph. The billing prices shall be the prices set forth in this contract; *provided* that, if at any time it appears that the then current billing prices will be substantially greater than the estimated final price in light of information provided by the Contractor in accordance with the provisions of subparagraph (g)(3) below, a reduction in the billing prices shall be negotiated. Similarly, the parties may negotiate an increase in billing prices upon submission of factual data from the Contractor showing that the redetermined price will be substantially greater than the current billing price. Any adjustment of billing prices shall be reflected in a modification to this contract, and shall not affect the redetermination of prices under this clause. After execution of the contract modification referred to in paragraph (e) above, the total amount paid or to be paid on all invoices or vouchers shall be adjusted to reflect the agreed prices, and any additional payments, refunds, or credits, resulting therefrom shall be promptly made.

(g) *Quarterly Limitation on Payments Statement.*

(1) This paragraph (g) shall apply only during a period for which firm prices have not been established.

(2) Within forty-five (45) days after the end of each quarter of the Contractor's fiscal year, beginning for the quarter in which a delivery is first made (or services are first performed) and accepted by the Government under this contract, and as of the end of each quarter, the Contractor shall submit to the Contract Administration Office, with a copy to the purchasing activity and the cognizant contract auditor, ***** (*See Footnotes at end of clause*) a statement cumulative from the inception of the contract, setting forth:

(i) the total contract price of all supplies delivered (or services performed) and accepted by the Government for which final prices have been established;
(ii) the total costs (estimated to the extent necessary) reasonably incurred for and properly allocable solely to the supplies delivered (or services performed) and accepted by the Government for which final prices have not been established;

(iii) that portion of the total interim profit (used in establishing the initial contract price or agreed to for the purpose of this paragraph (g), Limitation on Payments), which is in direct proportion to the supplies delivered (or services performed) and accepted by the Government for which final prices have not been established; and

(iv) the total amount of all invoices or vouchers for supplies delivered (or services performed) and accepted by the Government (including amounts applied or to be applied to liquidate progress payments);

provided, that such statement need not be submitted for any quarter for which either no costs are to be reported under (ii) above or revised billing prices have been established in accordance with paragraph (g) above and do not exceed the existing contract price, the Contractor's price redetermination offer, or a price based on the most recent quarterly statement, whichever is least.

(3) Notwithstanding any provision of this contract authorizing greater payments, if on any quarterly statement the amount of (2)(iv) above exceeds the sum of (2) (i), (ii), and (iii) above, the Contractor shall immediately refund or credit to the Government against existing unpaid invoices or vouchers covered by such statement the amount of such excess less (i) the cumulative total of any previous refunds or credits under this clause (exclusive of any applicable tax credits under Section 1481 of the Internal Revenue Code of 1954) and (ii) any applicable tax credits under Section 1481 of the Internal Revenue Code of 1954. If any portion of such excess has been applied to the liquidation of progress payments, such amount (less all tax credits under the Internal Revenue Code) may be added or restored to the unliquidated progress payment account, to the extent consistent with the progress payments clause of this contract, instead of direct refund thereof.

(4) When the Contractor fails to submit the quarterly statement within forty-five (45) days after the end of each quarter and it is later determined that the Government has overpaid the Contractor, the excess shall be repaid to the Government immediately. Unless repaid within thirty (30) days after the end of the statement submittal period, the amount of such excess shall bear interest at the rate established in accordance with the Interest clause in DAR 7-104.39. Interest shall be computed for the period from the date the quarterly statement was due to the date of repayment.

(5) The Contractor shall (i) insert in each price redetermination or incentive price revision subcontract hereunder the substance of this "Limitation on Payments" provision, including this subparagraph (5), modified to omit mention of the Government and reflect the position of the Contractor as purchaser and of the subcontractor as vendor, and to omit that portion of subparagraph (3) relating to tax credits, and (ii) include in each cost-reimbursement type subcontract hereunder a requirement that each price redetermination and incentive price revision subcontract thereunder will contain the substance of this "Limitation on Payments" provision, including this subparagraph (5), modified as outlined in (i) above.

(h) *Disagreements.* If the Contractor and the Contracting Officer fail to agree upon redetermined prices for any price redetermination period within sixty (60)****** days after the date on which the data required by (c) above is to be filed, or within such further time as may be agreed upon by the parties, the failure to agree upon redetermined prices shall be deemed to be a dispute concerning a question of fact within the meaning of the clause of this contract entitled "Disputes," and the Contracting Officer shall promptly issue a decision thereunder. For the purpose of (e), (f), and (g) above, and pending final settlement of the disagreement on appeal, or by failure to appeal, or by agreement, such a decision shall be treated as an executed contract modification. Pending such final settlement, price redetermination for subsequent periods, if any, shall continue to be negotiated as hereinbefore provided.

(i) *Termination.* If this contract is terminated, prices shall continue to be established pursuant to this clause (i) for completed supplies accepted by the Government and services performed and accepted by the Government, and (ii) in the event of a partial termination, for supplies and services which are not terminated. All other elements of the termination shall be resolved pursuant to other applicable provisions of this contract.

(End of clause)

*Where a ceiling is applicable, the following proviso shall be added: "*provided*, that in no event shall the total amount paid under this contract exceed ..... dollars ($.....)" Alternatively, the contract may provide ceiling amounts for each or any of the price redeterminations under the contract.

**This point may be expressed in terms of units delivered, or as a calendar date, but in either case the period shall generally end on the last day of a month.

***Insert in the blanks numbers of days so that the Contractor's submission will be late enough to reflect recent cost experience (having in mind the Contractor's accounting system), but early enough to permit review, audit if necessary, and negotiation prior to the start of the prospective period.

****Insert the word "first," except the word "second" may be inserted if necessary to achieve compatibility with the contractor's accounting system.

*****Insert, in contracts of the Department of the Navy, the words "and the office or offices designated in this contract to make payments thereunder"

******This period may be varied by the parties at the time of negotiating the contract.

7-109.3 *Retroactive Price Redetermination After Completion.*

(a) *Description, Applicability, and Limitations.* See 3-404.6.

(b) *Clause.*

PRICE REDETERMINATION (TYPE E) (1980 FEB)

(a) *General.* The unit prices and the total price set forth in this contract shall be redetermined in accordance with the provisions of this clause: *provided*, that in no event shall the total amount paid under this contract exceed ..... dollars ($.....).

(b) *Price Redetermination.* Within ..... (—) days after delivery of all supplies to be delivered and completion of all services to be performed under this contract, the Contractor shall submit (i) proposed prices, (ii) a statement of all costs incurred in the performance of this contract, allowable in accordance with Section XV of the Defense Acquisition Regulation as in effect on the date of this contract, on DD Form 633 or any other form on which the parties may agree, and (iii) any other relevant data which may reasonably be required by the Contracting Officer. Upon receipt of the required data, the Contractor and the Contracting Officer shall promptly negotiate to redetermine fair and reasonable contract prices for supplies delivered and services performed by the Contractor under this contract. Where the Contractor fails to submit the required data within the time specified, payment of all invoices may be suspended by the Contracting Officer until the data are furnished and if it is later determined that the Government has overpaid the Contractor, the excess shall be repaid to the Government immediately. Unless repaid within thirty (30) days after the end of the data submittal period, the amount of such excess shall bear interest at the rate established in accordance with the Interest clause in DAR 7-104.39. Interest shall be computed for the period from the date the data was due to the date of repayment.

(c) *Subcontracts.* No subcontract under this contract shall provide for payment on a cost-plus-a-percentage-of-cost basis.

of time specified in the preceding sentence except as provided in (d) below. Except as provided in paragraph (c) below, the allowability of the cost of any such replacement or correction shall be as provided in the clause of this contract entitled "Allowable Cost and Payment." Corrected articles shall not be tendered again for acceptance unless the former tender and the requirement of correction is disclosed. If the Contractor fails to proceed with reasonable promptness to perform such replacement or correction, the Government (i) may by contract or otherwise perform such replacement or correction and charge to the Contractor any increased cost occasioned the Government thereby, or (ii) in the case of articles not delivered, may require the delivery of such articles, or (iii) may terminate this contract for default. Failure to agree to the amount of any such increased cost to be charged to the Contractor shall be deemed to be a dispute concerning a question of fact within the meaning of the clause of this contract entitled "Disputes."

(b) The following clause shall be inserted in all contracts subject to this Part when the clause in (a)(1) above is not used.

INSPECTION (1959 FEB)

The Government, through any authorized representatives, has the right at all reasonable times, to inspect, or otherwise evaluate the work performed or being performed hereunder and the premises in which it is being performed. If any inspection, or evaluation is made by the Government on the premises of the Contractor or a subcontractor, the Contractor shall provide and shall require his subcontractors to provide all reasonable facilities and assistance for the safety and convenience of the Government representatives in the performance of their duties. All inspections and evaluations shall be performed in such a manner as will not unduly delay the work.

(End of clause)

(c) When it is desired to require contractors to maintain an inspection system in accordance with Military Specification MIL-I-45208 (see 14-303), the clause set forth in (a) above shall be included in the contract except that the following shall be added as the third sentence of paragraph (a):

The inspection system shall be in accordance with the edition of Military Specification MIL-I-45208 in effect on the date of this contract. (1967 AUG)

7-402.6 *Assignment of Claims.* In accordance with 7-103.8, insert the clause therein.

7-402.7 *Examination of Records.* In accordance with 7-104.15, insert the clause therein. In the case of research and development contracts with nonprofit institutions and subcontracts thereunder, and pursuant to procedures approved by the Comptroller General, original documentary evidence in support of costs of the transportation of things will not be required pursuant to said clause.

7-402.8 *Subcontracts.*

(a) In accordance with the requirements in 23-201.2, and subject to the instructions in (b) and (c) below, insert the following clause.

SUBCONTRACTS (1979 MAR)

(a) The Contractor shall notify the Contracting Officer reasonably in advance of entering into any subcontract (as used in this clause, the term "subcontract" includes, but is not limited to, purchase orders, changes, and/or modifications thereto) which (i) is cost-reimbursement type, time and materials or labor-hour, or (ii) is fixed-price-

type and exceeds in dollar amount either $25,000 or five percent (5%) of the total estimated cost of this contract, (iii) provides for the fabrication, purchase, rental, installation, or other acquisition of special test equipment having a value in excess of $1,000 or of any items of industrial facilities; or (iv) has experimental, developmental, or research work as one of its purposes.

(b) In the case of a proposed subcontract, including but not limited to purchase orders, changes and/or modifications thereto which (i) is cost-reimbursement, time and materials, or labor-hour which would involve an estimated amount in excess of $25,000, including any fee, (ii) is proposed to exceed $100,000, or (iii) is one of a number of subcontracts under this contract with a single subcontractor for the same or related supplies or services which, in the aggregate are expected to exceed $100,000, the advance notification required by (a) above shall include:

(1) a description of the supplies or services to be called for by the subcontract;
(2) identification of the proposed subcontractor and an explanation of why and how the proposed subcontractor was selected, including the degree of competition obtained;
(3) the proposed subcontract price, together with the Contractor's cost or price analysis thereof;
(4) the subcontractor's current, complete, and accurate cost or pricing data and Certificate of Current Cost or Pricing Data when such data and certificate are required by other provisions of this contract to be obtained from the subcontractor;
(5) identification of the type of subcontract to be used;
(6) a memorandum of negotiation which sets forth the principal elements of the subcontract price negotiations. A copy of this memorandum shall be retained in the Contractor's file for the use of Government reviewing authorities. The memorandum shall be in sufficient detail to reflect the most significant considerations controlling the establishment of initial or revised prices. The memorandum should include an explanation of why cost or pricing data was, or was not required, and, if it was not required in the case of any price negotiation in excess of $100,000, a statement of the basis for determining that the price resulted from or was based on adequate price competition, established catalog or market prices of commercial items sold in substantial quantities to the general public, or prices set by law or regulation. If cost or pricing data was submitted and a certificate of cost or pricing data was required, the memorandum shall reflect the extent to which reliance was not placed upon the factual cost or pricing data submitted and the extent to which this data was not used by the Contractor is determining the total price objective and in negotiating the final price. The memorandum shall also reflect the extent to which it was recognized in the negotiation that any cost or pricing data submitted by the subcontractor was not accurate, complete, or current; the action taken by the Contractor and the subcontractor as a result; and the effect, if any, of such defective data on the total price negotiated. Where the total price negotiated differs significantly from the Contractor's total price objective, the memorandum shall explain this difference;
(7) when incentives are used, the memorandum of negotiation shall contain an explanation of the incentive fee/profit plan identifying each critical performance element, management decisions used to quantify each incentive element, reasons for incentives on particular performance characteristics, and a brief summary of trade-off possibilities considered as to cost, performance, and time; and
(8) the subcontractor's Disclosure Statement or Certificate relating to Cost Accounting Standards when such data are required by other provisions of this contract to be obtained from the subcontractor.

7-1302.5 *Chemical and Microbiological Requirements (Fresh Dairy Foods).*

(a) *Chemical Requirements.* Fresh dairy foods shall meet the chemical requirements of each fresh dairy food specification cited in the contract on the date of award.

(b) *Microbiological Requirements.* Milk and milk products, as defined in DLAM 8200.1, shall meet microbiological requirements stated in the Public Health Service Publication 229 in effect on the date of award. In the event of conflict between these requirements and individual product specifications, the requirements of Public Health Service Publication 229 shall govern.

(c) *Cultured Products.* Cultured products shall meet the coliform requirements as specified in the Public Health Service Publication 229 in effect on the date of award. In the event of conflict between these requirements and individual product specifications, the requirements of Public Health Service Publication 229 shall govern.

7-1303 Clauses To Be Used When Applicable.

7-1303.1 *Code Dating.* If a Schedule or specification provision requires the labels of one or more items to show the date of pasteurization, manufacture, production, or processing, a clause substantially as follows may be included to permit the use of a coding system.

CODE DATING (1967 APR)

A code may be used to comply with the requirement set forth in the Schedule or specifications of this contract for showing a date on the labels of items delivered hereunder, *provided* that, prior to the use of a code, a written explanation thereof is furnished to the Contracting Officer and approved by him in writing. No changes in the code symbols, code system or explanation thereof, shall be made without the advance written approval of the Contracting Officer.

(End of clause)

7-1303.2 *Marking.* A clause substantially as follows shall be included, unless a provision is inserted in the Schedule specifically requiring supplies to be marked in accordance with MIL-STD-129, "Marking for Shipment and Storage."

MARKING (1967 APR)

Notwithstanding any specification references to MIL-STD-129, commercial markings are acceptable.

(End of clause)

7-1303.3 *Responsibility for Containers and Equipment.* The following clause shall be included in contracts in which the contractor provides reusable containers and equipment.

RESPONSIBILITY FOR CONTAINERS AND EQUIPMENT (1967 APR)

The Contractor shall maintain all reusable containers and equipment in a sanitary condition and in a good state of repair and working order. At the time of each delivery, the Contractor shall remove from the premises of the Government all empty reusable containers, unless the Contracting Officer grants permission in writing for less frequent removal. The Government shall not be liable for any damage to, or loss or destruction of, containers and equipment furnished by the Contractor.

(End of clause)

7-1303.4 *Reserved.*

7-1303.5 *Reserved.*

7–1303.6 *Containers and Equipment.* If the contractor is to furnish cabinets for dispensing milk from bulk containers, a notice so stating shall be included in the Schedule of solicitations and resultant contracts. The notice shall state (i) the number of dispenser cabinets required, or a reasonably accurate estimate thereof, (ii) whether metal stands for the cabinets are required, (iii) the number of cabinets required with a capacity of two containers each, and (iv) the number required with a capacity of three containers each. In addition, the following clause shall be included in the contract.

CONTAINERS AND EQUIPMENT (1967 APR)

(a) Dispenser containers and filling equipment used by the Contractor in the performance of this contract, and any refrigerated bulk milk dispenser cabinets furnished by the Contractor, shall comply with MIL-STD–175, "Minimum Sanitary Standards for the Equipment and Methods for the Handling of Milk and Milk Products in Bulk Milk Dispensing Operations," as amended.

(b) Any bulk milk dispenser cabinets required by the Schedule to be furnished by the Contractor shall be installed, serviced, and maintained to the satisfaction of the Contracting Officer. All responsibility for the supply, installation, maintenance, and removal thereof, including labor and material costs, and for any damage thereto or loss or destruction, shall remain with the Contractor.

(c) When, and for as long as, the Contractor fails to furnish bulk milk dispenser cabinets or milk dispenser containers as required in the Schedule, or does not properly service, maintain, and repair said dispenser cabinets, so that milk cannot be dispensed as needed by the Government, the Contractor shall deliver a sufficient quantity of milk in half-pint containers to satisfy orders for milk dispenser containers, at the price per gallon for milk dispenser containers.

(d) Any contamination, spoilage, leakage, or other loss of any contents of a dispenser container due to functional failure of the dispenser cabinets or dispenser containers, except for a general power failure at the Government installation, shall be replaced immediately by the Contractor without cost to the Government.

(e) The tare weight of dispenser containers required to be certified in accordance with paragraph (b) of the clause entitled "Examination and Testing" shall include all parts of the container delivered as a complete unit, including lids, tubes, and seals.

(End of clause)

Part 14—Laundry and Dry Cleaning Contracts

7–1400 Scope of Part. This Part sets forth special uniform contract clauses for laundry and dry cleaning contracts (see Section XXII, Part 7). These clauses are to be used in addition to other required or applicable clauses prescribed by Section VII, Part 19.

7–1401 Required Clauses.

7–1401.1 *Activities.*

ACTIVITIES (1967 APR)

Activities to be covered by this contract are:

.....

.....

(End of clause)

7–1401.2 *Contract Period.*

CONTRACT PERIOD (1967 APR)

Any contract awarded as a result of bids submitted under this Invitation for Bids shall extend from ..... or date of contract award, whichever is later, through ....., both dates inclusive, unless sooner terminated under the terms of the contract.

(End of clause)

7–1401.3 *Specifications.*

SPECIFICATIONS (1968 FEB)

All work under this contract shall be accomplished in accordance with specifications MIL-STD–665A and MIL-STD–666A, amendments or revisions thereto, and any other Federal or Military Specifications or Standards cited herein.

(End of clause)

7–1401.4 *Pickup and Delivery Points and Times.*

PICKUP AND DELIVERY POINTS AND TIMES (1967 APR)

The locations for pickup and delivery and the times therefor are set forth below.

Location .....

Pickup Time .....

Delivery Time .....

The unit prices include (do not include) all pickup and delivery charges.

(End of clause)

7–1401.5 *Count of Articles.*

COUNT OF ARTICLES (1967 APR)

(a) The Contractor shall be liable for return of the number and kind of articles furnished for service under this contract, in accordance with the count of the Contracting Officer, or the number and kind of articles agreed upon as a result of a joint count by the Contractor and the Contracting Officer at the time of delivery to the Contractor.

(b) Delivery tickets in the number of copies required, and in the form approved by the Contracting Officer shall be completed by the Contractor at the time of his receipt of the articles to be serviced. One copy of each delivery ticket shall accompany the Contractor's invoice.

(End of clause)

agrees to furnish clear and convincing evidence that the data which will be so identified comes within the definition of limited rights data.

(c) The listing of a data item in paragraph (a) above does not mean that the Government considers such item to come within the definition of limited rights data.

(End of provision)

7–2003.62 *Options to Award and Pay in United States Owned Foreign Currency.* In accordance with 6–1104, insert the following provision.

OPTION TO AWARD AND PAY IN FOREIGN CURRENCY (1974 APR)

(a) Offerors are required to state their price in United States dollars. Such price may also be stated wholly in the currency of the countries listed in the Schedule, or in a combination of United States dollars and the currency of any of the listed countries.

(b) Offerors shall state separately the United States dollar content, if any, in United States dollars. The term "United States dollar content" means the United States dollar cost to an offeror for United States end products or services (including costs of transportation furnished by United States-flag carriers) imported directly from the United States and to be used in performance of a contract, as certified by the offeror.

(c) The Contracting Officer reserves the right to award to that responsive offeror willing to accept payment in whole or in part in a currency of any of the listed countries and whose offer is considered the most advantageous to the United States Government, even though the total price of the accepted offer may be more than the price of an offer received in United States dollars.

(End of clause)

7–2003.63 *Progress Payments Exclusively for Small Business.* In accordance with E–504.3, insert the following provision.

Any change, addition, or deletion to this clause is subject to the prior approval requirements outlined in Appendix E, Part 2.

PROGRESS PAYMENTS EXCLUSIVELY FOR SMALL BUSINESS (1974 APR)

The Progress Payments clause will be available to Small Business concerns only, and will not be included for contractors who are not Small Business concerns.

(End of provision)

7–2003.64 *Progress Payments.* In accordance with E–504.4, insert the following notice.

Any change, addition, or deletion to this clause is subject to the prior approval requirements outlined in Appendix E, Part 2.

PROGRESS PAYMENTS* (1974 APR)

The need for progress payments conforming to regulations (Appendix E, Armed Services Procurement Regulation) will not be considered as a handicap or adverse factor in the award of contracts. Authorized progress payments will not be a factor for evaluation of bids. The appropriate "Progress Payment" clause attached hereto will be included in the contract awarded in the manner herein provided, however, the clause shall be inoperative during the time the contractor's accounting system and controls are determined by the Government to be inadequate for segregation and accumulation of contract costs. For Small Business concerns the clause designated "Progress Payments for Small Business Concerns" (7–104.35(b)) shall be used for such Contractors. For Contractors who are not Small Business concerns, the clause designated "Progress Payments for Other Than Small Business Concerns" (7–104.35(a)) shall be used.

(End of notice)

*Do not use the last sentence of this notice for procurements mentioned in E–504.2 and E–504.3.

7–2003.65 *Solicitation of Bids and Proposals.* The following provision shall be included in all solicitations for construction in the United States except when Standard Form 19 is used.

NOTICE REGARDING BUY AMERICAN ACT (1970 SEP)

The Buy American Act (41 U.S.C. 10a–10d) generally requires that only domestic construction material be used in the performance of this contract. Exception from the Buy American Act shall be permitted only in the case of nonavailability of domestic construction materials. A bid or proposal offering nondomestic construction material will not be accepted unless specifically approved by the Government. When a bidder or offeror proposes to furnish nondomestic construction material, his bid or proposal must set forth an itemization of the quantity, unit price, and intended use of each item of such nondomestic construction material. When offering nondomestic construction material pursuant to this paragraph, bids or proposals may also offer, at stated prices, any available comparable domestic construction material, so as to avoid the possibility that failure of a nondomestic construction material to be acceptable under this paragraph will cause rejection of the entire bid.

(End of provision)

7–2003.66 *Requirement for Technical Data Certification.* In accordance with 3–501(b)Sec.B(xiv), insert the following provision.

REQUIREMENT FOR TECHNICAL DATA CERTIFICATION (1974 APR)

The offeror shall submit with his offer a certification as to whether he has delivered or is obligated to deliver to the Government under any contract or subcontract the same or substantially the same technical data included in his offer; if so, he shall identify one such contract or subcontract under which such technical data was delivered or will be delivered, and the place of such delivery.

(End of provision)

7-2003.67 *Cost Accounting Standards*

(a) *Disclosure Statement - Cost Accounting Practices and Certification.* In accordance with 3-1203(a) insert the following solicitation provision:

DISCLOSURE STATEMENT - COST ACCOUNTING PRACTICES AND CERTIFICATION (1978 MAR)

Any contract in excess of $100,000 resulting from this solicitation except (i) when the price negotiated is based on: (A) established catalog or market prices of commercial items sold in substantial quantities to the general public, or (B) prices set by law or regulations; (ii) contracts awarded to small business concerns (as defined in DAR 1-701.1); or (iii) contracts which are otherwise exempt (see 4 CFR 331.30(b)) shall be subject to the requirements of the Cost Accounting Standards Board. Any offeror submitting a proposal, which, if accepted, will result in a contract subject to the requirements of the Cost Accounting Standards Board, must, as a condition of contracting, submit a Disclosure Statement as required by regulations of the Board. The Disclosure Statement must be submitted as a part of the offeror's proposal under this solicitation (see (I) below) unless (i) the offeror, together with all divisions, subsidiaries, and affiliates under common control, did not receive net awards exceeding the

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(b) *Cost Accounting Standards - Exemption for Contracts of $500,000 or Less.* In accordance with 3-1204.1(a)(vii)(A), insert the following provision:

COST ACCOUNTING STANDARDS - EXEMPTION FOR CONTRACTS OF $500,000 OR LESS (1978 MAR)

If this proposal is expected to result in the award of a contract of $500,000 or less, the offeror shall indicate whether the exemption to the Cost Accounting Standards clause (7-104.83(a)(1) under the provisions of 4 CFR 331.30(b)(8) is claimed. Failure to check the box below shall mean that the resultant contract is subject to the Cost Accounting Standards clause or that the offeror elects to comply with such clause.

( ) The offer hereby claims an exemption from the Cost Accounting Standards clause under the provisions of 4 CFR 331.30(b)(8) and certifies that he has received notification of final acceptance of all deliverable items on (i) all prime contracts or subcontracts in excess of $500,000 which contain the Cost Accounting Standards clause, and (ii) all prime contracts or subcontracts of $500,000 or less awarded after January 1, 1975 which contain the Cost Accounting Standards clause. The offeror further certifies he will immediately notify the Contracting Officer, in writing, in the event he is awarded any other contract or subcontract containing the Cost Accounting Standards clause subsequent to the date of this certificate but prior to the date of any award resulting from this proposal.

(End of provision)

(c) *Cost Accounting Standards - Exemption for Modified Contract Coverage.* In accordance with 3-1204.1(b), insert the following solicitation provision:

COST ACCOUNTING STANDARDS - ELIGIBILITY FOR MODIFIED CONTRACT COVERAGE (1978 MAR)

If the offeror is eligible to use the modified provisions of 4 CFR 332 and elects to do so, he shall indicate by checking the box below. Checking the box below shall mean that the resultant contract is subject to the Disclosure and Consistency of Cost Accounting Practices clause (DAR 7-104.83(a)(2)) in lieu of the Cost Accounting Standards clause (7-104.83(a)(1)).

( ) The offeror hereby claims an exemption from the Cost Accounting Standards clause (DAR 7-104.83(a)(1)) under the provisions of 4 CFR 331.30(b)(2), and certifies that he is eligible for use of the Disclosure and Consistency of Cost Accounting Practices clause (DAR 7-104.83(a)(2)) because (i)

during his cost accounting period immediately preceding the period in which this proposal was submitted, he received less than $10 million in awards of CAS-covered national defense prime contracts and subcontracts, and (ii) the sum of such awards equaled less than 10 percent of his total sales during that cost accounting period. The offeror further certifies that if his status changes prior to an award resulting from this proposal he will advise the contracting officer immediately.

CAUTION: Offerors may not claim the above eligibility for modified contract coverage if this proposal is expected to result in the award of a contract of $10 million or more or if, during their current cost accounting period, they have been awarded a single CAS-covered national defense prime contract or subcontract of $10 million or more.

(End of provision)

(d) In accordance with 3-1213(a), insert the following provision in all solicitations containing the clause in 7-2003.67(a).

ADDITIONAL COST ACCOUNTING STANDARDS APPLICABLE TO EXISTING CONTRACTS (1978 MAR)

The offeror shall indicate below whether award of the contemplated contract would require, in accordance with paragraph (a)(3) of the Cost Accounting Standards clause (7-104.83(a)(1)), a change in his established cost accounting practices affecting existing contracts and subcontracts.

( ) YES ( ) NO

NOTE: If the offeror has checked "yes" above, and is awarded the contemplated contract, he will be required to comply with the *Administration of Cost Accounting Standards* clause (7-104.83(b)).

(End of provision)

7-2003.68 *Industrial Preparedness Production Planning.* In accordance with 3-501(b) Sec. C (xlvii), insert the following provision:

INDUSTRIAL PREPAREDNESS PRODUCTION PLANNING (1974 APR)

This solicitation includes an item for industrial planning in support of the Industrial Preparedness Production Planning program. Offerors are cautioned to carefully review Section E of the Schedule and the attached Industrial Preparedness Program Planning Exhibit. Failure to propose on the Industrial Preparedness Production Planning line item set forth in the Schedule may result in rejection of the proposal.

(End of provision)

7-2003.69 *Industrial Preparedness Production Planning.* In accordance with 2-201(a) Sec. C (xxxix), insert the following provision:

CONTRACTOR INDUSTRIAL LABOR RELATIONS

Part 5—Safety & Health Regulations for Ship Repairing & Shipbuilding

12–501 Safety and Health Regulations. The Secretary of Labor has promulgated Safety and Health Regulations for Ship Repairing and Shipbuilding pursuant to the authority of Public Law 85–742, 72 Stat. 835 (approved August 23, 1958) amending section 41 of the Longshoremen's and Harbor Workers' Compensation Act (33 U.S.C. 941). These regulations are set forth in Title 29, Code of Federal Regulations, Subtitle B, Part 1501 and Part 1502.

12–502 Applicability. These regulations apply to ship repair and shipbuilding or related work, as defined therein, performed within the Federal maritime jurisdiction on the navigable waters of the United States, including any dry dock or marine railway.

12–503 Contract Clause. The Master Contract for the Repair and Alteration of Vessels (DD ASPR Form 731) includes a clause entitled "U.S. Department of Labor Safety and Health Regulations for Ship Repairing" directing the attention of the contractor to the applicability of these regulations. Similar clauses should be included in shipbuilding and ship conversion contracts.

12–504 Administration and Enforcement. The responsibility for compliance with the U.S. Department of Labor Regulations is placed upon employers, any of whose employees are engaged in any ship repair, shipbuilding, or related employment aboard any vessel upon the navigable waters of the United States, including any dry dock or marine railway. Consequently, prime contractors or subcontractors, or both, may be responsible for compliance with these regulations. Insofar as the Government is concerned, the responsibility for the administration and enforcement of these regulations is with the U.S. Department of Labor. Contractors or employees who inquire concerning applicability or interpretation of the foregoing regulations shall be advised that rulings concerning such matters fall within the jurisdiction of the U.S. Department of Labor and shall be given the address of the appropriate field office of the Bureau of Labor Standards of the U.S. Department of Labor.

CONTRACTOR INDUSTRIAL LABOR RELATIONS

Part 6—Walsh-Healey Public Contracts Act

12-601 Statutory Requirement. In accordance with the requirements of the Walsh-Healey Public Contracts Act (41 U.S.C. 35-45), hereafter referred to as the Act, all contracts subject to the Act entered into by any Department for manufacture or furnishing of supplies in any amount exceeding $10,000 (i) will be with manufacturers or regular dealers, and (ii) shall incorporate by reference the representations and stipulations required by the Act pertaining to such matters as minimum wages, maximum hours, child labor, convict labor, and safe and sanitary working conditions.

12-602 Applicability.

12-602.1 *General.* The requirements set forth in 12-601 apply to contracts (including, for this purpose, basic ordering agreements and blanket purchase agreements (see 3-410.2 and 3-605)) for the manufacture or furnishing of "materials, supplies, articles, and equipment" which are to be performed within the United States, Puerto Rico, or the Virgin Islands, and which exceed or may exceed $10,000 in amount unless exempt pursuant to 12-602.2. Pursuant to regulations of the Department of Labor, contracts which are originally $10,000 or less, but are subsequently modified to increase the price to an amount in excess of $10,000, are subject to the Act. Contracts in an amount exceeding $10,000, which are subsequently modified to a figure of $10,000 or less, are not subject to the Act with respect to work performed after such modification, if modification is effected by mutual agreement. In the case of a basic ordering agreement or blanket purchase agreement, the amount of the agreement shall be the aggregate amount of all orders estimated to be placed thereunder for 1 year after the effective date of the agreement. If a basic ordering agreement continues or is extended, the estimate shall be made annually for each year after the first year and the agreement modified accordingly.

12-602.2 *Exemptions.*

(a) *Statutory Exemptions.* The Act exempts the following transactions from the requirements of the Act:

(i) purchases of generally available commercial items negotiated pursuant to the authority set forth in 3-202;

(ii) purchases of perishables, including dairy, livestock, and nursery products; and

(iii) purchases of agricultural or farm products processed for first sale by the original producers.

(b) *Regulatory Exemptions.*

(1) Department of Labor regulations, 41 CFR 50-201.603, grant full exemptions from the application of the Act to the following types of contracts:

(i) contracts for public utility services;

(ii) contracts for materials or supplies manufactured outside the United States, Puerto Rico, or the Virgin Islands;

(iii) contracts covering purchases against the account of a defaulting contractor where the stipulations of the Act were not included in the defaulted contract; and

(iv) contracts to sales agents or publisher representatives for the delivery of newspapers, magazines, or periodicals by the publishers thereof.

(2) Department of Labor regulations, 41 CFR 50-201.604, grant partial exemptions from the application of the Act to the following types of contracts:

(i) contracts with certain coal dealers;

(ii) certain commodity exchange contracts;

(iii) contracts with certain export merchants;

(iv) contracts with small business defense production pools and small business research and development pools; and

(v) contracts with public utilities for the acquisition of certain uranium products.

PCOs should refer to the sections of the Department of Labor regulations cited in (1) above and in this paragraph for specifics regarding full and partial exemptions.

(3) Section 6 of the Act permits the Secretary of Labor to make exceptions to the requirement that the representations and stipulations of Section 1 of the Act be included in contracts that are subject to the Act. Applications for such exceptions shall be submitted through contracting channels with pertinent data and recommendations to the Departmental Labor Advisor, OASA(RDA) for the Army; Chief of Naval Material for the Navy; Director of Contracting and Acquisition Policy, HQ USAF, for the Air Force; Executive Director, Contracting, for the Defense Logistics Agency; Director of Procurement for the National Security Agency; the Counsel for the Defense Communications Agency; Chief, Office of Acquisition, for the Defense Nuclear Agency; and Staff Director of Logistics for the Defense Mapping Agency.

12-603 Eligibility as Manufacturer or Regular Dealer. The Secretary of Labor has issued interpretations regarding the

qualifications of contractors to whom covered contracts may be awarded. These interpretations are set forth in 41 CFR 50-206 and are republished in DAR Appendix R.

12-603.1 *Manufacturer.* As used in 12-601, a "manufacturer" is a person who owns, operates, or maintains a factory or establishment that produces on the premises the materials, supplies, articles, or equipment required under the contract and of the general character described by the specifications. In order to qualify as a manufacturer, an offeror must be able to meet the requirements set forth in 41 CFR 50-206.51. An assembler must meet the standards set forth in 41 CFR 50-206.52 to qualify as a manufacturer.

12-603.2 *Regular Dealer.*

(a) Except as set forth in (b) below, as used in 12-601, a "regular dealer" is a person who owns, operates, or maintains a store, warehouse, or other establishment in which materials, supplies, articles, or equipment of the general character described by the specifications and required under the contract are bought, kept in stock, and sold to the public in the usual course of business. In order to qualify as a regular dealer, a dealer must meet the standards set forth in 41 CFR 50-206.53.

(b) For certain specific products (lumber and timber products, machine tools, hay, grain, feed or straw, raw cotton, green coffee, petroleum, agricultural liming materials, tea, raw or unmanufactured cotton linters), certain uranium products, and used automatic data processing equipment, there are alternative definitions of regular dealers in which the dealer need not physically maintain a stock. The requirements under the alternative definitions are set forth in 41 CFR 50-201.101 (a)(2) and 50-206.54.

12-603.3 *Agents.* A manufacturer or regular dealer may bid, negotiate, and contract through an authorized agent if the agency is disclosed and the agent acts and contracts in the name of the principal. In this connection, see the clause entitled "Covenant Against Contingent Fees" set forth in 7-103.20 and the procedures prescribed for obtaining information concerning contingent or other fees, as set forth in Section I, Part 5.

12-604 Determination of Eligibility of a Bidder or Offeror.

(a) *Responsibility of the PCO.* The initial responsibility for applying the eligibility requirements set forth in 12-601 and 12-603 rests with the PCO. This initial determination of eligibility shall be in accordance with 1-905.4(d). The Department of Labor does not conduct preaward investigations or render final determinations until the PCO has initially determined whether the eligibility requirements have been met.

(b) *Procedures.*

(1) When the PCO has determined that an apparently successful offeror is ineligible, the PCO shall promptly inform the offeror in writing:

(i) that the eligibility requirements have not been met, and the reasons therefor;

(ii) that the determination may be protested by submitting evidence concerning eligibility to the PCO within 10 working days;

(iii) that if, after review of the evidence submitted by the offeror, the PCO's position has not changed, the protest, together with all pertinent material, will be forwarded in accordance with Department procedures to the Administrator of the Wage and Hour Division, DOL, for a final determination. However, in the case of a small business concern, any determination of ineligibility, whether or not the small business concern protests the determination, shall be forwarded to the Small Business Administration (SBA) Regional Office having authority to process the eligibility findings for the geographical area involved, and the offeror so notified in writing. SBA shall review the findings and shall either reverse the determination and certify the small business concern to be an eligible Government contractor for a specific Government contract or, if SBA concurs in the findings, so notify the PCO and the offeror and forward the matter to the Secretary of Labor for final disposition—in which case the SBA may certify the small business concern only if the Secretary of Labor finds the small business concern to be eligible for award. In any case in which a small business concern or group of such concerns has been certified by SBA to be an eligible Government contractor for a specific Government contract, the PCO shall accept such certification as conclusive.

(2) When another offeror challenges the eligibility of the apparently successful offeror prior to award, the PCO shall promptly notify the apparently successful offeror of the protest and shall notify both the protestor and the apparently successful offeror in writing:

(i) that they may submit evidence concerning the matter to the PCO within 10 working days; and

(ii) that after review of the evidence and after any further necessary investigation, the PCO will reach a decision on all the evidence and notify the protestor of the decision. If either party disagrees with the decision, the PCO, in accordance with Departmental procedures, will forward the protest, together with all pertinent material, to the Administrator of the Wage and Hour Division, DOL, for a final determination. If the decision is favorable to the protestor in a case involving the eligibility of a small business concern, the protest and all pertinent material will be forwarded to SBA, in accordance with 12-604(b)(1)(iii).

(3) Offerors whose bids might become eligible for award should be notified of the protest when an award is to be held up under (1) or (2) above, and requested to extend their acceptance period, if needed.

(4) If the PCO forwards the case to SBA or DOL for review of eligibility under the Act, award will be held in abeyance until the PCO receives a Certificate of Eligibility from SBA or a final determination from DOL, unless—

(i) in the case of a small business concern, the PCO certifies in writing, and the certification is approved by the chief of the contracting office, that award should be made because the items to be acquired are urgently needed, and the PCO includes such certification and supporting documentation in the contract file; or

(ii) in all other cases, the PCO determines that award should be made because (A) the items to be acquired are urgently needed; or (B) delay of delivery or performance by failure to make the award promptly will result in substantial hardship to the Government.

If the PCO decides to proceed with the award, prompt written notice of the decision shall be given to DOL and, as appropriate, the protestor, SBA, and others concerned.

(5) If an award is made under (4) above, the PCO shall document the file to explain the need for making an award prior to the receipt of a Certificate of Eligibility from SBA or a determination from DOL, as appropriate, and shall provide such documentation to DOL.

(c) *Protest After Award.* When another offeror challenges the eligibility of the apparently successful offeror after

award, the PCO shall notify the protestor and the contractor in writing that they may submit evidence concerning the matter to the PCO within 10 working days. The PCO shall review all available evidence, reach a decision, and forward the matter to DOL. However, in a case involving the eligibility of a small business concern, if the decision is favorable to the protestor, the protest and all pertinent material will be forwarded to SBA in accordance with 12-604(b)(1)(iii).

12-605 Additional Responsibilities of Contracting Officers. When the Act applies and pursuant to regulations or instructions issued by the Secretary of Labor and in accordance with procedures prescribed by each Department—

(a) The PCO shall:

(1) inform prospective contractors of the applicability of minimum wage determinations and

(2) report promptly to the ACO any violation of the representation or stipulation required by the Act that the PCO becomes aware of.

(b) The ACO shall:

(1) furnish Department of Labor WH Publication 1313, "Notice to Employees Working on Government Contracts" (form available through normal publication supply channels) to the contractor and

(2) report to DOL through the PCO any violation of the representations or stipulations required by the Act.

12-606 Contract Clause. See 7-103.17.

12-607 Wage and Hour Division of the United States Department of Labor Regional Offices—Geographical Jurisdictions and Addresses of Regional Directors.

Region I—Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut—JFK Federal Office Building, Boston, MA 02203.

Region II—New York, New Jersey, Puerto Rico, Virgin Islands—1515 Broadway, New York, NY 10013.

Region III—Pennsylvania, Maryland, Delaware, Virginia, West Virginia, District of Columbia—3535 Market Street, Philadelphia, PA 19104.

Region IV—North Carolina, South Carolina, Kentucky, Tennessee, Mississippi, Alabama, Georgia, Florida—1371 Peachtree Street, Atlanta, GA 30309.

Region V—Ohio, Indiana, Michigan, Illinois, Wisconsin, Minnesota—230 Dearborn Street, Chicago, IL 60604.

Region VI—Louisiana, Arkansas, Oklahoma, Texas, New Mexico—555 Griffin Square Building, Dallas, TX 75201.

Region VII—Missouri, Iowa, Nebraska, Kansas—911 Walnut Street, Kansas City, MO 64104.

Region VIII—North Dakota, South Dakota, Montana, Wyoming, Colorado, Utah—Federal Office Building, 1961 Stout Street, Denver, CO 80202.

Region IX—California, Nevada, Arizona, Hawaii, Guam—450 Golden Gate Avenue, San Francisco, CA 94102.

Region X—Washington, Oregon, Idaho, Alaska—Federal Office Building, 909 First Avenue, Seattle, WA 98104.

12-1005.10 *Termination.* See paragraph (i) of 7-1903.41(a).

12-1005.11 *Cooperation With the Department of Labor.* The contracting officer shall cooperate with representatives of the Department of Labor in the examination of records, interviews with service employees, and all other aspects of investigations undertaken by the Department of Labor. When requested, agencies shall furnish to the Administrator any available information with respect to contractors, subcontractors, their contracts, and the nature of the contract services. Violations apparent to the contracting agency and complaints received shall be promptly referred in writing to the appropriate regional office of the Department of Labor. In no event shall complaints by employees be disclosed to the employer.

12-1006 Hearings. A successor contractor's obligation (see 12-1001(ii)) cannot be avoided unless it is found after a hearing that such bargained for wages and fringe benefits are substantially at variance with those which prevail for services of a character similar in the locality. Such hearings may be requested by any interested party, including the contractor, a union, or the contracting agency.

12-1007 Procedures for Evaluating Professional Employee Compensation for Service Contracts.

12-1007.1 *Purpose.* The Service Contract Act of 1965, as amended, was enacted to ensure that blue collar and some white collar workers are fairly compensated by contractors providing contract services to the Government. It does not apply, however, to professional employees. This subpart provides policies and procedures to be used when contracting for services which include a meaningful number of professional employees not covered under the Service Contract Act.

12-1007.2 *Policy.* It is the policy of the Federal Government that all service employees, including professional employees, employed by contractors providing services to the U.S. Government be fairly and properly compensated.

12-1007.3 *Applicability.* The provisions in 7-2003.78 and 7-2003.79 shall apply when all of the following conditions are present:

(i) the principal purpose of the proposed contract is to furnish services in the United States;
(ii) the proposed contract will be negotiated;
(iii) there are a meaningful number of professional employees who will be employed by the contractor to perform the service; and
(iv) the proposed contract will be in excess of $2,500.

12-1007.4 *Definition of Professional Employee.* The term "professional" is not restricted to the traditional professions of law, medicine, and theology. It includes those professions that have a recognized status and that are based on the acquirement of professional knowledge through prolonged study. Title 29, Part 541, Code of Federal Regulations, defines the term "professional employee" and provides a listing of occupations generally considered to be held by professionals.

Upon notification of availability by DIPEC, a DD Form 1419 will be submitted to DIPEC for each item accepted by the requestor. However, if DIPEC does not have the item available, or cannot furnish the item within the time specified by the requestor, DIPEC will furnish a statement of nonavailability including a certificate number. This statement will be the official Certificate of Nonavailability and will confirm that the plant equipment item has been screened against the idle inventory.

(h) The proposed acquisition of automatic data processing equipment as defined in 1-201.29 shall be:

(i) submitted on DD Form 1419 through the Administrative Contracting Officer to Headquarters, Defense Supply Agency, ATTN: DSAH-LSR, Cameron Station, Alexandria, VA., 22314;

(ii) approved by the Senior ADP Policy Official of the Department or Agency which generated the requirement for the contract end item. The Senior ADP Policy Official may delegate approval authority except for non-competitive procurements when:

(1) the annual lease cost exceeds $200,000, or the purchase cost exceeds $500,000; or

(2) the total requirement exceeds the limitations prescribed in the Scope of Contract clause of the FSS as it relates to the Maximum Order Limitations; or

(3) referral of the procurement to GSA is required for any other reason pursuant to the FPMR.

13-302 Securing Approval for Facilities Projects.

(a) The Secretaries of the Military Departments or their designees and the Directors of Defense Agencies may approve requests for Government-owned facilities projects if—

(i) the facilities projects that are funded from procurement appropriations will be approved on a location basis and shall not exceed $5 million for all property efforts (expansion, modernization, rehabilitation, etc.) during 1 fiscal year;

(ii) it is a research and development-funded project that will not exceed $1 million; or

(iii) the total plant and equipment investment cost to support a specific major system or subsystem (including ammunition-related project requests) will not exceed $25 million during the projected acquisition or maintenance effort. (Approval authority shall not be redelegated lower than the level of Assistant Secretary.)

Approval may be granted only when there is compliance with all provisions of this regulation and DoD Directive 4275.5 "Acquisition and Management of Industrial Resources."

(b) All projects which will exceed the above limitations will be submitted to the Under Secretary of Defense for Research and Engineering for approval.

(c) Facilities projects that involve real property transactions shall not be undertaken prior to reporting such transactions to the Committees on Armed Services of the House of Representatives and the Senate, as required by 10 U.S.C. 2662, and during the 30-day period prescribed therein. Further, Congress must be notified in advance of starting any construction regardless of cost. If not included in the annual budget, submission to all appropriate Congressional Committees will be made by using DD 1391 Forms. Such reporting shall be accomplished in accordance with Departmental procedures consistent with 1-108.

13-303 Use of Facilities Contracts.

(a) Except as provided in (b) below, facilities shall be provided by the Government to a contractor or subcontractor only under a facilities contract.

(b) Facilities may be provided to a contractor under a contract other than a facilities contract when:

(i) the cumulative total acquisition cost (actual or estimated) of the facilities provided to the contractor at one plant or general location does not exceed $50,000;

(ii) the contract is for construction;

(iii) the contract is for the performance of work within an establishment or installation operated by the Government; or

(iv) the contract is for the performance of services involving the operation of a Government-owned plant or installation and the facilities provided are to be used only in connection with such contract, which shall, to the extent practicable, contain the clauses in Part 7 of Section VII.

When facilities are provided under a contract other than a facilities contract, the contract shall contain the appropriate Government Property clause, except where, pursuant to (iv) above, adequate contractual coverage is obtained through the use of clauses referenced in Part 7 of Section VII.

(c) Unless the contracting officer determines it to be impracticable, all facilities provided by a Procuring Activity for use by a contractor at any one plant or general location shall be governed by a single facilities contract.

(d) Special tooling and special test equipment will normally be provided to a contractor under a supply contract, but may be provided under a facilities contract when to do so is administratively desirable.

13–304 Furnishing Existing Government-owned Special Tooling.

(a) *General.* It is the policy of the Department of Defense that existing special tooling to which the Government has title, or the right to acquire title pursuant to the Special Tooling clause in 7–104.25, be offered to prospective contractors for use in performing Government contracts and subcontracts, if:

(i) to do so will not interfere with production or program schedules having a greater priority;

(ii) to do so is otherwise advantageous to the Government; and

(iii) its use would be authorized pursuant to 13–402 or 13–403 were it furnished.

(b) *Contract Provisions.* Special tooling shall be furnished pursuant to either the appropriate clause referenced in Part 7 of this Section or a facilities contract. In any case, the contract under which the special tooling is furnished shall contain a description thereof, and the terms and conditions applicable to its shipment to the plant of the contractor and to the cost of adapting and installing it.

13–305 Acquisition of Special Tooling.

13–305.1 *General.*

(a) *Policy.* It is the policy of the Department of Defense that contractors provide and retain title to special tooling required for the performance of defense contracts to the maximum extent consistent with sound procurement objectives. Government acquisition of title or the right to title in special tooling creates substantial administrative burden, encumbers the competitive procurement process and frequently results in the retention of special tooling without advantage commensurate with such burden. In certain instances, however, the acquisition of special tooling or rights thereto may help the Government obtain fair prices, recover the residual value of special tooling paid for by the Government, and increase

(d) If a contractor's purchase order or subcontract includes FMS requirements and "quality assurance only" is requested at source, the requesting CAO shall clearly indicate "FMS Requirement" on the face of the document and provide the FMS case identifier code, associated item quantity and related DoD prime contract number and contract line/subline item number. When more than one FMS case is involved, the information shall be provided for each.

SECTION XVI

PROCUREMENT FORMS

16–000 Scope of Section. This Section prescribes forms for use in connection with the procurement of supplies and services (see Appendix F for illustrations of these forms). In using these forms for procurement outside the United States, its possessions, and Puerto Rico, contract provisions which are made inapplicable to such procurement by or under authority of ASPR may be deleted.

16–001 Continuation of Forms. Except as may be otherwise indicated with respect to individual forms or groups thereof, all procurement forms may be continued on bond paper. The Continuation Sheet (Standard Form 36) may be used when columns are required. Continuation sheets will be annotated in the upper right-hand corner with the reference number of the document being continued and the serial page number of the total pages being prepared, *e.g.*, Page 5 of 15.

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Part 1—Forms for Supply and Services Contracts

16–100 Scope of Part. This Part prescribes forms for use in acquiring supplies and services either by formal advertising or by negotiation (but see also Part 2 of this Section); it is not applicable to specialized acquisition for which other instructions are prescribed by DAR or Departmental procedures (see 1–108).

16–101 Forms for Advertised Supply or Services Contracts (Standard Forms 33, 33A, 32, 36, 30 and 26 and DD Form 1707).

16–101.1 *General.* The following contract forms shall be used in effecting acquisitions of supplies or services by formal advertising:

(i) Solicitation, Offer, and Award (Standard Form 33), including Representations, Certifications, and Acknowledgements (either March 1977 edition or exception approved 9/25/78) for use with Uniform Contract Format in 2–201(a) and 3–501(b) and Information to Offerors or Quoters (DD Form 1707), which may be reproduced locally, unless such action is precluded by Departmental direction;

(ii) Solicitation Instructions and Conditions (Standard Form 33A) (Jan. 1978 edition). In supply contracts substitute the Discounts clause in 7–103.14 and in service contracts substitute the Discounts clause in 7–1902.11 for paragraph 9(b). In both supply and service contracts, substitute the Order of Precedence provision in 7–2003.41 for paragraph 19 and the Late Bids provision in 7–2002.2 for paragraphs 7 and 8. (For negotiated contracts, use the Late Technical Proposals provisions in 7–2002.3, or the Late Proposals provision in 7–2002.4);

(iii) General Provisions (Supply Contract), Standard Form 32, Apr. 1975 edition (to be used only when acquiring supplies). When using this form, the clause in 7–105.1(b) shall be added;

(iv) Any other special terms for the solicitation or additional contract provisions which are prescribed by the DAR or Departmental procedures (see 1–108);

(v) Continuation Sheet (Standard Form 36);

(vi) Amendment of Solicitation / Modification of Contract (Standard Form 30) when needed (see 16–103); and

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

16–101.2 *Conditions for Use.*

(a) The Solicitation, Offer and Award (Standard Form 33) shall be prepared in accordance with 2–201.

(1) Normally, only two copies of the solicitation will be forwarded to each prospective offeror and each offeror shall be requested to return one signed copy of his offer. In those cases where it is more practical or cost effective, three copies of the solicitation may be forwarded and the offeror requested to return two signed copies. For acquisitions made by the Defense Fuel Supply Center, four copies of the solicitation may be forwarded and the offeror requested to return three signed copies. A DD Form 1707 shall accompany each solicitation.

(b) Standard Forms 32 and 33A and any additional general provisions may be attached to each copy of the Solicitation. Alternatively, Standard Forms 32 and 33A may be incorporated by reference to the form number, name, and edition date; also, additional general provisions (contract clauses) that (i) are authorized in Section VII, (ii) do not contain blanks to be filled in by the offeror

reference to the DAR paragraph number, clause title and date. No other contract clauses shall be incorporated by reference but they shall be set forth in full in the solicitation.

(5) When a cost breakdown is required in connection with an offer, the DD Form 633 shall be used as provided in 16-206.

(6) This paragraph does not preclude the use of the purchase order forms prescribed in Section XVI, Part 3.

(7) When it is necessary to issue an amendment to a solicitation for offers, Standard Form 30 shall be used.

16-102.4 *Solicitation, Offer, and Award (Overseas) (DD Form 1665).*

(a) *General.* The following forms are prescribed for use outside the United States, its possessions and Puerto Rico in effecting negotiated fixed-price contracts for supplies or services:

(i) Solicitation, Offer, and Award (Overseas) (DD Form 1665), substituting the Late Technical Proposals provision in 7-2002.3 or the Late Proposals provision in 7-2002.4 for paragraphs 7 and 8;

(ii) for contracting offices in the North Atlantic—Mediterranean area, including all of Europe, contract clause forms issued by USEUCOM (see 1-104(b)); for overseas contracting offices not under USEUCOM, any other forms containing contract provisions which are prescribed by DAR or Departmental procedures;

(iii) Continuation Sheet (Standard Form 36) (see 16-101.2(d)); and

(iv) Amendment of Solicitation / Modification of Contract (Standard Form 30) when needed (see 16-103).

(b) *Conditions for Use.* The conditions for use of DD Form 1665 are the same as for Standard Form 33 (see 16-102.3(b)).

(c) *Optional Use of Uniform Contract Format.* The Uniform Contract Format (see 3-501(b)(1)) may be used with the DD Form 1665.

16-103 Amendment of Solicitation / Modification of Contract (Standard Form 30).

(a) *General.* This paragraph prescribes a single form for (i) amendment of solicitations (whether advertised or negotiated), and (ii) modification of contracts including purchase and delivery orders entered into on DD Form 1155 (see 3-608.4).) Use of this form is optional for amendment of solicitation for the acquisition of construction and price change modification of contracts for the acquisition of petroleum products as a result of economic price adjustment.

(b) *Conditions for Use.* This form shall be used for:

(i) any amendment to a solicitation;

(ii) any change order issued pursuant to the Changes clause of a contract;

(iii) any other unilateral contract modification (see 1-201.2) issued pursuant to a contract provision authorizing such modification without the consent of the contractor;

(iv) administrative changes such as the correction of typographical mistakes, changes in the paying office and changes in accounting and appropriation data;

(v) supplemental agreements as defined in 1-201.18; and

(vi) provisioned items orders.

(c) *Continuation of Amendments / Modifications.* Standard Form 36 or a blank sheet of paper may be used for continuation of amendments / modifications (see 16-101.2(d)).

(d) *Modification of Construction Contracts.* When used to modify a contract for construction, this form may be altered to provide for the contractor's written acknowledgment of the change orders. (See 16-405.4 for instructions relative to modifying a contract for construction.)

(e) *Identification of FMS Contract Modifications.* If the modification adds FMS requirements, identify the modification by clearly stamping or otherwise indicating "*FMS Requirement*" on the face of the modification and specify within the modification each FMS case identifier code by line/subline item number, e.g., FMS Case Identifier GY-D-DCA, for such added FMS items.

16-104 Instructions for Preparation of Forms for Advertised and Negotiated Supply and Services Contracts (Standard Forms 33, 26, 30, and 18).

16-104.1 *General.* The following information is applicable to all of the forms discussed in this paragraph.

(a) *Codes.* Entries in the code blocks provided on the forms are required if administration is assigned (i) to DCAS, or (ii) to a non-DCAS office listed in the DoD Directory of Contract Administration Services components and the contractor is located in the continental United States or Canada. The organizational entity address codes to be entered on contracts are as follows:

(1) *Codes published in the DoD Activity Address Directory (DODAAD), DoD 4000.25D.* These codes are to be used for Government entities. However, the "Ship To / Mark For" block shall use a DODAAD code for non-Government entities for shipments to satisfy MILSTRIP requisitions for that non-Government entity.

(2) *Codes published in Handbook of Non-Government Organizations for MILSCAP, H8-1/H8-2 Handbooks.* These codes will be used for all non-Government entities, except for the condition as noted in (i) above.

(b) *Dates.* All date entries shall be constructed with a 2-position numeric year; 3-position alpha month, and a 2-position numeric day; *e.g.*, 71NOV06.

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

(d) *Uniform Contract Format (UCF).*

(1) A Uniform Contract Format (UCF) consisting of (i) a standard table of contents and (ii) a standard location for all provisions under applicable section headings is set forth in 2-201(a) and 3-501(b). The table of contents is required in written solicitations and contracts (excluding orders under basic ordering agreements). Placement of provisions under applicable section headings is required in written solicitations, solicitation amendments, awards under solicitations, contracts (including contracts under basic agreements), and contract modifications.

(2) When a particular Section or Sections are not necessary (as for example, Sections C and D are not necessary because part numbers, NSNs, brief item descriptions and/or preservation and packaging information in Section B provide sufficient descriptive details), the unnecessary Sections should not be checked.

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

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Block No.	*Title and/or Instructions*
10	For those awards utilizing an Accounting Classification Reference Number (ACRN) pursuant to ASPR 20-308.1, indicate the impact of the modification on each affected accounting classification by inserting one of the following entries: *ACRN: accounting classification* *Net increase $ .....* *ACRN: accounting classification* *Net decrease $ .....* **NOTE:** Should changes to multiple ACRN's occur on a modification which cannot be placed in Block 10, an asterisk and the words "*See Continuation Sheet*" should be inserted.
12	Amendments or modifications shall be set forth under appropriate UCF section headings from the applicable solicitation or contract document. A UCF table of contents shall not be set forth. Indicate the impact of the modification on the overall total contract price by inserting one of the following entries: *Total contract price increased by $.....* *Total contract price decreased by $.....* *Total contract price unchanged.*
13	If the modification is a Change Order (11(a)) or Administrative Change (11(b)), the first box in this block shall be checked, and the contractor's signature will not be required. If the modification is a Supplemental Agreement (11(c)), contractor's signature will be required, the second box shall be checked and the number of copies to be returned to issuing office shall be inserted, but see 1-706.6(d)(3), 1-706.7(e)(3), and 1-804.2(c)(3) when the form is being used for acceptance of an offer for a set-aside portion of a procurement.
17	Contracting Officer's signature is not required when amending a solicitation.

16-104.5 *Request for Quotations* (*Standard Form 18*). Instructions for block entries are as follows (applicable only when UCF is used):

Block No.	*Title and/or Instructions*
11-16	The UCF table of contents set forth in 2-201(a) and 3-501(b) with the applicable sections checked, shall be set forth immediately below Block 10 so as to replace the word "Schedule" and replace Blocks 11 through 16, including the headings. Section entries may commence immediately below the Table of Contents or they may commence on the first Continuation Sheet (Standard Form 36). In either event, all provisions shall be located under applicable UCF section headings.

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Part 2—Additional Forms for Negotiated Contracts

16-200 Scope of Part. This Part describes additional forms for use where appropriate in conjunction with negotiated contracts for supplies or services.

16-201 Reserved.

16-202 Reserved.

16-203 Reserved.

16-204 Reserved.

16-205 General Provisions—Fixed-Price Supply Contracts (Standard Form 32).* Any negotiated contract to which Section VII, Part 1, is applicable will include Standard Form 32. The addition of other clauses set forth in Section VII, Part 1, or of other clauses not inconsistent with DAR, shall be accomplished by including such clauses as "Additional General Provisions" numbered consecutively. The deletion or modification of clauses contained in the "Additional General Provisions" shall be accomplished by appropriate reference or provision in an Alterations in Contract clause. These instructions must be read in conjunction with Section VII, Part 1, to make certain that current clauses are in use at all times.

*For DAR clause substitutions on Standard Form 32, Apr. 1975 edition, and Standard Form 33A, Jan. 1978 edition, see 16-101.

16-206 Contract Pricing Proposal Forms.

16-206.1 General.

(a) The DD Form 633 shall be used, except for negotiated final overhead rates and termination settlements, whenever cost or pricing data (see 3-807.7) is required. The data requirement, in 3-807 and 7-104.42, is in connection with the pricing of contracts, subcontracts (including prospective subcontracts), and changes or modifications to contracts or subcontracts. In accordance with the provisions of 3-807.7(b), the DD Form 633-7 shall be submitted whenever exemption from such cost or pricing data requirements is claimed for contracts or subcontracts by reason of established catalog or market prices (see 3-807.7(b)) or prices set by law or regulation.

(b) When Contract Cost Data Reports are required by the purchase request, the contractor shall be required to submit DD Forms 1921 and/or 1921-1 to support the DD Form 633. The DD Forms 1921 shall be prepared in accordance with the Contractor Cost Data Reporting (CCDR) System (Army - AMCP 715-8, Navy - NAVMAT P5241, and Air Force - AFLCP/AFSCP 800-15). The contractor supporting data shall be prepared in such a manner as to support each cost element on the DD Form 1921-1.

(c) DD Form 783 (Royalty Report (Foreign and Domestic)) is approved for use as the separate schedule required by DD Form 633.

16-206.2 *Contract Pricing Proposal Supporting Schedules* may be devised by contracting offices to require such supporting data to the foregoing forms as is considered necessary and reasonable through knowledge of industry, company or commodity practices.

16-207 Reserved.

16-208 Weighted Guidelines Profit/Fee Objective (DD Form 1547).

16-208.1 *General.* Weighted Guidelines Profit/Fee Objective (DD Form 1547) is to be used, as appropriate, to facilitate calculation of the Weighted Guidelines Profit/Fee Objective (see 3-808.2).

16-208.2 *Conditions for Use.* DD Form 1547 may be used in conjunction with the Record of Price Negotiation required by 3-811(b), *provided* that the rationale used in assigning the various rates is fully documented.

Part 3—Purchase and Delivery Order Forms

16-300 Scope of Part. This Part prescribes forms for use (i) when purchases are authorized or required to be made by the purchase order or imprest fund method, (ii) as delivery orders, and (iii) as order against basic ordering agreements.

16-301 Receipt for Cash—Subvoucher (Standard Form 1165). Standard Form 1165 may be used in connection with procurements by the imprest fund (petty cash) method in accordance with 3-607.

16-302 Purchase Order — Invoice — Voucher (Standard Form 44). Standard Form 44 is authorized for use to accomplish small purchases in accordance with 3-608.9.

16-303 Order for Supplies or Services/Request for Quotations, (DD Forms 1155, 1155r, 1155r-1, and 1155c-1). Order for Supplies or Services/Request for Quotations, DD Form 1155 series, shall be used to accomplish small purchases in accordance with 3-608 and 16-402 and Blanket Purchase Agreements in accordance with 3-605, and may be used to place calls against Blanket Purchase Agreements in accordance with 3-605.5 and orders against basic ordering agreements in accordance with 3-410.2(a). Pending revision of the 1 August 1976 edition of DD Form 1155r, the *Convict Labor* clause in 7-104.17 shall be substituted for paragraph 7 of the form.

(vii) contracts for industry technical representatives;
(viii) contracts for consultant support services;
(ix) geodesy mapping, air charting, and information center contracts;
(x) base, post, camp, and station purchases (see 20–703.1);
(xi) contracts for operation or maintenance of, or installation of equipment at, radar or communications network sites, *e.g.*, SAGE, BMEWS, JCSAN, WHITE ALICE, etc;
(xii) communications service contracts;
(xiii) contracts for installation, operation and maintenance of spacetrack sensors and relays;
(xiv) Dependents Medicare Program contracts;
(xv) stevedoring contracts;
(xvi) contracts for construction and maintenance of military and civil public works, including harbors, docks, port facilities, military housing, development of recreational facilities, water resources, flood control, and public utilities;
(xvii) architect-engineer (A-E) contracts;
(xviii) contracts for Airlift and Sealift—Military Airlift Command and Military Sealift Command may perform contract administration services at contractor locations involved solely in performance of airlift or sealift contracts;
(xix) contracts for subsistence supplies:
(xx) ballistic missile site contracts—supporting administration of these contracts may be performed at missile activation sites during the installation, test, and checkout of the missiles and associated equipment; and
(xxi) contracts for operation and maintenance of, or installation of equipment at, military test ranges, facilities, and installations.

To avoid duplication of field contract administration capability, except for the performance of (xviii) and (xx) above, contract administration personnel from the purchasing office shall not be located at contractor's facilities. If field assistance from a DoD contract administration services component is needed in the administration of these contracts, such assistance will be requested by assignment of supporting contract administration to the contract administration offices listed in DoD Directory 4105.59–H as cognizant of the contractor's facility (facilities) at which the supporting contract administration function(s) is required. Specific instructions as to the assistance needed will be furnished. If field assistance is needed in the performance of the major portion of applicable contract administration functions, the contract will be reassigned to the cognizant contract administration office.

20–703.3 *Retention of Normal, or Assignment of Additional Functions.*

(a) The purchasing office may withhold, after consulting with the contract administration office when appropriate, specific contract administration functions on individual contracts when the performance of such functions can best be accomplished by the purchasing office (see 20–702.1).

(b) On individual contracts, it may be advisable for the purchasing office to delegate to the contract administration office functions which have not been designated in 1–406(c) as contract administration functions. Similarly, by individual contract or groups of contracts, authority may be delegated for contract administration offices to issue orders under the provisioning procedures con-

tained in contracts, and to issue orders under Basic Ordering Agreements for such items and services as are identified in the schedule; *provided*, however, that such delegation has been approved by the Head of the Procuring Activity or his designee. Prior to issuing delegations under this paragraph, the purchasing office shall coordinate with the contract administration office to assure availability of resources for performing the additional functions. Except as already provided for under this paragraph and under 1–406, new or follow-on procurement by the contract administration office shall not be authorized.

(c) The purchasing office shall advise the contractor, the contract administration office, and other appropriate activities, in writing, of the functions withheld or additional functions assigned.

20–704 Supporting Contract Administration.

(a) Supporting contract administration (see 1–201.31), when required for administration of a portion of the contract being performed at a different location, shall be requested in writing of the contract administration office normally cognizant of each of the contractor's facilities in which the work is to be performed. The request shall be made by the office having contract administration cognizance for the contract. Individual requests for quality assurance and transportation support are not required in those cases where specific distribution of the contract was made pursuant to 20–401(d)(ii)(E). The request shall clearly state the applicable functions to be performed. A copy of the pertinent contractual and other necessary documents shall be attached thereto. Generally, the office for performing supporting functions shall be selected from the list in DoD 4105.59–H. However, in special circumstances (for example, when contractor's work site is a military base), a component of a military command not listed in DoD 4105.59–H may be selected to perform supporting contract administration when prior coordination between the offices concerned has indicated that such an arfangement is feasible and that adequate resources are available.

(b) The prime contractor is responsible for managing his subcontract program, and the contract administration office function normally is limited to evaluating the effectiveness of the prime contractor's management of this program. Therefore, except when performance of contract administration duties by Government personnel is authorized elsewhere in this Regulation, administration of subcontracts by the Government shall not be assumed unless undue cost to the Government would otherwise be incurred or successful completion of the contract is threatened. This in no way precludes the contracting officer from designating under major system acquisitions (as defined in 1–201.41) certain high risk or critical subsystems or components thereof as requiring the application of special management attention in addition to assignment of support administration. Such special management attention shall be fully consistent with the practice of calling upon the contract administration organization cognizant of a facility to perform such contract administration functions as are required at that facility.

(c) Where supporting contract administration is required on a contractor purchase order or subcontract which includes FMS requirements, the requesting CAO shall clearly indicate "FMS Requirement" on the face of the document and provide the FMS case identifier code, associated item quantity and related DoD prime contract number and contract line/subline item number. When more than one FMS case is involved, the information shall be provided for each.

20–705 Reserved.

20–706 Designation of the Disbursing Office. The purchasing office shall designate in the contract a disbursing office in accordance with (a), (b), (c), or (d) below:

(a) *Defense Contract Administration Services Disbursing Office.* Contracts assigned to an office of Defense Contract Administration Services for administration shall also specify disbursement by the cognizant Defense Contract Administration Services Regional Office if funded with DoD funds (i.e., department codes 17 (Navy), 21 (Army), 57 (Air Force), 97 (OSD, including Defense Agencies), and 43 (Civil Defense). For any other department or agency funds, the payment office serving that department or agency must be cited for the portion of the contract covered by non-DoD funds, even though the contract is otherwise wholly administered by the DCASR.

(b) *Other Disbursing Office(s).* Any contract not assigned to a Defense Contract Administration Services Office for administration shall designate a disbursing office in accordance with Departmental or Agency regulations. Such contract, if issued for requirements of more than one Department or Agency, may provide for payment by more than one disbursing office.

(c) *Disbursement for Air Force Missile Propellant Contracts.* The Department of the Air Force shall retain the disbursement function on all contracts for Air Force missile propellants.

(d) Disbursements for NATO AEW contracts citing fund account 97X6147 will be assigned to ESD Accounting and Finance Office, Hanscom AFB MA.

20–707 Reassignment of Contract Administration and Disbursing Responsibility. Changes in assignment on account of changes in place of manufacture or for other reasons shall be made by the procuring contracting officer by issuance of a unilateral contract modification. However, when a contract is initially incorrectly assigned, a contracting officer at the contract administration office receiving such assignment shall issue a unilateral contract modification reassigning the contract to the correct contract administration office and disbursing office. Also, when a contractor is reassigned to another contract administration office on account of transfer of plant cognizance, establishment or disestablishment of a contract administration office, or change in geographical assignment of a contract administration office, the contract administration office having cognizance of the contract prior to the reassignment shall issue a unilateral contract modification reassigning the contracts to the newly assigned contract administration office and disbursing office. In accomplishing any change of assignment, the contract administration office shall assure that the contract and files and necessary supporting documents are transmitted to the correct contract administration office.

Part 8—Correspondence and Visits

20–801 Contract Correspondence.

(a) Generally, correspondence relating to contract administration functions shall be forwarded to the contractor via the cognizant contract administration office with a copy supplied for the file of the contract administration office. If, under urgent circumstances, direct correspondence is necessary, a copy shall be forwarded concurrently to the contract administration office.

(b) A copy of pertinent correspondence between the contract administration office and the contractor shall be sent to the purchasing office.

20–802 Visits to Contractor's Plants.

(a) *Planning Visits.* When visits to a contractor's facility are planned, the contract administration office shall be provided the following information prior to such visits:

(i) name, official position, and activity represented by visitor;
(ii) date of intended visit;
(iii) name and address of contractor and personnel to be contacted;
(iv) contract number and program involved, and purpose of visit;
(v) security clearance (If access to classified information will be involved, the contractor must be given advance notice, in writing, as required by the Industrial Security Regulation (DoD 5220.22—R);
(vi) if desired, a request that a representative of the contract administration office accompany the visitor (In the absence of such a request, the contract administration office may elect to have a representative accompany the visitor.).

(b) *Discussions With the Contractor, and Reporting Results of Visits.* Agreements reached with the contractor by authorized personnel during a visit shall be reduced to writing and a copy furnished to the contract administration office if it is affected. If the contract administration office was not represented, visitors will furnish to that office the status of any unresolved problems, and information on data requested from the contractor.

20–803 Evaluation of Contract Administration Offices. The on-site inspection, surveillance or evaluation of contract administration activities in the performance of their assigned functions shall only be accomplished by or under the direction of the parent Department or the Office of the Secretary of Defense organization element having this responsibility.

SECTION XXIII

SUBCONTRACTING POLICIES AND PROCEDURES

23-000 Scope of Section.

(a) This section sets forth policies and procedures for the evaluation, review, and approval of contractors' purchasing systems and requirements for consent to proposed subcontracts. These techniques are required only where the work is complex, the dollar value is substantial, and there is not adequate price competition. Reliance upon a contractor's approved purchasing system will usually obviate the need for reviewing and consenting to individual subcontracts.

(b) Although there is a relationship among the review and approval of purchasing systems, consent to subcontracts, and the evaluation of and agreement upon contractors' proposed make-or-buy programs (Section III, Part 9), each is a separate and distinct action, and the factors to be considered in each vary.

SUBCONTRACTING POLICIES AND PROCEDURES

Part 1—Review of Contractor's Purchasing Systems

23-100 Scope of Part. This part sets forth the requirements for conducting a contractor purchasing system review (CPSR) under the direction of a purchasing system analyst (PSA). The review provides:

(i) a means for evaluating the efficiency and effectiveness with which the contractor spends Government funds;

(ii) the basis for the ACO to grant, withhold, or withdraw approval of the contractor's purchasing system;

(iii) reliable current information to the PCO on the contractor's purchasing system for use in source selection, determining the appropriate type of contract, and establishing profit and fee objectives;

(iv) an independent review of the contractor's purchasing system to optimize its effectiveness in complying with Government policy; and

(v) current purchasing system information for appropriate DoD activities in areas of Government interest. (See DAR Supplement 1 for procedures for conducting a CPSR.)

The term "contractor," as used in this part, means a separate entity of a contractor, such as an affiliate, division, or plant, which performs its own purchasing. The term "CPSR" includes the evaluation of purchasing of materials, services, subcontracting, and subcontract management; and in the case of major system acquisition programs, as defined in 1-201.41, it includes the management of the acquisition of material and services through purchase, from development of the requirement through completion of subcontract performance.

23-101 Review Criteria.

(a) *Initial Review.* An initial review is a complete, intensive, first-time analysis of a contractor's purchasing system. An initial review shall be made when the contractor's negotiated sales to the Government are expected to exceed $10 million during the next 12 months. Such sales include: prime contracts, subcontracts under Government prime contracts, and modifications to competitively awarded contracts and formally advertised contracts (except when the negotiated price is based on established catalog or market prices of commercial items sold in substantial quantities to the general public or is set by law or regulation). Generally, a CPSR is not performed for a specific contract.

(b) *Subsequent Review.* A subsequent review is an analysis of a contractor's purchasing system, performed to validate the adequacy of the system.

(1) If a contractor's purchasing system is approved, the ACO shall follow the criteria set forth in 23-101(a) in requesting a subsequent review. Variations in approach may be necessary in reviewing extremely large organizations heavily involved in particularly high dollar value systems contracts, as defined in 1-201.41, versus the review of contractors who should have the benefit of the program but are not systems oriented, although they contain a mixture of Government and commercial business and contracts from various Government departments and agencies.

(2) Plants in which there is a full-time resident PSA shall receive (i) an initial review and (ii) continuing surveillance equivalent to a subsequent review on an annual basis or continuing surveillance with subsequent reviews at 3-year intervals.

(3) Plants in which there is no resident PSA shall receive (i) an initial review, (ii) surveillance through onsite visits (23-108), and (iii) a subsequent review in alternate years. The contracting officer may call for a subsequent review prior to the regularly scheduled review if circumstances indicate the need.

(4) Subsequent reviews of contractors' purchasing systems are not required at locations that are Contractor Weighted Average Share (CWAS) qualified. Contracting officers must assure that such contractors use purchasing techniques that are compatible between their commercial or FFP competitive business and other Government business. If a CWAS-qualified contractor's purchasing system is approved, based on an initial or subsequent review, the system remains approved as long as the contractor remains CWAS qualified unless the ACO withdraws approval, based on a special review or a biennial compatibility surveillance review (see 23-108(f)).

(c) *Special Reviews.* A special review is an investigation of specific weaknesses identified in any contractor's purchasing system, using the same techniques followed in performing an initial or subsequent review. The ACO, or the PSA with the concurrence of the ACO, may initiate special review of any contractor's purchasing system in connection with deficiencies revealed as a result of:

(i) the initial or subsequent review, or continuing indepth surveillance;

(ii) the review of subcontracts submitted under the notification and consent to subcontract requirements of contract clauses;

(iii) major changes in the contractor's purchasing policies, procedures, or key personnel;

(iv) changes in plant workload or type of work; or

(v) information provided by Government personnel.

In conducting special reviews, the same criteria used in initial or subsequent reviews shall be applied to the area being examined. The summary report format will be used as appropriate.

(d) *Followup Review.* A followup review is an investigation performed when a contractor's purchasing system approval is withheld or withdrawn, including contractors who are CWAS-qualified, to determine whether a contractor has implemented the recommendations of the ACO and corrected the deficiencies revealed by any purchasing system review. The techniques used in making an initial or subsequent review are employed in the followup review. If approval of a contractor's purchasing system is withheld or withdrawn, a followup review shall be made as soon as evidence is received from the contractor that the factors leading to the action have been corrected. Whether this followup review consists of a complete reexamination of the contractor's purchasing system or is confined to the areas found deficient shall be a matter of judgment and will depend on the time lapse between the notice to the contractor of withholding or withdrawal of approval and the followup review. The summary report format will be used as appropriate.

23-102 Staff Surveillance. Each Military Department and the Defense Logistics Agency will establish controls to assure maintenance of a viable surveillance program (23-108).

23-103 Extent of Review.

(a) Generally, a review under the criteria of 23-101 shall consist of a complete evaluation of the contractor's purchasing system. This review shall be made in accordance with DAR Supplement 1, and special attention given to:

(i) the degree of price competition obtained;

(ii) pricing policies and techniques, including methods of obtaining accurate, complete, and current cost and pricing data, and certification as required (3-807 and 7-104.42);

(iii) the methods of evaluating subcontractors' responsibility (1-906);

(iv) the treatment accorded affiliates and other concerns having close working arrangements with the contractor;

(v) the extent to which assurance is obtained that principal subcontractors apply sound pricing practices and a satisfactory purchasing system in dealing with lower tier subcontractors;

(vi) the appropriateness of the type of subcontract used (see Section III, Part 4);

(vii) practices pertaining to small business, labor surplus area programs, and socio-economic programs (1-332 and Section I, Parts 7 and 8);

(viii) the management of major subcontract programs;

(ix) compliance with the Cost Accounting Standards in awarding subcontracts (see Section III, Part 12); and

(x) the evaluation of make-or-buy program (see Section III, Part 9).

(b) In reviewing the contractor's purchasing system, a determination shall be made as to whether subcontracting is done competitively to the maximum practicable extent. This requires ascertaining whether—

(i) a sufficient number of sources are solicited; and

(ii) subcontracting procedures provide other elements of adequate and effective price competition, including adequate descriptions of any factors to be evaluated and evaluation of all offers on a common basis.

(c) Decisions as to whether commercial items conform to the purpose and intent of the exemption from the requirement for a certificate of current cost and pricing data shall be analyzed.

23-104 Contractor Purchasing System Review Boards.

(a) When deemed necessary, Contractor Purchasing System Review Boards may be established in accordance with departmental procedures.

(b) If no board is to be convened, the report shall be forwarded directly to the ACO by the CPSR team captain.

(c) If it is determined that a review board is necessary, the report of the CPSR team shall be reviewed and evaluated by the board, which shall make appropriate recommendations to the ACO.

23-105 Granting, Continuing, Withholding, and Withdrawing Approval.

(a) The ACO is responsible for granting, continuing, withholding, or withdrawing approval of a contractor's purchasing system. The ACO shall approve a purchasing system only after a CPSR discloses that the contractor's purchasing policies and practices are efficient and provide adequate protection of the Government's interests. Approval of a system shall be withheld when there are major weaknesses or when the contractor is unable to provide sufficient information upon which an affirmative determination can be based. Conversely, approval shall not be withheld because of minor weaknesses. An approval may

be withdrawn at any time on the basis of a determination that there has been a deterioration of the contractor's purchasing system, or otherwise to protect the interests of the Government.

(b) The ACO should make an annual determination as to the approval status of a contractor's purchasing system except CWAS-qualified contractors, based on either a subsequent or surveillance review. However, it is not the intent of the Government, through no fault of the contractor, to unnecessarily interrupt continuance of a purchasing system approval. Therefore, the ACO may extend the approval of a contractor's purchasing system for an additional 90 days. Further extensions by the ACO will require written approval by the ACO's CPSR program management organization.

(c) The ACO shall give the contractor written notice granting, continuing, withholding, or withdrawing approval of his purchasing system. If the contractor's system is approved, the notification of approval shall be in substantially the following form:

TO: ..... (*Contractor*)

As a result of the ..... (*recent review or surveillance*) of your purchasing system at ..... (*identify the plant or plants involved*, you are advised of ..... (*insert "my approval" or "the continuation of the prior approval"*) of your purchasing system. This approval, effective ..... (*date*) is for a period of 1 year and applies to all of your contracts at the above plant or plants with the Department of Defense. This approval waives, to the extent provided in your contracts, the contractual requirements for prior consent by the Contracting Officer to the placement of certain subcontracts. In addition, it waives, to the extent provided in fixed-price contracts, the requirement for advance notification to the Contracting Officer of your intent to place certain subcontracts.

This approval does not eliminate the requirement under cost-reimbursement contracts for advance notification to the Contracting Officer of your intent to place proposed subcontracts where such notification is required, nor does it affect any contractual provisions that require prior consent to the placement of subcontracts, notwithstanding this approval of your purchasing system. (*If special*

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requirements for continued notification and prior consent for one or more classes of subcontracts are to be imposed in accordance with (d) below, such special requirements should be inserted here.)

This approval of your purchasing system—

(i) shall not be construed to be a determination of the acceptability of any amount paid under any subcontract, or to relieve you of any contractual requirement, except as specified herein;

(ii) shall automatically terminate upon the expiration date specified above unless the expiration date is extended;

(iii) shall automatically terminate when any significant change occurs in your purchasing system unless the change has received my approval; and

(iv) may be withdrawn at any time at my discretion.

You are to be commended that your purchasing system merits Government approval, and you are urged to continue your efforts to maintain an acceptable purchasing system.

.....
(*Contracting Officer*)

(d) In exceptional circumstances, the approval may require notification and prior written consent for one or more classes of subcontracts which, because of their critical nature or particular circumstances, call for extraordinary Government surveillance.

(e) An exit conference shall be held with the contractor at completion of the in-plant review. At that time, the contractor should be given the review team's recommendations signed by the ACO. The contractor shall be requested to furnish his plan for accomplishing the necessary actions within 15 days. If the ACO does not wish to provide recommendations at this time or is not present at the exit conference, the review team will provide the contractor a list of deficiencies and inform the contractor that the ACO's official recommendations will be provided within 10 days and that the contractor will be expected to respond within 10 days thereafter.

(f) If at any time other than during a CPSR recommendations are made for improvement of an approved system, the contractor shall be requested to furnish within 15 days of such notification a concurrence or position with respect to the recommendations.

23-106 Distribution of Reports.

23-106.1 *Complete Reports (Parts I and II).* After receipt of the complete report from the PSA, the ACO, within 5 days, shall review and evaluate the report, prepare a letter to the contractor stating the status of the purchasing system, and provide copies of the report and the letter to:

(i) the cognizant Contract Audit Office;

(ii) activities prescribed by the cognizant Military Department and the Defense Logistics Agency;

(iii) the contractor; and

(iv) such others as approved by the ACO.

23-106.2 *Summary Reports (Part I only).* One copy of the summary report shall be sent to a contracting office when requested. Also, where there is a resident PSA assigned to the contractor's plant, the cognizant CAS organization has the option of preparing only a summary report, which shall be distributed in accordance with 23-106.1. A copy of the ACO's letter to the contractor, setting forth the status of the purchasing system, shall be attached to the summary report.

23-107 Disclosure of Approval Status of a Proposed Subcontractor's Purchasing System. Upon request, a contractor may be informed that the purchasing system of a proposed subcontractor has been approved under Government prime contracts and/or major subcontracts, if such is the case. The contractor shall be cautioned that approval status is furnished only as of the date of notification and that the Government will not keep the contractor advised of any change in the approval status of the proposed subcontractor's purchasing system. If the proposed subcontractor's purchasing system has not been examined or approved, the contractor shall be advised only that the approval status of the proposed subcontractor's system will not be furnished.

23-108 Surveillance of the Contractor's Approved Purchasing System.

(a) It is the responsibility of the Government to maintain a sufficient level of surveillance to assure that the contractor is effectively managing the purchasing program. With the assistance of the PSA, subcontract management personnel, technical specialists, and the contract auditor, the ACO shall develop a surveillance plan designed to avoid duplication of effort. The surveillance plan shall specifically include the contractor response for corrective action to the recommendations made by the ACO as a result of an initial or indepth subsequent purchasing system review and the Government's planned surveillance tests of the contractor's corrective implementation. The surveillance plan shall provide procedures for informing the contractor of surveillance findings

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and related recommendations; for followup, as necessary, to effect recommended improvements; and, when warranted by the findings, for rescinding approval of the contractor's purchasing system. The contractor must make available the necessary procedures and data to permit adequate surveillance.

(b) The surveillance plan shall encompass pertinent phases of the contractor's purchasing system *(Preaward/Postaward/Performance/Contract Completion)* and pertinent operations which impact the contractor's purchasing and subcontracting. As considered necessary, surveillance shall include:

(i) determination and limitation of requirements;
(ii) advance planning (market testing, source development, performance evaluations, program objectives, make-or-buy);
(iii) solicitation of proposals (development of solicitations, statement of work, specifications/drawings, facility surveys, financial analysis, preaward audits, terms and conditions, selection of contract type, establishing a competitive base, socio-economic consideration, bidders lists, presolicitation and indoctrination of potential bidders);
(iv) proposal evaluations (cost, technical, and management considerations);
(v) source selection (restrictive clauses, flowdown of prime contract provisions, compliance with Public Law 87-563 "Truth in Negotiations Act," compliance with Public Law 91-379 "Cost Accounting Standards," cost/price analysis/assist audits and cost studies, changes in technical content of statement of work, fact finding and bidders conference);
(vi) provisioning, management influence and overriding consideration, documentation, compliance with 1-906 "Subcontractor Responsibility";
(vii) management approvals;
(viii) advance notification and consent requirements;
(ix) early definition (TWX and letter contracts);
(x) change control (timely and effective action);
(xi) engineering;
(xii) schedules;
(xiii) production;
(xiv) material control;
(xv) quality control and quality assurance;
(xvi) management reporting (advance payments, progress payments, cost performance, funding requirements, discounts, milestone and progress reports;

(xvii) management support (residencies, secondary administration, buyer control of commitments, buyer's role, subcontract management, subcontract modification, expediting, transportation, subcontractor system surveillance);
(xviii) contract completion (termination partial or complete, stopwork orders, default actions, excusable delays);
(xix) closeout actions;
(xx) postaward audits; and
(xxi) performance evaluation and reports (thorough review of all areas, including documentation for future business).

(c) The plan shall give appropriate consideration to the data furnished by the contractor when providing the required advance notification of intent to place certain subcontracts.

(d) Surveillance tests that require audit effort should be accomplished for the ACO by the contract auditor in conjunction with other audit duties.

(e) Certain subcontractors may require additional surveillance because of the emphasis in the flowdown of system acquisition policies in subcontracts, with particular concern for subcontractor cost, schedule, and technical performance. The contracting officer, the PSA, the review team, and/or subcontract management personnel may request assistance of the contract administration office having cognizance over the subcontractor to provide supplementary information as a means of verifying the information obtained from the contractor's records and, if needed, the request will call for a complete report on the subcontractor's purchasing system.

(f) Compatibility surveillance reviews shall be performed biennially at a CWAS-qualified contractor location to determine whether the purchasing techniques used for commercial and/or fixed-price competitive business are in compliance with statutory and contractual provisions. Major discrepancies should be brought to the attention of the contractor for corrective action. Failure to implement the ACO's recommendation applicable to major deficiencies should be considered as grounds for withdrawing approval of the contractor's purchasing system.

26-103 Release of Excess Funds.

(a) It is the policy of the Department of Defense that unexpended dollar balances determined to be excess to known contractual requirements shall be released promptly. Contracting officers shall monitor contract fund status and take action to reduce the dollar balance of contracts when determined to be in excess of the amounts necessary for payment of outstanding contract requirements.

(b) To accomplish such determination, consultation with contractors and coordination between contracting offices and CAOs may be required to properly establish funding levels. A determination may be based upon, but it not limited to: (i) contractually required funding reports; (ii) fund status reviews; (iii) advice from the contractor; (iv) advice from the buying office, CAO or DCAA; (v) examination of vouchers or invoices; and (vi) a review of contract progress. Upon a determination of excess funds, contracting officers shall take appropriate action to assure such funds are removed from contracts as expeditiously as possible. For release of funds excess to a termination claim see 8-206.2.

26-104 Effect of Modification on Contract Funds. Each modification shall clearly state the impact on each affected accounting classification (Block No. 10) and on the total contract price (Block No. 12) in accordance with 16-104.4.

26-105 Identification of FMS Contract Modifications. If the modification adds FMS requirements, identify the modification by clearly stamping or otherwise indicating the "*FMS Requirement*" on the face of the modification and specify within the modification each FMS case identifier code by line/subline item number, e.g., FMS Case Identifier GY-D-DCA, for such added FMS items.

(2) If the contract contains more than one progress payment rate (U.S. and FMS requirements) then the contractor shall submit separate DD Forms 1195 for the work covered by each different progress payment rate. If more than one FMS country is involved, the contractor shall attach a supporting schedule showing the portions of the total requested payment to be attributed to each country's requirement.

(c) When submitting requests, the contractor shall annotate the DD Form 1195 as follows:

(i) the line item numbers to which the request applies;

(ii) Item 5 shall refer to the total price of the items to which the request applies;

(iii) references to "total costs" shall be interpreted to mean the total costs associated with the items to which the request applies; and

(iv) in Item 14a, contractors shall include only those subcontractor costs which are applicable to the items for which the contractor is requiring payment.

E-503.3 *Indefinite Quantity Contracts—Basic Ordering Agreements.*

(a) For indefinite quantity contracts (3-409.3) and basic ordering agreements (3-410.2) contemplating requisitions, delivery orders, work orders, task orders, job orders or their equivalent, if the contractor meets all other requirements for customary progress payments, the decision as to whether progress payments come within the customary category will depend upon estimates of the amount of work expected to be done, and the production lead time expected to be necessary for the major part of the work anticipated. In these cases, provision for progress payments in the indefinite quantity contract or basic ordering agreement may be deemed customary if the amounts involved, and the production lead time, will result in the substantial equivalent of the customary progress payments. Insofar as practicable, the progress payment provision of an indefinite quantity contract or basic ordering agreement shall fix a single liquidation rate to be applicable to all procurement actions under that agreement. The standards for unusual progress payments govern when progress payments are not of the customary type.

(b) Progress payments made under indefinite quantity contracts and basic ordering agreements shall normally be processed on the basis of individual orders or calls. Alternatively, at the contractor's request, but with the specific approval of the ACO, provision may be made to process progress payments against the basic contract/agreement. Whenever the contract/agreement method is used, the contractor shall be required to submit a supporting schedule for each DD Form 1195, identifying the costs applicable to each call or order. Subject to the above restrictions, for progress payment purposes, all procurement actions under the basic contract, (1) involving progress payments on a procurement action, and (2) having a single uniform liquidation rate, and (3) for payment by a single paying office (1-201.30), may be grouped and aggregated so that the contract price, costs, payments and liquidations will be handled in the same way as if all such procurement actions constituted work under a single fixed-price type contract.

Except as provided above, for progress payment purposes, each order, call or equivalent procurement action, with progress payments, will be treated as a separate contract.

E-504 Formal Advertising and Small Business Restricted Advertising. Incident to formal advertising, invitations for bids shall provide for progress payments in the manner and under the circumstances stated below.

E-504.1 *Progress Payment Provision in Invitations for Bids.* When progress payments are contemplated, the invitation for bids shall include a notice of availa-

E-508 Advance Payments. When advance payments and progress payments are authorized in the same contract, progress payment percentages will not exceed the uniform standard percentages mentioned in E-503 and E-504. In these cases, the words "less unliquidated advance payments" may be deleted from paragraph (a)(3)(ii) of the progress payment clauses (7-104.35) in the discretion of the contract financing office (E-212).

E-509 Definitions. As used herein, the following terms have the meanings set forth below.

E-509.1 *Progress Payments.* See E-106. The term "*progress payments*" must be distinguished from "*partial payments.*" The term "*partial payments*" describes only (1) payments for partial deliveries accepted by the Government under a contract, or (2) specified payments for significant "milestones" of accomplished performance, and (3) partial payments on contract termination claims.

E-509.2 *Customary Progress Payments.* See E-503 and E-504.

E-509.3 *Unusual Progress Payments.* See E-505.

E-509.4 *Costs.* For progress payment purposes, costs, except as otherwise limited in this paragraph, include all expenses of contract performance which are reasonable, allocable to the contract, consistent with sound and generally accepted accounting principles and practices, and not excluded by the contract. Limitations on costs that may be accepted for progress payments are contained in the clauses in 7-104.35.

E-509.5 *Incurred Costs.*

(a) Incurred costs are those costs identified through the use of the accrual method of accounting and reporting. As to invoices, incurred costs include only invoices for (i) completed work to which the prime contractor has acquired title, (ii) materials delivered (to which the prime contractor has acquired title), (iii) services rendered, (iv) costs billed under cost reimbursement or time and material subcontracts for work to which the prime contractor has acquired title, and (v) invoices for progress payments to subcontractors, which have been paid or approved for current payment in the ordinary course of business (as specified in the prime contract), all properly recorded on the books of the contractor and identified with the contracts. Costs incurred are exclusively costs of direct labor, direct material, and direct services identified with and necessary for the performance of the contract, and also all properly allocable and allowable overhead (indirect) costs recorded on the books of the contractor.

(b) However, for those contractors who elected to use the special transition method provided in Cost Accounting Standard (CAS) 410, "Allocation of Business Unit General and Ad Administrative Expenses to Final Cost Objectives," General and Administrative Expenses (G&A) shall not be included in incurred costs eligible for progress payments until the work-in-process inventories of those contracts entered into after the applicability date of CAS 410, exceed the amounts contained in the CAS 410 suspense account and then limited to the contractor's pro rata share of the G&A allocable to such excess. This limitation shall not apply where the CAS 410 suspense account is less than $5 million.

(c) Facilities capital cost of money, which is recognized as an allowable cost by 15-205.50, shall be deemed an incurred cost for progress payment purposes. When this cost is allocated in compliance with 3-1300 and records are maintained in accordance with 15-205.50, it shall be a "properly allocable and allowable indirect cost as shown by records maintained by the contractor" within the meaning of that requirement as included in the Computation of Amounts provision of the appropriate Progress Payment clause set forth in 7-104.35.

(d) For the purpose of progress payments to other than small business concerns in connection with items or services purchased directly for the contract, costs must be paid as well as incurred as shown by payment made by cash, check, interdivisional notices of payment or other form of actual payment.

E-509.6 *Unliquidated Progress Payments.* Unliquidated progress payments are the aggregate sum of all progress payments made, less the aggregate sums of amounts applied to reduce progress payments.

E-509.7 *Contract Price.* The term "*contract price*" means the total amount fixed by the contract (other than any portion of the contract specifically providing for cost reimbursement only), as amended, to be paid for complete performance of the contract. If the contract provides for economic price adjustment or for redetermination of price, this term means the initial price until changed and not the ceiling price. If the contract is of the incentive type, the term means the target or billing price, as amended, until final pricing. This definition shall also apply to incentive type subcontracts containing a progress payment clause. For letter contracts and similar preliminary contractual instruments, this term means the maximum expenditure authorized by the contract, as amended.

E-509.8 *Amendments, Supplements, and Modifications.* The terms "*amendment*," "*supplement*," and "*modification*" are used interchangeably, and whenever one of these terms is used it includes the others. The term "*new contract*," as used herein, does not include "*amendments*." See E-503.2.

E-509.9 *Deviation.* The term "*deviation*" means (i) any change, addition to, or deletion from the contract clause and certificate form required by this Part 5; (ii) any contract provision, outside the Progress Payment clause, which would have the effect of altering or changing the effect of the Progress Payment clause provided in 7-104.35; and (iii) any variation from these regulations. Actions pursuant to E-511.5 are not deviations.

E-509.10 *Milestone Billing Arrangements.* Milestone billing arrangements are contractual provisions which provide for payments to a contractor upon the successful completion of specific performance events which do not involve physical deliveries to the Government. While the milestone payments are not considered progress payments, in that payments are based on the completion of such milestones and are payments in addition to progress payments, the milestone payments are interim payments with respect to total contract performance which payments are fully recoverable, in the same manner as progress payments, in the event of default. Also see E-529.

E-510 Contract Clause. Subject to the instructions in E-511 and E-512, the Progress Payment clauses in 7-104.35 shall be used when payments are to be made to a contractor based upon a percentage of costs. The clause contained in 7-104.35(a) shall be used in contracts with other than small business concerns. The clause contained in 7-104.35(b) shall be used in contracts with small business concerns.

E-510.1 *Progress Payment Clause for Other Than Small Business Concerns.* See 7-104.35(a).

E-510.2 *Progress Payment Clause for Small Business Concerns.* See 7-104.35(b).

E-511 Instructions for Progress Payment Clause. The instructions below apply to the clauses in 7-104.35.

E-511.1 *Contracting Officer.* The term "*contracting officer*" as used in this Part 5 means the contracting officer as defined in 1-201.3.

E-511.2 *Uniform Standard Percentages — Firms Not Small Business Concerns—Paragraphs (a) and (b) of Clause.* For contracts with contractors that are not small business concerns, except as provided in E-511.4, the figure of 80 percent (90 percent for FMS contracts—see E-503.2) stated in paragraphs (a)(1)(i), (a)(4)(i), (a)(4)(ii), (a)(5) and (b) of the clause in 7-104.35(a) is the uniform standard and only percentage for use in those paragraphs for all contracts, whether awarded on the basis of formal advertising or negotiation.

E-511.3 *Uniform Standard Percentages — Small Business Concerns—Paragraphs (a) and (b) of Clause.* For contracts with small business concerns, except as provided in E-511.4, a figure of 85 percent (95 percent for FMS contracts—see E-503.2) shall be specified in paragraphs (a)(1)(i), (a)(3)(i), (a)(3)(ii), (a)(4) and (b) of the clause in 7-104.35(b). This is the standard percentage for all contracts awarded to small businesses, whether on the basis of formal advertising (E-504.1, E-504.2, or E-504.3) or negotiation.

E-511.4 *Unusual Percentages.* For unusual progress payments (E-505), the percentage used for paragraph (a)(1)(i) of the clauses in 7-104.35 will also be specified in (a)(3)(i). For these contracts, if a percentage lower than the percentage used for (a)(1)(i) is stated in paragraph (b) of the clause pursuant to E-512.2, the exact percentage stated in (b) shall also be specified in paragraph (a)(3)(ii) and (a)(4) of the clause.

E-511.5 *Other Protective Provisions.* When deemed reasonably necessary for the protection of the Government, the clauses in 7-104.35 may be supplemented by additional protective provisions, such as personal or corporate guarantees, subordinations or standbys of indebtedness, special bank accounts, and other protective covenants of the kinds outlined in paragraph (18) of the clause in 7-104.34. When first article approval is required (Section I, Part 19), additional

protective provisions shall be used reciting that, until first article approval (1-1901), there shall be no progress payments, or that the aggregate of progress payments for first article costs shall be limited to a stated amount, or percentage (less than the percentage used in paragraph (a)(4) of the clause in 7-104.35(a) and paragraph (a)(3) of the clause in 7-104.35(b)) of the contract price.

E-511.6 ***Provisional Increases in Contract Price.*** **Ordinarily, the definitized price shall be the basis for limiting the aggregate amount of progress payments** within the meaning of "total contract price" as used in paragraph (a)(5) of the clause in 7-104.35(a) and paragraph (a)(4) of the clause in 7-104.35(b). An exception exists if the application of this limitation would result in an inability to pay progress payments for costs properly incurred for authorized but unpriced contractual actions pertaining to the definitized contract or in the case of incentive-type contracts, if the contractor's costs exceed the target price. When this exception exists, the contracting officer may make a provisional increase in the contract price for the purpose of paragraph (a)(5) of the clause in 7-104.35(a) and paragraph (a)(4) of the clause in 7-104.35(b). The provisional increase to the contract price shall not exceed the amount recorded as an obligation based upon the Government's estimate of its liability for those unpriced contractual actions.

E-512 Progress Payment Liquidation. Controlling principles for liquidation of progress payments based on costs, and for specification of a percentage in paragraph (b) of the clauses (7-104.35(a) & (b)) are set out below.

E-512.1 ***Ordinary Method.*** **See E-511.2 and E-511.3. The percentages specified in E-511.2 and E-511.3 for paragraph (b) of the Progress Payment clauses (7-104.35) represent the ordinary method for liquidation of progress payments, i.e., the percentage for progress payments stated in (a)(1)(i) of each clause will also be the percentage for liquidation stated in (b) of such clause.** However, when a contract is subject to a limitation on General and Administrative (G&A) expenses eligible for progress payments because a contractor elected to use the special transition method provided in Cost Accounting Standard 410, Allocation of Business Unit General and Administrative Expense to Final Cost Objectives, an adjusted ordinary liquidation rate will be used. The adjusted liquidation rate will be established by subtracting from the progress payment percentage stated in the contract, the percentage computed by multiplying the progress payment percentage

F-100.19-B: *Standard Form 19-B: Representations and Certifications (Construction and Architect-Engineer Contract)*

REPRESENTATIONS AND CERTIFICATIONS (Construction and Architect-Engineer Contract) (For use with Standard Forms 19, 21 and 252)	REFERENCE (Enter same No.(s) as on SF 19, 21 and 252)

NAME AND ADDRESS OF BIDDER (No., Street, City, State, and ZIP Code) — DATE OF BID

In negotiated procurements, "bid" and "bidder" shall be construed to mean "offer" and "offeror."

The bidder makes the following representations and certifications as a part of the bid identified above. *(Check appropriate boxes.)*

1. SMALL BUSINESS

He ☐ is, ☐ is not, a small business concern. (A small business concern for the purpose of Government procurement is a concern, including its affiliates, which is independently owned and operated, is not dominant in the field of operations in which it is bidding on Government contracts, and can further qualify under the criteria concerning number of employees, average annual receipts, or other criteria as prescribed by the Small Business Administration. For additional information see governing regulations of the Small Business Administration (13 CFR Part 121).)

2. MINORITY BUSINESS ENTERPRISE

He ☐ is, ☐ is not a minority business enterprise. A minority business enterprise is defined as a "business, at least 50 percent of which is owned by minority group members or, in case of publicly owned businesses, at least 51 percent of the stock of which is owned by minority group members." For the purpose of this definition, minority group members are Negroes, Spanish-speaking American persons, American-Orientals, American-Indians, American Eskimos, and American-Aleuts."

3. CONTINGENT FEE

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

4. TYPE OF ORGANIZATION

He operates as an ☐ individual, ☐ partnership, ☐ joint venture, ☐ corporation, incorporated in State of

5. INDEPENDENT PRICE DETERMINATION

(a) By submission of this bid, each bidder certifies, and in the case of a joint bid each party thereto certifies as to his own organization, that in connection with this procurement:

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

(2) Unless otherwise required by law, the prices which have been quoted in this bid have not been knowingly disclosed by the bidder and will not knowingly be disclosed by the bidder prior to opening, in the case of a bid, or prior to award, in the case of a proposal, directly or indirectly to any other bidder or to any competitor; and

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

(b) Each person signing this bid certifies that:

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

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

(c) This certification is not applicable to a foreign bidder submitting a bid for a contract which requires performance or delivery outside the United States, its possessions, and Puerto Rico.

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

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

19-303

STANDARD FORM 19-B (JUNE 1978 EDITION)
GENERAL SERVICES ADMINISTRATION
FED. PROC. REG. (41 CFR) 1-16.601 AND 1-16.701

F-100.19-B: *Standard Form 19-B: Representations and Certifications (Construction and Architect-Engineer Contract)* - Continued

THE FOLLOWING NEED BE CHECKED ONLY IF BID EXCEEDS $10,000 IN AMOUNT.

6. EQUAL OPPORTUNITY

He ☐ has, ☐ has not, participated in a previous contract or subcontract to the Equal Opportunity Clause herein, the clause originally contained in Section 301 of Executive Order No. 10925, or the clause contained in Section 201 of Executive Order No. 11114; he ☐ has, ☐ has not, filed all required compliance reports; and representations indicating submission of required compliance reports, signed by proposed subcontractors, will be obtained prior to subcontract awards.

(The above representations need not be submitted in connection with contracts or subcontracts which are exempt from the equal opportunity clause.)

7. PARENT COMPANY AND EMPLOYER IDENTIFICATION NUMBER

Each bidder shall furnish the following information by filling in the appropriate blocks:

(a) Is the bidder owned or controlled by a parent company as described below? ☐ Yes ☐ No. *(For the purpose of this bid, a parent company is defined as one which either owns or controls the activities and basic business policies of the bidder. To own another company means the parent company must own at least a majority (more than 50 percent) of the voting rights in that company. To control another company, such ownership is not required; if another company is able to formulate, determine, or veto basic business policy decisions of the bidder, such other company is considered the parent company of the bidder. This control may be exercised through the use of dominant minority voting rights, use of proxy voting, contractual arrangements, or otherwise.)*

(b) If the answer to *(a)* above is "Yes," bidder shall insert in the space below the name and main office address of the parent company.

NAME OF PARENT COMPANY	MAIN OFFICE ADDRESS *(No., Street, City, State, and ZIP Code)*

(c) Bidder shall insert in the applicable space below, if he has no parent company, his own Employer's Identification Number (E.I. No.) *(Federal Social Security Number used on Employer's Quarterly Federal Tax Return, U.S. Treasury Department Form 941)*, or, if he has a parent company, the E.I. No. of his parent company.

EMPLOYER IDENTIFICATION NUMBER OF ➤	PARENT COMPANY	BIDDER

8. CERTIFICATION OF NONSEGREGATED FACILITIES

(Applicable to (1) contracts, (2) subcontracts, and (3) agreements with applicants who are themselves performing federally assisted construction contracts, exceeding $10,000 which are not exempt from the provisions of the Equal Opportunity clause.)

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

NOTICE TO PROSPECTIVE SUBCONTRACTORS OF REQUIREMENT FOR CERTIFICATIONS OF NONSEGREGATED FACILITIES

A Certification of Nonsegregated Facilities must be submitted prior to the award of a subcontract exceeding $10,000 which is not exempt from the provisions of the Equal Opportunity clause. The certification may be submitted either for each subcontract or for all subcontracts during a period (i.e., quarterly, semiannually, or annually).

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

9. CLEAN AIR AND WATER

(Applicable if the bid or offer exceeds $100,000, or the contracting officer has determined that orders under an indefinite quantity contract in any year will exceed $100,000, or a facility to be used has been the subject of a conviction under the Clean Air Act (42 U.S.C. 1857c-8(c)(1)) or the Federal Water Pollution Control Act (33 U.S.C. 1319(c)) and is listed by EPA, or is not otherwise exempt.)

The bidder or offeror certifies as follows:

(a) Any facility to be utilized in the performance of this proposed contract has ☐, has not ☐, been listed on the Environmental Protection Agency List of Violating Facilities.

(b) He will promptly notify the contracting officer, prior to award, of the receipt of any communication from the Director, Office of Federal Activities, Environmental Protection Agency, indicating that any facility which he proposes to use for the performance of the contract is under consideration to be listed on the EPA List of Violating Facilities.

(c) He will include substantially this certification, including this paragraph (c), in every nonexempt subcontract.

F-100.32 *Standard Form 32: General Provisions (Supply Contract)*— Continued

or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

19. OFFICIALS NOT TO BENEFIT

No member of or delegate to Congress, or resident Commissioner, shall be admitted to any share or part of this contract, or to any benefit that may arise therefrom; but this provision shall not be construed to extend to this contract if made with a corporation for its general benefit.

20. COVENANT AGAINST CONTINGENT FEES

The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For breach or violation of this warranty the Government shall have the right to annul this contract without liability or in its discretion to deduct from the contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

21. UTILIZATION OF SMALL BUSINESS CONCERNS

(a) It is the policy of the Government as declared by the Congress that a fair proportion of the purchases and contracts for supplies and services for the Government be placed with small business concerns.

(b) The Contractor agrees to accomplish the maximum amount of subcontracting to small business concerns that the Contractor finds to be consistent with the efficient performance of this contract.

22. UTILIZATION OF LABOR SURPLUS AREA CONCERNS

(a) It is the policy of the Government to award contracts to labor surplus area concerns that (1) have been certified by the Secretary of Labor (hereafter referred to as certified-eligible concerns with first or second preferences) regarding the employment of a proportionate number of disadvantaged individuals and have agreed to perform substantially (i) in or near sections of concentrated unemployment or underemployment or in persistent or substantial labor surplus areas or (ii) in other areas of the United States, respectively, or (2) are noncertified concerns which have agreed to perform substantially in persistent or substantial labor surplus areas, where this can be done consistent with the efficient performance of the contract and at prices no higher than are obtainable elsewhere. The Contractor agrees to use his best efforts to place his subcontracts in accordance with this policy.

(b) In complying with paragraph (a) of this clause and with paragraph (b) of the clause of this contract entitled "Utilization of Small Business Concerns" the Contractor in placing his subcontracts shall observe the following order of preference: (1) Certified-eligible concerns with a first preference which are also small business concerns; (2) other certified-eligible concerns with a first preference; (3) certified-eligible concerns with a second preference which are also small business concerns; (4) other certified-eligible concerns with a second preference; (5) persistent or substantial labor surplus area concerns which are also small business concerns; (6) other persistent or substantial labor surplus area concerns; and (7) small business concerns which are not labor surplus area concerns.

23. UTILIZATION OF MINORITY BUSINESS ENTERPRISES

(a) It is the policy of the Government that minority business enterprises shall have the maximum practicable opportunity to participate in the performance of Government contracts.

(b) The Contractor agrees to use his best efforts to carry out this policy in the award of his subcontracts to the fullest extent consistent with the efficient performance of this contract. As used in this contract, the term "minority business enterprise" means a business, at least 50 percent of which is owned by minority group members or, in case of publicly-owned businesses, at least 51 percent of the stock of which is owned by minority group members. For the purposes of this definition, minority group members are Negroes, Spanish-speaking American persons, American-Orientals, American-Indians, American-Eskimos, and American Aleuts. Contractors may rely on written representations by subcontractors regarding their status as minority business enterprises in lieu of an independent investigation.

24. PRICING OF ADJUSTMENTS

When costs are a factor in any determination of a contract price adjustment pursuant to the Changes clause or any other provision of this contract, such costs shall be in accordance with the contract cost principles and procedures in Part 1-15 of the Federal Procurement Regulations (41 CFR 1-15) or Section XV of the Armed Services Procurement Regulation, as applicable, which are in effect on the date of this contract.

25. PAYMENT OF INTEREST ON CONTRACTORS' CLAIMS

(a) If an appeal is filed by the Contractor from a final decision of the Contracting Officer under the Disputes clause of this contract, denying a claim arising under the contract, simple interest on the amount of the claim finally determined owed by the Government shall be payable to the Contractor. Such interest shall be at the rate determined by the Secretary of the Treasury pursuant to Public Law 92-41, 85 Stat. 97, from the date the Contractor furnishes to the Contracting Officer his written appeal under the Disputes clause of this contract, to the date of (1) a final judgment by a court of competent jurisdiction, or (2) mailing to the Contractor of a supplemental agreement for execution either confirming completed negotiations between the parties or carrying out a decision of a board of contract appeals.

(b) Notwithstanding (a), above, (1) interest shall be applied only from the date payment was due, if such date is later than the filing of appeal, and (2) interest shall not be paid for any period of time that the Contracting Officer determines the Contractor has unduly delayed in pursuing his remedies before a board of contract appeals or a court of competent jurisdiction.

STANDARD FORMS

F-100.33 *Standard Form 33: Solicitation, Offer, and Award.*

SOLICITATION, OFFER AND AWARD

3. CERTIFIED FOR NATIONAL DEFENSE UNDER BDSA REG. 2 AND/OR DMS REG. 1 — RATING | 4. PAGE 1 OF

1. CONTRACT (Proc. Inst. Ident.) NO. | 2. SOLICITATION NO. ☐ ADVERTISED (IFB) ☐ NEGOTIATED (RFP) | 5. DATE ISSUED | 6. REQUISITION/PURCHASE REQUEST NO.

7. ISSUED BY — CODE | 8. ADDRESS OFFER TO (If other than block 7)

SOLICITATION

9. Sealed offers in original and ______ copies for furnishing the supplies or services in the Schedule will be received at the place specified in block 8, or if handcarried, in the depository located in ______ until ______ local time ______ (Hour) (Date)

If this is an advertised solicitation, offers will be publicly opened at that time.

CAUTION – LATE OFFERS: See par. 7 and 8 of Solicitation Instructions and Conditions.

All offers are subject to the following:

1. The Solicitation Instructions and Conditions, SF 33-A, ______ edition which is attached or incorporated herein by reference.
2. The General Provisions, SF 32, ______ edition, which is attached or incorporated herein by reference.
3. The Schedule included herein and/or attached hereto.
4. Such other provisions, representations, certifications, and specifications as are attached or incorporated herein by reference. (Attachments are listed in schedule.)

FOR INFORMATION CALL (Name & telephone no.) (No collect calls) ▶

SCHEDULE

10. ITEM NO.	11. SUPPLIES/SERVICES	12. QUANTITY	13. UNIT	14. UNIT PRICE	15. AMOUNT

See continuation of schedule on page

OFFER (pages 2 and 3 must also be fully completed by offeror)

In compliance with the above, the undersigned agrees, if this offer is accepted within ______ calendar days (60 calendar days unless a different period is inserted by the offeror) from the date for receipt of offers specified above, to furnish any or all items upon which prices are offered at the price set opposite each item, delivered at the designated point(s), within the time specified in the schedule.

16. DISCOUNT FOR PROMPT PAYMENT (See par. 9, SF 33-A) — % 10 CALENDAR DAYS; % 20 CALENDAR DAYS; % 30 CALENDAR DAYS; % CALENDAR DAYS

17. OFFEROR — CODE — FACILITY CODE | 18. NAME AND TITLE OF PERSON AUTHORIZED TO SIGN OFFER (Type or print)

NAME AND ADDRESS (Street, city, county, State and ZIP code)

AREA CODE AND TELEPHONE NO. ▶ | 19. SIGNATURE | 20. OFFER DATE

☐ Check if remittance address is different from above – enter such address in Schedule

AWARD (To be completed by Government)

21. ACCEPTED AS TO ITEMS NUMBERED | 22. AMOUNT | 23. ACCOUNTING AND APPROPRIATION DATA

24. SUBMIT INVOICES (4 copies unless otherwise specified) TO ADDRESS SHOWN IN BLOCK ______ | 25. NEGOTIATED PURSUANT TO ☐ 10 U.S.C. 2304(a)( ) ☐ 41 U.S.C. 252(c)( )

26. ADMINISTERED BY (If other than block 7) — CODE | 27. PAYMENT WILL BE MADE BY — CODE

28. NAME OF CONTRACTING OFFICER (Type or print) | 29. UNITED STATES OF AMERICA BY (Signature of contracting officer) | 30. AWARD DATE

Award will be made on this form, or on Standard Form 26, or by other official written notice.

33-130 — Standard Form 33 Page 1 (REV. 3-77) Prescribed by GSA, FPR (41 CFR) 1-16.101

F-100.33

DEPARTMENT OF DEFENSE FORMS

F-200.633 *DD Form 633: Contract Pricing Proposal*

DEPARTMENT OF DEFENSE
CONTRACT PRICING PROPOSAL

FORM APPROVED OMB NO. 22-R0261

This form is for use in procurements when submission of cost or pricing data is required (See DAR 3-807)

NAME, ADDRESS, AND TELEPHONE NUMBER OF ORGANIZATIONAL ELEMENT RESPONSIBLE FOR SUPPORTING PROPOSAL | TYPE OF CONTRACT | PLACE(S) AND PERIOD(S) OF PERFORMANCE

TOTAL COST / PROFIT/FEE / TOTAL | TYPE OF PROCUREMENT ACTION: ☐ NEW PROCUREMENT ☐ CHANGE ORDER ☐ PRICE REVISION/REDETERMINATION ☐ OTHER (Specify) ☐ LETTER CONTRACT ☐ UNPRICED ORDER

LINE ITEM NO.	IDENTIFICATION	QUANTITY	TOTAL PRICE	REF.
	NOTE: List and reference the identification, quantity and total price proposed for each contract line item. (Continue on additional pages if required.)			

I. IF YOUR ACCOUNTS AND RECORDS HAVE BEEN REVIEWED IN CONNECTION WITH ANY GOVERNMENT CONTRACT (PRIME OR SUBCONTRACT), GRANT OR PROPOSAL WITHIN THE PAST 3 YEARS BY A GOVERNMENT AGENCY OTHER THAN IRS OR GAO, PROVIDE NAME, ADDRESS AND TELEPHONE NUMBER BELOW

CONTRACT ADMINISTRATION OFFICE | AUDIT OFFICE

II. WILL YOU REQUIRE THE USE OF ANY GOVERNMENT PROPERTY IN THE PERFORMANCE OF THIS WORK? ☐ YES ☐ NO IF YES, IDENTIFY

III. DO YOU REQUIRE GOVERNMENT CONTRACT FINANCING TO PERFORM THIS PROPOSED CONTRACT? ☐ YES ☐ NO IF YES, IDENTIFY: ☐ ADVANCE PAYMENTS ☐ PROGRESS PAYMENTS OR ☐ GUARANTEED LOANS

IV. HAVE YOU BEEN AWARDED ANY CONTRACTS OR SUBCONTRACTS FOR THE SAME OR SIMILAR ITEMS WITHIN THE PAST 3 YEARS? ☐ YES ☐ NO

V. IS THIS PROPOSAL CONSISTENT WITH YOUR ESTABLISHED ESTIMATING AND ACCOUNTING PRACTICES AND PROCEDURES AND DAR SECTION XV COST PRINCIPLES? ☐ YES ☐ NO IF NO, EXPLAIN

VI. COST ACCOUNTING STANDARDS BOARD (CASB) DATA (PUBLIC LAW 91-379 AS AMENDED)

a. WILL THIS PROCUREMENT ACTION BE SUBJECT TO CASB REGULATIONS? ☐ YES ☐ NO IF NO, EXPLAIN

b. HAVE YOU SUBMITTED A CASB DISCLOSURE STATEMENT (CASB DS-1 or 2)? ☐ YES ☐ NO

c. HAVE YOU BEEN NOTIFIED THAT YOU ARE OR MAY BE IN NONCOMPLIANCE WITH YOUR DISCLOSURE STATEMENT OR COST ACCOUNTING STANDARDS? ☐ YES ☐ NO IF YES, EXPLAIN

d. IS ANY ASPECT OF THIS PROPOSAL INCONSISTENT WITH YOUR DISCLOSED PRACTICES OR APPLICABLE COST ACCOUNTING STANDARDS? ☐ YES ☐ NO IF YES, EXPLAIN

This proposal is submitted in response to ______

TYPED NAME AND TITLE | SIGNATURE

NAME OF FIRM | DATE OF SUBMISSION

DD FORM 633, 1 April 78

F-200.633

INSTRUCTIONS

1. The purpose of this form (DAR 16-206) is to provide a vehicle whereby the offeror submits to the Government a pricing proposal of estimated and/or incurred costs by contract line item with supporting information, adequately cross-referenced, suitable for detailed analysis. A cost element breakdown, using the applicable format prescribed in 7A, B or C below, shall be attached for each proposed line item, and must reflect any specific requirements established by the Contracting Officer. Supporting breakdowns must be furnished for each cost element, consistent with the offeror's cost accounting system. Where agreement has been reached with Government representatives on use of forward pricing rates/factors, identify the agreement and describe the nature thereof. Depending on the offeror's system, breakdowns shall be provided for the following basic elements of cost, as applicable:

Materials — Provide a consolidated priced summary of individual material quantities included in the various tasks, orders or contract line items being proposed, and basis for pricing (vendor quotes, invoice prices, etc.). DAR 15-205.

Subcontracted Items — Include parts, components, assemblies and services to be produced or performed by other than you in accordance with your design, specifications or directions and applicable only to the prime contract. For each subcontract over $100,000, the support should provide a listing by source, item, quantity, price, type of subcontract, degree of competition and basis of establishing source and reasonableness of price, as well as results of review and evaluation of subcontract proposals when required by DAR 3-807.

Standard Commercial Items — Consists of items which you normally fabricate, in whole or in part, and are generally stocked in inventory. Provide appropriate explanation of basis of pricing. If based on cost, provide cost breakdown; if priced at other than cost, provide justification for exemption from submission of cost or pricing data as required by DAR 3-807.

Interorganizational Transfers (at other than cost) — Provide explanation of pricing method used as required by DAR 15-205.22.

Raw Material — Consists of material which is in a form or state that requires further processing. Provide priced quantities of items required for this proposal. DAR 15-205.

Purchased Parts — Includes material items not covered above. Provide priced quantities for items required for this proposal. DAR 15-205.

Interorganizational Transfers (at cost) — Include separate breakdown of cost by element.

Direct Labor — Provide a time-phased (e.g., monthly, quarterly, etc.) breakdown of labor hours, rates, and cost by appropriate category and furnish basis for estimates. DAR 15-202 and 15-205.

Indirect Costs — Indicate the method of computation and application of your indirect costs, including cost breakdowns, and showing trends and budgetary data, to provide a basis for evaluation of the reasonableness of proposed rates. Indicate the rates used and provide an appropriate explanation. DAR 15-203 and 15-205.

Other Costs — List all other costs which are not otherwise included in the categories described above (e.g., special tooling, travel, computer and consultant services, preservation, packaging and packing, spoilage and rework, and Federal excise tax on finished articles) and provide basis for pricing.

Royalties — If amount exceeds $250, the offeror must submit a DD Form 783 Royalty Report or its equivalent. DAR 15-205 and 9-409.

Facilities Capital Cost of Money — The offeror must submit Form CASB-CMF and show calculation of proposed amount.

2. As part of the specific information required by this form, the offeror must submit with this form, and clearly identify as such, cost or pricing data (that is, data which is verifiable and factual and otherwise as defined in DAR 3-807.1(a)(1)). In addition, submit with this form any information reasonably required to explain the offeror's estimating process, including:

a. The judgmental factors applied and the mathematical or other methods used in the estimate including those used in projecting from known data, and

b. The contingencies used by the offeror in the proposed price.

3. There is a clear distinction between "submitting" cost or pricing data and merely "making available" books, records and other documents without identification. The requirement for submission of cost or pricing data is met when all accurate cost or pricing data reasonably available to the contractor has been submitted, either actually or by specific identification, to the Contracting Officer or authorized representative. As later information comes into the contractor's possession, it should be promptly submitted to the Contracting Officer. The requirement for submission of cost or pricing data continues up to the time of final agreement on price.

4. **In submitting this form, the offeror must include an index**, appropriately referenced, of all the cost or pricing data and information accompanying or identified in the form. In addition, any future additions and/or revisions, up to the date of agreement on price, must be annotated on a supplemental index.

5. By submission of this proposal, the offeror, if selected for negotiation, grants to the Contracting Officer, or his authorized representative, the right to examine those books, records, documents and other supporting data which will permit adequate evaluation of the proposed price. This right may be exercised at any time prior to award.

6. As soon as practicable after final agreement on price, but prior to the award resulting from the proposal, the offeror shall, under the conditions stated in DAR 3-807, submit a Certificate of Current Cost or Pricing Data.

7. HEADINGS FOR SUBMISSION OF LINE ITEM COST SUMMARIES:

A. New Procurements

COST ELEMENTS	PROPOSED CONTRACT ESTIMATE		
	Total Cost (1)	Unit Cost (2)	Reference (3)

(1) Enter those necessary and reasonable costs which in the judgment of the offeror will properly be incurred in the efficient performance of the contract. When any of the costs in this column have already been incurred (e.g., letter contract or unpriced order), describe them on an attached supporting schedule. When "preproduction" or "start-up" costs are significant or when specifically requested in detail by the Contracting Officer, provide a full identification and explanation of same.

(2) Optional except where required by the Contracting Officer.

(3) Attach separate pages as necessary and identify in this column the attachment in which the information supporting the specific cost element may be found.

B. Change Orders, (modifications) DAR 3-807

COST ELEMENTS	PROPOSED CHANGE ESTIMATE					
	COST OF WORK DELETED*			COST OF WORK ADDED (4)	NET COST OF CHANGE (5)	REFERENCE (6)
	Estimated Cost of all Deleted Work (1)	Cost of Deleted Work Already Performed (2)	Net Cost To Be Deleted (2)			

*DAR MANUAL (ASPM No. 1)

(1) The "estimated cost of all deleted work" includes (i) current estimates of what the cost would have been to complete deleted work not yet performed, and (ii) the cost of deleted work already performed.

(2) The "cost of deleted work already performed" is the incurred cost of such work, actually computed if possible, or estimated in the contractor's accounting records. Attach a detailed inventory of work, materials, parts, components, and hardware already purchased, manufactured, or performed and deleted by the change, indicating the cost and proposed disposition of each line item. Also, if the contractor desires to retain such items or any portion thereof, indicate amount offered therefor.

F-200.633 *DD Form 633: Contract Pricing Proposal*—Continued

[3] The "net cost to be deleted" is the "estimated cost of all deleted work" less the "cost of deleted work already performed."

[4] When nonrecurring costs are significant or when specifically requested in detail by the contracting officer, provide a full identification and explanation of same.

[5] The "net cost of change" is the "cost of work added" less the "net cost to be deleted." When this result is a negative amount, place the amount in parentheses.

[6] Refer to 7A(3) above.

C. Price Revision/Redetermination, DAR 3-404.4, .5, .6 and DAR 3-405.4.

CUTOFF DATE[1]	NUMBER OF UNITS[2]		AMOUNT OF		
	COMPLETED	TO BE COMPLETED	CONTRACT	REDETERMINATION PROPOSAL	DIFFERENCE

COST ELEMENTS (7) & (8)	INCURRED COSTS				ESTIMATED COST TO COMPLETE[5] (e)	ESTIMATED TOTAL COST (d+e)	REFERENCE (6)
	Pre-production[3] (a)	Completed Units[4] (b)	Work in Process[4] (c)	Total (a+b+c) (d)			

[1] Enter the cut-off date required by the contract, if applicable.

[2] Enter the number of units completed during the period for which experienced costs of production are being submitted and the number of units remaining to be completed under the contract.

[3] Enter all costs incurred under the contract prior to starting production and other nonrecurring costs (usually referred to as "start-up" costs) from your books and records as of the cut-off date. These include such costs as preproduction engineering, special plant rearrangement, training program, and any identifiable nonrecurring costs such as initial rework, spoilage, pilot runs, etc. In the event the amounts of the foregoing are not segregated in or otherwise available from your records, enter in this column your best estimates of such costs. Explain the basis for each estimate and how such costs are charged on your accounting records (e.g., included in production costs as direct engineering labor, charged to manufacturing overhead, etc.). Also show how such costs would be allocated to the units at their various stages of contract completion.

[4] Enter in column (b) the production costs from your books and records (exclusive of preproduction costs reported in column (a)) of the units completed as of the cut-off date. Enter in column (c) the costs of Work-in-Process as determined from your records or inventories at the cut-off date. When the amounts for Work-in-Process are not available in your records but reliable estimates for them can be made, enter the estimated amounts in column (c) and enter in column (b) the differences between the total incurred costs (exclusive of Preproduction Costs) as of the cut-off date and these estimates. Explain the basis for such estimates, including identification of any provision for experienced or anticipated allowances, such as shrinkage, rework, design changes, etc. Furnish experienced unit or lot costs (or labor hours) from inception of contract to the cut-off date, improvement curves, and any other available production cost history pertaining to the item(s) to which your proposal relates.

[5] Enter those necessary and reasonable costs which in your judgment will properly be incurred in completing the remaining work to be performed under the contract with respect to the item(s) to which your proposal relates.

[6] Refer to 7A(3) above.

[7] Where residual inventory exists, the final costs established under FPI and FPR arrangements should be net of the fair market value of such inventory.

[8] In support of subcontract costs, a listing shall be submitted of all subcontracts subject to repricing action, annotated as to their status.

D. Letter contracts DAR 3-408

Follow procedures in 7.A. new procurements, described above.

(Next page is F:149)

(c) Entries in block 11 or columns 36 through 39 (date) shall always be numeric and will be the date of transmittal from the requisitioning activity to the appropriate supply source as follows:

(i) column 36 shall indicate the last numeric digit of the calendar year in which the document was transmitted. For example, "5" for 1965, "6" for 1966, etc.; and

(ii) columns 37 through 39 shall indicate the numeric consecutive day of the calendar year on which the document was transmitted. For example, "063" for 4 March. (See Julian day calendar in H-609.)

(d) Entries in block 12 or columns 40 through 43 may be numeric or alphabetic characters to indicate the serial number of the document and may be assigned at the discretion of the document originator. The serial number shall not be duplicated on the same day. The use of alphabetic characters can serve to provide for block assignment by Service/Agency designated activities. The following alphabetic codes have been reserved for use in column 40 as indicated:

Code	*Explanation*
J	To identify Interservice Supply Support Procedures (ISSP) requisitions resulting from interrogation and offer procedures.
K	To identify ISSP requisitions and follow-on documents resulting from Defense Logistics Services Center (DLSC) mechanized screening procedures. Code "K" will be entered in column 40 of requisition documents prepared for materiel requirements upon receipt of offer notifications from DLSC. Code "K" will be perpetuated in all follow-on documents resulting from the requisitions processing transactions.
L	To identify requisitions and other Redistribution Documents resulting from screening DLSC excess listings, flyers, brochures, contractor excess inventory listings, Property Disposal Officer and GSA excess bulletins and other special offers of DoD potential excess and declared excess personal property. Code "L" will be entered in column 40 of requisitions and other redistribution documents prepared by ICPs, Research and Development Activities, Schools, bases, posts, camps, and stations for materiel requirements determined to be available from screening DLSC excess listings, flyers, brochures, contractor excess inventory listings, PDO and GSA excess bulletins and other special offers of DoD potential excess and declared excess personal property.
M	(Reserved for future assignment.)
N	To identify ISSP requisitions for conventional ammunition and follow-on documents resulting from DLSC mechanized screening procedures. Code "N" will be entered in Card Column 40 of

Code	*Explanation*
	requisition documents prepared for materiel requirements for conventional ammunition upon receipt of offer notification from DLSC. Code "N" will be perpetuated in all follow-on documents resulting from the requisition processing transactions.
O	Not to be used.
P	Industrial Plant Equipment requisition coded P in Card Column 40 denotes that the requisitioner intends to purchase the item if it is not supplied from IPE assets. This demand, if the item is supplied from IPE assets, denotes hard savings under the Cost Reduction subgroup area, "Reutilization of Idle Production Equipment."
Q	Industrial Plant Equipment requisition coded Q in Card Column 40 denotes that the requisitioner does not intend to purchase the item if it is not available from IPE assets. This demand, if the item is supplied from IPE assets, denotes a Cost Avoidance under the Cost Reduction subgroup area, "Reutilization of Idle Production Equipment."
U	To identify shelf-life items which are invoiced to Property Disposal Officers for utilization screening and/or disposal in accordance with DoD 4140.34—M (Defense Utilization Manual) and DoD 4160.21—M (Defense Disposal Manual).
Y	To identify Marine Corps ownership of materiel applicable to Contractor Inventory Utilization Group (CIUG) Procedures.

(e) *Air Force Transactions Only.*

(i) For requisitions in support of Air Force contracts and for turn-in of GFM or GFP, the contractor's activity address code (EY and/or EZ number) as published in DOD 4000.25-D, Department of Defense Activity Address Directory (DODAAD), shall be entered in columns 30 - 35 (blocks 9 and 10 manual) of the requisition or columns 30 - 35 of the turn-in document. DOD 4000.25-D is published quarterly in microfiche form, is distributed by DLA/LM, and is obtained through the local publication distribution office.

(ii) An EZ number shall be used when the materiel requisitioned or being turned in is applicable to a maintenance-type contract such as repair, overhaul, modification and PDM. An EY number shall be used when the materiel requisitioned or being turned in is applicable to any other type contract such as production or research and development.

(iii) The contracting activity shall request HQ AFLC/LOZMS to assign EY and/or EZ activity address codes when such codes are not included in the current DOD Activity Address Directory (DOD 4000.25-D). Requests shall indicate the specific code or codes desired and the information and data required by AFR 400-11.

(iv) The Contract Administration Office (CAO) shall advise HQ AFLC/LOZMS of all required changes to EY and EZ activity address codes (e.g., contractor name changes and mail or freight addresses). The CAO shall also promptly request rescission of EY and/or EZ activity address codes when the contractor no longer has Air Force contracts.

H-605 Signal Codes (Block 16—Manual) (Column 51—Mechanical).

H-605.1 *General.* The purpose of the signal code is two-fold in that it designates the fields containing the intended consignee (ship to) and the activity to receive and effect payment of bills, when applicable. All requisitions and documents resulting therefrom used under MILSTRIP shall contain the appropriate signal code.

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H–605.2 *Coding Structure and Meaning.*

(a) When the material is to be shipped to the activity indicated in columns 30 through 35 (requisitioner), the signal code shall be as follows:

(i) code "A"—Bill to blocks 9 and 10—columns 30 through 35.

(ii) code "B"—Bill to blocks 14 and 15—columns 45 through 50.

(iii) code "C"—Bill to activity designated by block 17, column 52. However, if the third digit of the document identifier is "5" or "E", the Remarks block may indicate other billing information. See H–606.

(iv) code "D"—No billing required (free issue). Not to be used on requisitions submitted to General Services Administration.

(b) When the material is to be shipped to the activity indicated in blocks 14 and 15—columns 45 through 50 (supplementary address), the signal code shall be as follows:

(i) code "J"—Bill to blocks 9 and 10—columns 30 through 35.

(ii) code "K"—Bill to blocks 14 and 15—columns 45 through 50.

(iii) code "L"—Bill to activity designated by block 17 column 52. However, if the third digit of the document identifier is "5" or "E," the Remarks block may indicate other billing information. See H–606.

(iv) code "M"—No billing required (free issue). Not to be used on requisitions submitted to General Services Administration.

H–606 Fund Codes (Block 17—Manual) (Columns 52 and 53—Mechanical).

H–606.1 *General.*

(a) The fund code is provided for the specific use of the requisitioner, when directed by the Military Department to enter a code that will indicate, to the distribution system, that funds are available to pay the charge when and where received. In addition, this fund code will be perpetuated by the distribution system in all follow-on documentation. The fund code construction is the responsibility of the appropriate Military Department.

(b) A secondary use for the fund code field has been provided when the signal code in column 51 (see H–605) is "C" or "L", to indicate the activity that is to be billed. When the signal code (column 51) is "C" or "L", the first position (column 52) of the fund code shall contain an alphabetic character which will indicate the activity to receive the bill.

(c) When the third position of the document identifier (column 3) is "5" or "E" and column 51 is "C" or "L", the information in the "Remarks" field may indicate other billing information.

(d) Requisitions submitted to Defense Supply Centers, other Departments, and the General Services Administration, shall always contain a fund code, unless the material requested has been offered without a reimbursement, in which case the signal code (column 51) will be "D" or "M" (free issue) and the fund code field shall be blank. The submission of a MILSTRIP requisition citing a fund code constitutes sufficient authority for release of materiel and subsequent billing therefor. The billing activity shall always perpetuate the fund code cited on the requisition.

APPENDIX Q

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APPENDIX Q

DEPARTMENT OF DEFENSE FOREIGN TAX RELIEF PROGRAM

Part 1—Department of Defense Directive 5100.64

Q–000 Reprint of DoD Directive 5100.64.

June 12, 1979
NUMBER 5100.64

GC, DoD

Department of Defense Directive

SUBJECT DoD Foreign Tax Relief Program

References:
(a) DoD Directive 5100.64, "Department of Defense Foreign Tax Relief Program," August 12, 1970 (hereby canceled)
(b) DoD Instruction 2050.1, "Delegated Approval Authority to Negotiate and Conclude International Agreements," July 6, 1977
(c) DoD Directive 5000.35, "Defense Acquisition Regulatory System," March 8, 1978
(d) DoD Directive 5525.1, "Status of Forces Policies and Information," January 20, 1966

A. REISSUANCE AND PURPOSE

This Directive (1) reissues reference (a), without substantive change, to correct superseded references; and (2) defines the tax relief policy of the Department of Defense, designates the organizational element which has continuing responsibility for the overall direction of the DoD Foreign Tax Relief Program, delineates the responsibilities of other organizational elements to implement and monitor the program, and requires the preparation and maintenance of specified foreign country tax law studies in order to facilitate the institution of statistical reporting procedures.

B. APPLICABILITY AND SCOPE

1. The provisions of this Directive apply to the Office of the Secretary of Defense, the Military Departments, the Organization of the Joint Chiefs of Staff, the Unified Command, and the Defense

Agencies (hereafter referred to as "DoD Components").

2. The policy set forth in this Directive applies to:

a. Military functions expenditures by the Department of Defense, and

b. Expenditures by nonappropriated fund activities of the Department of Defense that are subject to taxes imposed by:

(1) Foreign countries in which U.S. military forces are regularly stationed (other than attache and other military personnel assigned to a U.S. diplomatic mission); and

(2) Any other foreign country in which all or most U.S. defense activities, in a collective sense, are conducted in the interest of the common defense or otherwise significantly improve the military security of that country.

3. The policy set forth in this Directive also applies to Military Assistance Program (MAP) expenditures in all countries.

C. DEFINITIONS

1. Regardless of how a charge is denominated in foreign law or regulation, the words "tax" and "taxes" include all direct or indirect foreign customs duties, import and export taxes, excises, fees and other charges imposed at the national, local or intermediate level of a foreign country other than charges for services rendered or for other consideration received.

2. For example, taxes include but are not limited to purchase tax, sales tax, use tax, gross receipts tax, stamp tax, transfer tax, transaction tax, turnover tax, value added tax, service tax, trade tax, business tax, license tax, transportation tax, circulation tax, luxury tax, possession tax, production tax, registration tax, consumption tax, gasoline tax, real property tax, personal property tax, and gross income tax.

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3. The word "relief" includes any method, technique, or procedure by which the ultimate economic burden of a tax on DoD funds may be avoided or otherwise remedied, such as exemption, refund, or drawback.

D. POLICY

It is the policy of the Department of Defense to secure, to the maximum extent practicable, effective relief from all foreign taxes wherever the ultimate economic burden of those taxes would, in the absence of such relief, be borne by funds appropriated or allocated to the Department of Defense (including MAP appropriations) or under the control of its nonappropriated fund activities. In those cases in which the total economic burden of a tax not readily identifiable in the normal course of business is so small that it may be considered a de minimis matter, or in which the administrative burden of securing effective relief from a tax in a particular instance would be out of proportion to the amount of the relief obtained, tax relief shall be considered impracticable.

E. RESPONSIBILITIES

1. The General Counsel of the Department of Defense shall:

a. Provide overall supervision and direction of the DoD Foreign Tax Relief Program.

b. Resolve any significant issues relating to the program.

c. Designate those countries that come within subparagraph B.2.b.(2) of this Directive.

d. Direct the preparation of country tax law studies for countries not within the scope of subsection B.2. of this Directive.

e. Designate the DoD member of the Inter-Agency Committee on Foreign Tax Relief, established by the Department of State.

2. The Assistant Secretary of Defense (International Security Affairs) shall monitor the negotiation and conclusion of international agreements subject to the Secretary's approval authority under DoD Instruction 2050.1

(reference (b)), to ensure that such agreements are compatible with the policy set forth in this Directive and any implementing guidance concerning that policy issued by the General Counsel of the Department of Defense.

3. The Chairman, Defense Acquisition Regulatory Council, shall coordinate with the General Counsel of the Department of Defense before the issuance, amendment, or revision of any portion of the Defense Acquisition Regulatory System (or regulation, directive, circular, or other publication within the scope of DoD Directive 5000.35 (reference (c)) that pertains to the implementation of the DoD Foreign Tax Relief Program.

4. The Assistant Secretary of Defense (Comptroller) shall perform such fiscal functions as may be required to implement the DoD Foreign Tax Relief Program, including advice and assistance in the institution of procedures for collecting data, compiling reports, and performing internal audits.

5. The Secretary of each of the Military Departments and the Director of each of the Defense Agencies shall issue instructions or regulations that charge a single office within the respective Military Department or Defense Agency (referred to as the "Cognizant Office") with continuing responsibility for supervising and monitoring the implementation of the DoD Foreign Tax Relief Program within such Department or Agency. Such instructions or regulations shall delegate to the Cognizant Office authority commensurate with its responsibility.

6. Commanders of Unified Commands, as appropriate, shall promulgate management procedures to guide and coordinate the administration of the DoD Foreign Tax Relief Program throughout their respective area commands.

7. For each foreign country that comes within the scope of subsection B.2. of this Directive, a single Military Commander shall be designated by the Commander of the Unified Command. The designated Military Commander shall be the same designated under the procedures in subsection IV.C. of DoD Directive 5525.1 (reference (d)). The designated Military Commander shall:

a. Make and maintain a current country tax law study in accordance with section F. of this Directive.

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b. Be the single point of contact for U.S. contracting officers and activities for the investigation and resolution of specific matters that relate to the foreign tax relief program within the country for which the Military Commander is designated and for the forwarding of major problems affecting that program through proper channels to the General Counsel of the Department of Defense.

c. Provide liaison with the responsible U.S. diplomatic mission on current tax relief problems and, where appropriate, with local foreign tax authorities.

F. COUNTRY TAX LAW STUDIES

1. The taxes covered by each country tax law study shall be limited to those which in the absence of tax relief, would affect, or would appear to affect, U.S. Government expenditures, even as a de minimis matter. (All such taxes are hereafter referred to as "applicable taxes.") The formats of the studies for all countries shall be similar within each Unified Command insofar as practicable, and designed to facilitate statistical reporting procedures. The studies shall be prepared and maintained with a view to the practical utilization of the studies by U.S. contracting officers and activities for purposes of making reliable estimates of the total amount of taxes applicable to any particular contract and the amount thereof for which tax relief is available.

2. Each country tax law study shall consist of the following:

a. A general survey of all applicable taxes, together with translations, as appropriate, of the salient features of the law or regulations imposing those taxes.

b. For each applicable tax, a summary statement containing: its name; its rate (or rates); the taxing authority (national, provincial, or municipal); the legal incidence of the tax (the nature of the taxpayer or other entity liable for the payment of the tax to the taxing authority under the law of the country); its description (including the base or bases on which the tax is imposed); the applicability of the tax to various types of contracts (supplies, services, or construction) in the event the tax is applicable to only one or several of such types of contracts; the applicability of the tax to the prime contract,

as well as to any subcontracts or purchase orders issued by the prime contractor or subcontractor; the applicability of the tax to contractor and subcontractor personnel; the variation, if any, of the applicability of the tax depending upon the domicile of the contractor or contractor personnel, such as United States, host country, or third country; any applicable exemptions or deductions of significance; and the method of collection of the tax.

c. The basis upon which it is concluded that each applicable tax, in absence of tax relief, would affect, or would appear to affect, U.S. Government expenditures; and any evidence of the degree to which its ultimate economic burden would, in absence of tax relief, be borne by the U.S. Government rather than be absorbed by others.

d. The substantive tax relief, if any, from each applicable tax that is available to the U.S. Government either by international agreements in force or under the tax law or other regulation of the country; the procedures which may be used to obtain any such relief; the requirement, if any, for the issuance of a tax exemption certificate by the military procuring agency or by an agency of the country to secure an exemption; the entitlement, if any, of the taxpayer to interest on any tax refund made by the host country; the credits, if any, that may be available against any other taxes otherwise payable by the taxpayer resulting from the payment of the tax under analysis; the approximate amount of the tax that should be involved in a particular case, if such can be estimated, taking into account the costs of filing a claim for refund by a contractor to warrant filing such a claim; and a brief narration of any significant problems which have occurred in attempting to obtain relief in particular cases.

e. A conclusion with regard to the adequacy of current tax relief measures; and such recommendations as may be appropriate for more efficient implementation of the policy set forth in this Directive.

3. Appended to each country tax law study shall be a verbatim quotation of all provisions relating to tax relief afforded by the country that are contained in international agreements in force.

4. One copy of each country tax law study shall be forwarded to the General Counsel of the Department of Defense and to each of the Cognizant Offices of the

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Military Departments and Defense Agencies within 30 days after its approval by the designated Military Commander. The information contained in the studies shall be disseminated by the Cognizant Offices to U.S. contracting officers and activities when required.

5. Country tax law studies shall be subject to continuing review. When there is a significant change in country tax laws, regulations, tax relief procedures, or in pertinent international agreements in force, the corresponding revision shall be promptly forwarded by the designated Military Commander to each of the offices referred to in subsection F.4.

G. INFORMATION REQUIREMENTS

1. The reporting requirement contained in section F. relating to the submission of country tax law studies and revisions thereof is assigned Report Control Symbol DDSD(AR) 1036.

2. Each January a summary of significant activities during the preceding year in implementation of the DoD Foreign Tax Relief Program shall be furnished by the Heads of Cognizant Offices to the General Counsel of the Department of Defense. The summary, in narrative form, shall include actions taken by the Cognizant Office to discharge its responsibility for supervising and monitoring the implementation of the foreign tax relief program within its Military Department or Defense Agency, and for disseminating the information contained in country tax law studies to U.S. contracting officers and activities. The reporting requirement contained in this subsection is assigned Report Control Symbol DDGC(A)1198.

3. Each January a summary of significant activities during the preceding year of the administration of the foreign tax relief program shall be furnished by Commanders of the Unified Commands to the General Counsel of the Department of Defense. The summary, in narrative form, shall include actions taken by the Unified Command to discharge its responsibility to supervise and coordinate the preparation and maintenance of country tax law studies. The reporting requirement contained in this subsection is assigned Report Control Symbol DDGC(A)1199.

H. EFFECTIVE DATE

This Directive is effective immediately. Forward two copies of implementing documents to the General Counsel of the Department of Defense within 120 days.

C. W. Duncan, Jr.
Deputy Secretary of Defense

DEPARTMENT OF DEFENSE FOREIGN TAX RELIEF PROGRAM

Part 2—Implementation and Administration of DoD Directive 5100.64

Q–201 Implementation. DoD Directive 5100.64 has been implemented by the following regulations and instructions:

Department of the Army Regulation AR 27–70;
Department of the Navy Instruction SECNAVINST 5840.5;
Department of the Air Force Regulation AFR 110–18;
Defense Communications Agency Instruction 100–50–6;
Defense Contract Audit Agency Regulation 5100.3;
Defense Mapping Agency Instruction 5500.2;
Defense Nuclear Agency Instruction 5100.64; and
Defense Supply Agency Regulation 5500.6.

Pursuant to 11–000(d), the applicable implementing regulation or instruction should be consulted by contracting activities before the initiation of foreign acquisition.

Q–202 Administration of Program Under Unified Commands. The following Unified Commands have issued management procedures to guide and coordinate the administration of the foreign tax relief program throughout their respective area commands:

Commander in Chief, European Command (USCINCEUR) EUCOM DIRECTIVE 45–8;

Commander in Chief, Atlantic Command (CINCLANT) CINCLANTINST 5840.2A;

Commander in Chief, Pacific Command (CINCPAC) CINCPACINST 5840.2B; and

as regards Canada and Greenland, Commander, Aerospace Defense Command (ADC) ADC Regulation 110–1.

These issuances implement subsection E.7. of DoD Directive 5100.64 (*see Part 1 of this Appendix Q*) and apply to the contracting activities within the geographical areas assigned to the respective Unified Commands.

DEPARTMENT OF DEFENSE FOREIGN TAX RELIEF PROGRAM

Part 3—Designated Commanding Officers

Q–301 Designated Commanding Officers. For the following foreign countries and areas a single military commander as indicated has been designated pursuant to subsection E.7. of DoD Directive 5100.64 to make and maintain a current country tax law study, to serve as a single point of contact for U. S. contracting officers and contracting activities for the investigation and resolution of specific foreign tax relief matters, and to serve as a point of liaison with the responsible diplomatic mission and local foreign tax authorities.

Country or Area	Designated Commanding Officer
Australia	Commander in Chief, Pacific Rep., Australia
Azores	Commander, U.S. Forces, Azores
Bahrain	Commander in Chief, U.S. Naval Forces, Europe
Belgium	Commander in Chief, U.S. Army, Europe
Bermuda	Commanding Officer, U.S. Naval Air Station, Bermuda
Canada	Commander, Aerospace Defense Command
Caribbean Islands (including Bahamas)	Commander, Antilles Defense Command
Denmark	Commander in Chief, U.S. Air Forces, Europe
Ethiopia	Commander in Chief, U.S. Army, Europe
France	Commander in Chief, U.S. Army, Europe
Germany	Commander in Chief, U.S. Army, Europe
Greece	Commander in Chief, U.S. Air Forces, Europe
Greenland	Commander, Aerospace Defense Command
Iceland	Commander, Iceland Defense Force
Iran	Commander in Chief, U.S. Army, Europe
Italy	Commander in Chief, U.S. Naval Forces, Europe
Japan	Commander, U.S. Forces, Japan
Korea	Commander, U.S. Forces, Korea
Luxembourg	Commander in Chief, U.S. Army, Europe
Morocco	Commander in Chief, U.S. Naval Forces, Europe
Netherlands	Commander in Chief, U.S. Air Forces, Europe
New Zealand	Commander, U.S. Naval Support Forces, Antarctica
Norway	Commander in Chief, U.S. Air Forces, Europe
Philippines	Commander in Chief, Pacific Rep., Philippines
Portugal	Commander in Chief, U.S. Naval Forces, Europe
Spain	Commander in Chief, U.S. Air Forces, Europe
Taiwan	Commander, U.S. Taiwan Defense Command
Thailand	Commander, U.S. Military Assistance Command, Thailand
Turkey	Commander in Chief, U.S. Air Forces, Europe
United Kingdom	Commander in Chief, U.S. Air Forces, Europe

APPENDIX R

CODE OF FEDERAL REGULATIONS
TITLE 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT
CHAPTER 50—PUBLIC CONTRACTS, DEPARTMENT OF LABOR

PART 50-206—THE WALSH-HEALEY PUBLIC CONTRACTS ACT INTERPRETATIONS

Subpart A—General

Subpart B—[Reserved]

Subpart C—Contractors

QUALIFICATIONS OF CONTRACTORS

AUTHORITY: Sec. 4, 49 Stat. 2038, 41 U.S.C. 38, Secretary of Labor's Order No. 16-75, 40 FR 55913, and Employment Standards Order 2-76, 41 FR 9016.

SOURCE: 43 FR 22975, May 30, 1978, unless otherwise noted.

Subpart A—General

§ 50-206.1 The Walsh-Healey Public Contracts Act.

The Walsh-Healey Public Contracts Act, as amended (41 U.S.C. 35-45), hereinafter referred to as the Act, was enacted "to provide conditions for the purchase of supplies and the making of contracts by the United States." It is not an act of general applicability to industry. The Supreme Court has described it as an instruction by the Government to its agents who were selected and granted final authority to fix the terms and conditions under which the Government will permit goods to be sold to it. Its purpose, according to the Supreme Court "was to impose obligations upon those favored with Government business and to obviate the possibility that any part of our tremendous national expenditures would go to forces tending to depress wages and purchasing power and offending fair social standards of employment." ("Perkins v. Lukens Steel Co.," 310

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U.S. 113, 128 (1940); "Endicott Johnson Corp. v. Perkins," 317 U.S. 501 (1943).) To this end, the Act requires those who enter into contracts to perform Government work subject to its terms to adhere to specifically prescribed representations and stipulations as set forth in 41 CFR 50-201.1 pertaining to qualifications of contractors, minimum wages, overtime pay, safe and sanitary working conditions of workers employed on the contract, the use of child labor or convict labor on the contract work, and the enforcement of such provisions. Except as otherwise specifically provided, these representations and stipulations are required to be included in every contract "for the manufacture or furnishing of materials, supplies, articles, and equipment in any amount exceeding $10,000" which is made and entered into by an agency of the United States or other entity as designated in section 1 of the Act, hereinafter referred to as "contracting agency." Contractors performing work subject to the Act thus "enter into competition to obtain Government business on terms of which they are fairly forwarned by inclusion in the contract." ("Endicott Johnson Corp. v. Perkins, supra," 317 U.S. at 507.) The Act also provides for enforcement of the required representations and stipulations by various methods. Certain exemptions from the application of the Act are provided in section 9 of the statute. Other exemptions, variations, and tolerances may be provided under section 6 of the statute by the Secretary of Labor or the President.

§ 50-206.2 Administration of the Act.

(a) The Secretary of Labor is authorized and directed to administer the provisions of the Act, to make investigations, findings, and decisions thereunder, and to make, amend, and rescind rules and regulations with respect to its application (see sections 4 and 5). The Supreme Court has recognized that the Secretary may issue rulings defining the coverage of the Act. ("Endicott Johnson Corp. v. Perkins, supra".) According to the Court (ibid.), in the statute as originally enacted "Congress submitted the administration of the Act to the judgment of the Secretary of Labor, not to the judgment of the courts." An amendment to the Act in 1952 added specific provisions for judicial review (see section 10). The Secretary has promulgated regulations to carry out provisions of the Act, which are set forth elsewhere in this chapter (Part 50-201 (general regulations); Part 50-202 (minimum wage determinations); Part 50-203 (rules of practice); and Part 50-204 (Safety and Health Standards)). The Secretary of Labor has delegated to the Administrator of the Wage and Hour Division through the Assistant Secretary for Employment Standards the authority to promulgate regulations and to issue official rulings and interpretations. So long as such regulations, rulings, and interpretations are not modified, amended, rescinded, or determined by judicial authority to be incorrect, they may be relied upon as provided in section 10 of the Portal-to-Portal Act of 1947 (61 Stat. 84, 29 U.S.C. 251, et seq., discussed in 29 CFR Part 790). Furthermore, these interpretations are intended to indicate the construction of the law which the Department of Labor believes to be correct and which will be followed in the administration of the Act unless and until directed otherwise by Act of Congress or by authoritative rulings of the courts. ("Skidmore v. Swift & Co.", 323 U.S. 134 (1944), "Roland Co. v. Walling", 326 U.S. 657 (1946); "Endicott Johnson Corp. v. Perkins, supra", and "Perkins v. Lukens Steel Co., supra".)

(b) The courts have held that the "interpretations of the Walsh-Healey Act and the regulations adopted thereunder, as made by the Secretary of Labor acting through his Administrator, are both correct and reasonable." ("Jno. McCall Coal Company v. United States," 374 F. 2d 689, 692 (C.A. 4, 1967); see also "United States v. Davison Fuel and Dock Company," 371 F. 2d 705, 711-714 (C.A. 4, 1967).) These policies are designed to protect not only employees but also the competitive interest of all firms qualified to compete for covered contracts.

§ 50-206.3 Purpose and scope of this part.

It is the purpose of this Part 50-206 to make available, in codified form for the guidance of agencies of the United States or other entities designed in section 1 of the Act and persons or firms contracting therewith, official rulings and interpretations with respect to the Walsh-Healey Public Contracts Act. This part constitutes the official statement of the position of the Department of Labor in matters relating to this Act. The interpretative rules herein stated supersede, to the extent of any inconsistency, Rulings and Interpretations No. 3 and all other rulings, interpretations, and enforcement policies not set forth in this chapter. This Part 50-206 illustrates the principles stated herein by showing their application to situations which frequently arise. Since it cannot include every possible situation, no inference should be drawn from the fact that a subject or illustration is omitted. If doubt arises, inquiries should be directed to the Administrator of the Wage and Hour Division, United States Department of Labor, Washington, D.C. 20210, or to any Regional Office of the Wage and Hour Division.

Subpart B—[Reserved]

Subpart C—Contractors

Qualifications of Contractors

§ 50-206.50 To whom covered contracts may be awarded—eligibility.

(a)(1) Section 1(a) of the Act requires that every contract subject to the Act shall contain a representation and stipulation by the contractor that it is either "the manufacturer of or a regular dealer in" the commodities to be manufactured or used in the performance of the contract. As noted in the following sections, these terms are defined by regulation. The legislative history makes it clear that this statutory requirement is intended, among other things, to eliminate the award of contracts to "bid brokers," and to provide labor standards protection for employees who actually engage in the manufacture or furnishing of the goods to the Government, by requiring, among other things, that the Government award contracts only to bona fide manufacturers or regular dealers. A breach of this required stipulation is a violation of the Act; however, a contractor who has been awarded a contract in spite of its failure to qualify as a manufacturer or regular dealer is not relieved of its obligation to comply with the other requirements of the Act and regulations, which are also contract stipulations.

(2) In implementing Section 1(a) of the Act, the Secretary of Labor has defined in 41 CFR 50-201.101 the terms "manufacturer" and "regular dealer" by stating the affirmative requirements that must be met by potential contractors before they may receive Government contracts subject to the Act. Every bid from any bidder who is not a manufacturer or regular dealer, as defined therein and in accordance with this subpart, must be rejected by the contracting officer. (See 41 CFR 50-201.101(a)(3)(i).)

(3) The provisions of 41 CFR 50-201.1 require that the representations and stipulations prescribed in section 1 of the Act must be included in invitations to bid and in contracts subject to the Act, either in full or by incorporation by reference. Since no qualifications may be placed on the required representations and stipulations, any bid which seeks to avoid full compliance with the Act by any qualification or reservation must be rejected. (See 16 Comp. Gen. 593.)

(b) The responsibility for applying the stated eligibility requirements in order to determine whether or not a bidder is qualified as a manufacturer or regular dealer before award rests in the first instance with the contracting agency pursuant to authority delegated by the Secretary of Labor in accordance with section 4 of the Act (Circular Letter 8-61), as detailed in § 50-201.101(b) of Part 50-201 of this chapter. It is the obligation of the contracting agencies to obtain and consider all factual evidence essential to eligibility determinations for all bidders in line for award of contracts subject to the Act.

§ 50-206.51 Manufacturer.

(a)(1) Section 50-201.101(a)(1) of Regulations 41 CFR Part 50-201, defines a manufacturer as a "person who owns, operates, or maintains a factory or establishment that produces on the premises the materials, supplies, articles, or equipment required under the contract and of the general character described by the specifications."

(2) Generally, there should be no question as to a bidder's eligibility. The bidder either has, or has not, the requisite plant, equipment and personnel to produce on its own premises the goods called for under the Government contract.

(b) A bidder who desires to qualify for an award as a manufacturer must show before the award that it is (1) an established manufacturer of the particular good or goods of the general character sought by the Government (i.e., that the bidder has a plant, equipment and personnel to manufacture on its own premises the goods called for under the contract) or (2) if the bidder is "newly entering" into such manufacturing activity that the bidder has made all necessary prior arrangements and definite commitments for (i) manufacturing space, (ii) equipment, and (iii) personnel to perform on its own premises the manufacturing operations required for the fulfillment of the contract. A new firm which, prior to the award of a contract, has made such definite prior arrangements and commitments in order to enter a manufacturing business which will qualify it should not be barred from receiving the award because it has not yet done any manufacturing, even if such arrangement and commitments are contingent upon the award of a Goverment contract. However, in order to meet the "definite commitment" test for "newly entering" firms, the bidder must have entered into written, legally binding arrangements and commitments prior to, even though contingent upon, award, under which the bidder would acquire for itself plant, equipment and personnel if awarded the Government contract. This would be evidence of a bona fide intent to establish a continuing manufacturing entity and, as such, to become an eligible manufacturer. This requirement is intended to exclude from eligibility bidders who make unsubstantiated assertions that they are eligible and then totally subcontract or broker the contract after award.

(c)(1) In general, such "newly entering" firm must show that the manufacturing activity in question is not one which has been set up solely to produce on a Government contract and whose operations will be terminated upon completion of that contract. In effect, the firm must have established arrangements on a continuing basis for production of the goods desired by the Government.

(2) The documentation required to evidence prior arrangements and definite commitments will vary depending upon the facts and circumstances of the particular case. The contents and bona fides of all documentation and arrangements must be examined to determine if the spirit and intent of the Act and the regulations have been met. The following are examples of what the Department of Labor considers as sufficient evidence of all necessary prior arrangements and definite commitments:

(i) Manufacturing space can be either owned or leased by and in the name of the bidder. A recorded deed to the bidder's property in which the manufacturing is to take place, or a copy of a properly executed bona fide lease agreement clearly identifying the manufacturing space and setting forth the terms and conditions of the lease, would generally be considered evidence of prior arrangements and definite commitments for space. In addition, as noted above, any such lease agreement must be legally binding on the part of both parties to the agreement, the space must be for the exclusive and unrestricted use of the lessee, and the term of the lease must be of sufficient duration so that the bidder will be able to clearly fulfill the contract before the lease expires.

(ii)(A) The bidder must own or have made written, legally binding definite commitments to purchase or lease sufficient equipment to manufacture the goods, materials, or articles required

for contract fulfillment. A bidder must have full, complete and unrestricted control of the necessary equipment. A bill of sale or a purchase order may evidence definite commitments for equipment. The general requirements with respect to a bill of sale or purchase order are that it be dated and signed by the bidder, specifically identifying and describing the equipment and the terms of payment for the equipment purchased or to be purchased, and containing the date by which the vendor delivered or is required to deliver the equipment.

(B) The vendor must provide written evidence of acceptance, such as a bill or invoice, acknowledging receipt of the purchase order, as written, and setting forth the terms of payment in accordance with prevailing business practice. Such documentation is normally associated with the consummation of a sale in the usual conduct of business transactions.

(C) Letters of intent for space and equipment or vendor quotations or offers to sell or lease space or equipment, or affidavit that a sale or conveyance has occurred, do not constitute legally binding contractual agreements or definite commitments.

(iii) The best evidence of available personnel is the presence on the payroll of the manufacturing employees necessary to fulfill the contract. However, affirmative evidence which the bidder submits showing what prior arrangements and definite commitments it has made to hire its own manufacturing personnel will be considered.

(d) A bidder's mere representation or affirmation that he is a qualified manufacturer or has fulfilled the above applicable conditions is insufficient. Evidence must be presented to the contracting agency which shows that these conditions are, in fact, met prior to any award of a contract subject to the Act. If it is discovered after an award that the bidder did not act in good faith by actually fulfilling these acquisition requiremen's, such contract award shall, in accordance with § 50-201.101(a)(3)(i)(A) immediately upon such discovery, be subject to termination by the contracting officer.

(e) The plain language of the Act and regulations makes it clear that covered contracts are to be awarded only to contractors who are currently capable of manufacturing on their premises the goods called for under the contract or who, if newly entering into manufacturing, have made binding commitments before award to enable them to produce such goods as discussed above. Thus, a bidder's arrangements to use, rent, or share the equipment, personnel, or space of another legal entity on a time and material or "as needed" basis do not constitute the making of all necessary prior arrangements or definite commitments. (See "In re Metalcraft Mfg. Sale Corp.", 15 WH Cases 557, 566 (1962).) The Department has consistently held that the availability of the manufacturing and producing establishments of others does not qualify the contractor as a manufacturer as the term is defined herein. See, for example, "In re Electric Ventilating Corp.", 13 WH Cases 220, "In re Dimensional Displays", 12 WH Cases 847, and "In re Paramount Industries, Inc.", 11 WH Cases 721.

(f) Every bidder must qualify in its own right as a manufacturer under the Act. Therefore, all evidence documenting a bidder's eligibility must be in the name of the bidder. Arrangements or proposals for subcontracting, or a bidder's affiliation or relation with another firm, even one having the same officers or ownership, are not definite commitments nor are they evidence of the bidder's own eligibility as a manufacturer, even though such affiliate or subcontractor might be a qualified manufacturer. The fact that one legal entity may qualify as a manufacturer does not confer such status upon another legal entity. (See Decision of the Hearing Examiner, "In re Alden Industries, Inc.," PC-551, March 16, 1954; "In re Alsco Commercial Furniture Co., Inc.," PC-469, July 16, 1952.)

(g) A bidder's eligibility status on a previous Walsh-Healy contract or its performance as a subcontractor on Walsh-Healy contracts are not determinative evidence of the bidder's present eligibility as a manufacturer.

(h) Activities such as engineering, planning, design, inspection, quality control, testing, marking, packaging, and repackaging and shipping may be incidental, ancillary or necessary to manufacturing. Nevertheless, such operations are not, standing alone, or in combination, considered "manufacturing," i.e. fabrication or production. The proposed performance solely of such activities does not qualify a firm as a manufacturer.

§ 50-206.52 Assembler.

(a) As a result of changing technology in the area of manufacturing, the Department has concluded that it is now necessary to provide a fuller discussion of the standards that an assembler must meet to qualify as a manufacturer.

(b)(1) "Assembly" means piecing or bringing together various interdependent or interrelated parts or components so as to make an operable whole or unit. (Decision of the Comptroller General, B-164770, September 3, 1968 (not officially published).) A firm which produces final items on its premises by assembling component parts, all or some of which have been purchased from others, will generally be considered to be a "manufacturer" where it performs a series of assembly operations utilizing machines, tools and workers which constitute substantial and significant fabrication or production of the desired product. The qualifications of a bidder as a manufacturer who proposes to "assemble" must be decided on the basis of all the facts and circumstances surrounding a particular procurement.

(2) Thus, the determination of whether a bidder proposing to assemble a final product from component parts is an eligible manufacturer must rest on whether the bidder has demonstrated an independent ability, with its plant, equipment and personnel, to perform a significant or substantial portion of the manufacturing operations and efforts required in producing the final product for which the government contracted.

(3) In the alternative, a bidder may also qualify as a manufacturer if it has the facilities to produce on its premises a significant portion of the required component parts needed for the final product even if the bidder will only perform assembly operations under a particular procurement.

(c) Firms which only perform minimal operations upon the item being procured cannot qualify as manufacturers. To allow any such bidder to do so would obviously frustrate the purposes of the Act. As stated in the Decision of the Hearing Examiner "In re Brentwood Radios, Inc.," 12 WH Cases 158, 162 (1954):

> Confident that the Act and Regulations defining a manufacturer contemplate something more than the occasional and isolated performance of such a simple assembly operation on but two Government contract items of a sundry nature, as disclosed by the record in this case, I have concluded that the corporation cannot justifiedly be regarded as bona fide manufacturer, even of such items, qualified to do business with the Government. Except for the negligible amount of time expended by the two officers of the corporation on such assembly operation over seven years of corporate existence, the corporation has at no time engaged in any other assembly or manufacturing operations for the Government and in no civilian production at all.

(See also "Tyco, Inc. v. Hodgson," 67 CCH Labor Cases ¶ 32,652 (E.D. Va., 1971 (not officially published)); and "In re John F. Noble Company," Decision of the Trial Examiner, PC-184, March 29, 1945.) As the court stated in "George v. Mitchell," 282 F.2d 486, 493 (C.A. D.C., 1960), while Congress in enacting the Walsh-Healey Public Contracts Act "may have been concerned for the small businessman capable of sustaining the administrative burdens of bidding for and processing Government contracts, we do not think it intended to protect producers who could not independently perform those minimal contracting functions."

(d) Packaging by itself does not constitute "assembly." For example, a bidder who proposes to supply bottles of aspirin in units of 100 and whose only operations would be the purchase in bulk of the aspirin and the bottles, the transferring of the aspirin from the bulk container to the bottles, and the labeling, wrapping, and shipping of the bottled aspirin, would not quali-

fy as a manufacturer. Furthermore, a bidder proposing to purchase a hose and a clamp and place the clamp on the hose to make a "hose assembly," and then package and ship the item, is not a manufacturer within the intent of the Act. (See also Decision of the Comptroller General, B-164770, September 3, 1968 (not officially published).)

§ 50-206.53 Regular dealer.

(a) A bidder may qualify as a regular dealer under 41 CFR 50-201.101(b) if it owns, operates, or maintains a store, warehouse, or other establishment in which the commodities or goods of the general character described by the specifications and required under the contract are bought, kept in stock, and sold to the public in the usual course of business. The storage of goods in a public warehouse will not in itself satisfy the place of business requirements of this definition unless there is a continuing right (i.e. bona fide written lease agreement) to a specified, identified amount of space in the warehouse. A bidder who desires to qualify for award as a regular dealer must show to the satisfaction of the contracting agency prior to any award that it is engaged in an established, regular business meeting all the criteria of 41 CFR 50-201.101(a)(2). It is not enough in the case of a regular dealer to show only that arrangements have been made to set up such a business; before an a[illegible]rd can be made, it is essential that it shows an already established business regularly dealing in the particular goods or goods of the general character offered to the Government.

(b) A bidder must be able to show before award:

(1) That the bidder has an establishment or leased or assigned space in which it regularly maintains a stock of goods in which it claims to be a dealer; if the space is in a public warehouse, it must be maintained on a continuing, and not on a demand, basis;

(2) That the stock maintained is a true inventory from which sales are made; the requirement is not satisfied by a stock of sample or display goods, or by a stock consisting of surplus goods remaining from prior orders, or by stock unrelated to the supplies which are the subject of the bid, or by a stock maintained primarily for the purpose of token compliance with the Act from which few, if any, sales are made;

(3) That the goods stocked are of the same general character as the goods to be supplied under the contract; to be of the same general character, the items to be supplied must be either identical with those in stock or goods for which dealers in the same line of business would be an obvious source;

(4) That sales are made regularly from stock on a recurring basis; they cannot be only occasional and constitute an exception to the usual operations of the business; the proportion of sales from stock that will satisfy the requirements will depend upon the character of the business;

(5) That sales are made regularly in the usual course of business to the public, i.e., to purchasers other than Federal, State, or local Government agencies; this requirement is not satisfied if the contractor merely seeks to sell to the public but has not yet made such sales; if Government agencies are the sole purchasers, the bidder will not qualify as a regular dealer; the number and amount of sales which must be made to the public will necessarily vary with the amount of total sales and the nature of the business; and

(6) That the business is an established and going concern; it is not sufficient to show that arrangements have been made to set up such a business.

(c) With regard to the test in paragraphs (b) (5) and (6) of this section, as stated in the Decision of the Administrator, "In re Herbert Co." (9 WH Cases 561, 562 (1950)): "It is plain that the Act and Regulations intended to bar from receipt of Government contracts those persons whose regular method of operation is to secure contracts and thereafter buy elsewhere the goods necessary to fill the contract. While it was not contemplated by the regulations that every Government contract awarded to a dealer be filled from stock on hand, it was the intention to require that Government contracts should be awarded only to those dealers who maintain a stock of goods of the general character required under the Government contract in question, and who, as a regular course of business dealings, make sales from such stocks. It is not sufficient for a dealer to show that some sales are made from stock, or that sales from stock are not unusual in his business; rather he must show that in the usual course of his business a very substantial amount of his sales are made from stocks on hand" (emphasis added).

(d) Coal dealers are exempted from the regular dealer requirements of the Act on certain express terms and conditions which are set forth in 41 CFR 50-201.604(a). The exemption will be applicable only if these conditions are complied with. If they are not, the general definition of regular dealers contained in 41 CFR 50-201.101(a)(2) of the regulations would be applicable.

§ 50-206.54 Regular dealer in particular products.

In addition to the exemptions from the requirements of section 1(a) of the Act which have been granted for certain types of contracts as set forth in 41 CFR 50-201.604, special alternate qualifications have been prescribed for hay, grain, feed, or straw; raw cotton; lumber and timber products; machine t[illegible]ols; green coffee, petroleum; agricultural liming materials; tea; raw or unmanufactured cotton linters; certain uranium products and used automated data processing (ADP) equipment in recognition of existing industrial and commercial practices in those industries. These special qualifications may be found in 41 CFR 50-201.101(a)(2) and 41 CFR 50-201.604. Characteristic of these alternative qualifications is the absence of a requirement that the dealer physically maintain a stock.

§ 50-206.55 Agents.

A "manufacturer" or "regular dealer" within the meaning of the Act and regulations may bid, negotiate, and contract through an authorized agent if the agency is disclosed and the agent bids and contracts in the name of the principal. Brokers from whom foreign-made goods consigned directly to the Government are purchased need not qualify as regular dealers under 41 CFR 50-201.101(a)(2) since the contract itself is not subject to the Act.

§ 50-206.56 Administrative exemptions.

Sections 50-201.101(a)(3)(ii) and 50-201.601 of Regulations 41 CFR Part 50-201, provide for the granting of exceptions and exemptions from the application of section 1(a) of the Act upon request by the head of the contracting agency to the Administrator, Wage and Hour Division. Such request should contain all pertinent information enabling the Administrator to determine if such exemption is necessary to avoid the serious impairment of the conduct of Government business. Any such request will be published in the FEDERAL REGISTER as a proposal with time for public comment.

[FR Doc. 80-19735 Filed 6-30-80; 8:45 am]

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32 CFR Parts 1–39

[DAC 76–23]

Defense Acquisition Regulation

AGENCY: Department of Defense.

ACTION: Final rule.

SUMMARY: This document publishes changes to the Defense Acquisition Regulation contained in the Code of Federal Regulations. The changes are the same as those in Defense Acquisition Circular 76–23. The changes consist of revisions to the DoD profit policy, including fees under cost reimbursement-type contracts.

EFFECTIVE DATE: February 26, 1980.

FOR FURTHER INFORMATION CONTACT: J. Brannan, Director, Defense Acquisition Regulatory Council, Room 3D1080, Pentagon, Washington, D.C. 20301, Telephone 202–697–6710.

SUPPLEMENTARY INFORMATION:

Background

The Defense Acquisition Regulation (DAR) is codified in Title 32, Parts 1–39, Volumes I, II, and III, of the Code of Federal Regulations. The July 1, 1979, revision is the most recent edition of that title. It reflects amendments to the 1976 edition made by Circulars 76–1 through 76–19.

The Department of Defense announced the promulgation of the 1979 CFR edition in the **Federal Register** of December 31, 1979 (44 FR 77158). At that time, the Department also announced that any amendments made to the Regulation after Circular 76–19 would be published in the **Federal Register.**

Defense Acquisition Circular 76–23

This document contains amendments to the Defense Acquisition Regulation in the form of replacement pages which were included in DAC 76–23, issued February 26, 1980. The following is a summary of the amendments:

Profit Policy, Including Fees Under Cost Reimbursement-Type Contracts. Revisions to the DoD profit policy that were announced in DPC 76–3, and subsequently revised in DPC 76–12, recognized, both in profit and as an allowable cost, the facility investment that may be required for efficient contractor operation. Designed primarily to apply to contracts for the manufacturing of supplies and equipment, this policy was intended to remove obstacles to cost-reducing facility investment decisions by industry. Since DPC 76–3 was published, experience has indicated that two major changes to the profit policy are necessary. These changes involve the weight given to the level of facility investment in reaching a prenegotiation profit objective under the weighted guidelines method and profit policies for research and development and services contracts.

Because the Defense Acquisition Regulation concerns agency management, public property, and contracts, it is not necessary to issue proposed rules for public comment. Neither is it necessary to delay the effective date until 30 days after the publication of these rules, 5 U.S.C. 553 (a) and (d). The amendments became effective on February 26, 1980.

How To Use Replacement Pages

Reproduced at the end of this document are replacement pages from DAC 76–23. The number at the top of each page (for example, 3:139) identifies the page from the Regulation which is being replaced. The number at the bottom of the page is a reference to the last appearing numbered paragraph on that page, or if none shows, on a preceding page. The vertical line in the right margin indicates where the amendment is located.

Adoption of Amendments

Therefore, the July 1, 1979, edition of the Defense Acquisition Regulation contained in 32 CFR Parts 1–39, Volumes I, II, and III, is amended in the DAR paragraphs indicated by substitution of the replacement pages listed in the table:

DAR paragraph	Replacement pages
Volume I	
3-807.10	3:139
3-808.2	3:140 thru 3:144
3-808.4	3:145, 3:146
3-808.5	3:147, 3:148
3-808.6	3:149 thru 3:150–B
3-808.7	3:150–B thru 3:152
Volume II	
7-104.27	7:70–A
Volume III	
21-301	21:26
21-303	21:27
21-304	21:27 thru 21:29
Part 4, Sec. XXI	Deleted
F-200.1499	F:231
F-200.1500	F:232
F-200.1547	F:253

Dated: June 24, 1980.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

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under cost-type contracts or not considered as actual costs for final pricing of redeterminable or incentive-type contracts. The action is taken under the price reduction clauses because not only will the increased costs be disallowed or not considered as actual costs but also the fixed-fee or target profit included in the initial price may be subject to reduction in accordance with (1) and (2) above.

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

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

3-808 Profit, Including Fees Under Cost-Reimbursement-Type Contracts.

3-808.1 *Policy.*

(a) *General.* It is the policy of the Department of Defense to utilize profit to stimulate efficient contract performance. Profit generally is the basic motive of business enterprise. The Government and defense contractors should be concerned with harnessing this motive to work for more effective and economical contract performance. Negotiation of very low profits, the use of historical averages, or the automatic application of a predetermined percentage to the total estimated cost of a product, does not provide the motivation to accomplish such performance. Furthermore, low average profit rates on defense contracts overall are detrimental to the public interest. Effective national defense in a free enterprise economy requires that the best industrial capabilities be attracted to defense contracts. These capabilities will be driven away from the defense market if defense contracts are characterized by low profit opportunities. Consequently, negotiations aimed merely at reducing prices by reducing profits, with no realization of the function of profit, cannot be condoned. For each contract in which profit is negotiated as a separate element of the contract price, the aim of negotiation should be to employ the profit motive so as to impel

effective contract performance by which overall costs are economically controlled. To this end, the profit objective must be fitted to the circumstances of the particular acquisition, giving due weight to each of the effort, risk, facilities investment, and special factors set forth in this 3-808. This will result in a wider range of profits which, in many cases, will be significantly higher than previous norms.

(b) *Contracts Priced on the Basis of Cost Analysis.* When cost analysis is performed pursuant to 3-807.2, profit consideration shall be in accordance with the objectives set forth below. The Government should establish a profit objective for contract negotiations, which will—

(i) motivate contractors to undertake more difficult work requiring higher skills and reward those who do so;

(ii) allow the contractors an opportunity to earn profits commensurate with the extent of the cost risk they are willing to assume;

(iii) motivate contractors to provide their own facilities and financing and to establish their competence through development work undertaken at their own risk and reward those who do so; and

(iv) reward contractors for productivity increases.

The weighted guidelines method set forth in 3-808.2 for establishing profit objectives is designed to provide reasonably precise guidance in applying these principles. This method, properly applied, will tailor profits to the circumstances of each contract in such a way that long-range cost-reduction objectives will be fostered, and a spread of profits will be achieved that is commensurate with varying circumstances.

(c) *Contracts Priced Without Cost Analysis.* On many contracts and subcontracts, good pricing does not require an examination into costs and profits. Where adequate price competition exists, and in other situations where cost analysis is not required (see 3-807), fixed-price-type contracts should be awarded to the lowest responsible offerors without regard to the amount of their profits. Under these circumstances, the profit that is anticipated or, in fact, earned should not be of concern to the Government. In such cases, if a low offeror earns a large profit, it should be considered the normal reward of efficiency in a competitive system and efforts shall not be made to reduce such profits.

3-808.2 *Weighted Guidelines Method.*

(a) *General.*

(1) The weighted guidelines method provides contracting officers with (i) a technique that will insure consideration of the relative value of the appropriate profit factors described in 3-808.4 in the establishment of a profit objective and the conduct of negotiations; and (ii) a basis for documentation of this objective, including an explanation of any significant departure from it in reaching a final agreement. The contracting officer's analysis of these profit factors is based on information available prior to negotiations. Such information is furnished in proposals, audit data, performance reports, preaward surveys and the like. Except as set forth in (b) below, the weighted guidelines method shall be used in the negotiation of all contracts where cost analysis is performed for:

(i) the manufacturing of supplies and equipment;

(ii) research and development as described in 4-101(a)(1) through (5), encompassing research, exploratory development, advanced development, engineering development, and operational systems development;

(iii) services as described in 4–101(a)(6) and 22-101.

a. The profit objective for manufacturing contracts shall be computed, except as indicated in *e.* below, using the manufacturing weighted guidelines method, which provides profit opportunity based on facilities capital investment.

b. The profit objective for research and development contracts shall be computed using the research and development weighted guidelines method unless, in the judgement of the contracting officer, a significant amount of facilities is required for efficient contract performance, in which case the manufacturing weighted guidelines shall be used.

c. The profit objective for service contracts shall be computed using the service contract weighted guidelines method unless, in the judgement of the contracting officer, a significant amount of facilities is required for efficient contract performance, in which case the manufacturing weighted guidelines shall be used.

d. In determining whether a particular contract shall be classified as manufacturing, research and development, or services, primary reliance shall be placed on the nature of the work to be performed, as indicated by the coding for item 10A of the DD Form 350 (see DOD 4105.61-M, Department of Defense Procurement Coding Manual, Volume 1), notwithstanding the appropriation or negotiation authority used. The following guidelines shall apply:

(i) *Manufacturing Weighted Guidelines.* Contracts coded under Section I, Part C, Supplies and Equipment.

(ii) *Research and Development Weighted Guidelines.* Contracts coded under Section I, Part A, Research, Development, Test and Evaluation, except for contracts coded as AD2-, Defense Services, and A- -6, Management and Support.

(iii) *Services Weighted Guidelines.* Contracts coded under Section I, Part B, Other Services and Construction; and under Section I, Part A, as AD2- and as A- -. Note, however, that there are blanket exceptions for certain services in 3–808.2(b).

e. The categories listed above are intended to be used as a point of departure in determining which weighted guidelines method applies. Many contracts for research and development and for services will require a significant amount of facilities for efficient contract performance. When this is the case, the manufacturing weighted guidelines method shall be used. Similarly, certain contracts for the manufacture of small quantities of high technology supplies and equipment may not require a significant amount of facilities. In such cases, the research and development weighted guidelines method shall be used. Contracting officers shall apply sound judgement in determining which weighted guidelines method is most appropriate for a particular contracting situation. The difference in profit objectives that would result from the application of alternative weighted guidelines methods shall not be a consideration in making this determination.

f. In determining whether a significant amount of facilities is required for efficient contract performance, the contracting officer should assess the facilities needed, including contractor owned and leased and Government owned. When there is a relatively small amount of facilities capital cost of money allocated to the contract because some facilities are provided through operating leases and by the Government, this does not necessarily mean that an insignificant amount of facilities is required for efficient contract performance.

g. When a method other than the manufacturing weighted guidelines method is used to establish the prenegotiation profit objective, the profit objective shall be reduced by the amount of facilities capital cost of money allowed in accordance with 15–205.50. If the contractor does not propose this cost, a provision shall be inserted in the contract that facilities capital cost of money is not an allowable cost (see 3–501, Part I, Section H(iv)). On cost-plus-award-fee contracts, the base fee shall be reduced by the amount of facilities capital cost of money or the contract shall contain a provision to disallow the cost.

(2) The contractor's proposal should include cost information for evaluation and a total profit figure. Contractors shall not be required to submit the details of their profit objectives but they shall not be prohibited from doing so if they desire. Elaborate and voluminous presentations are neither required nor desired and may indicate a low index of cost effectiveness, which fact itself shall be taken into consideration by the contracting officer.

(3) The negotiation process does not contemplate or require agreement on either estimated cost elements or profit elements, although the details of analysis and evaluation may be discussed in the fact-finding phase of the negotiation. If the difference between the contractor's profit objective and the contracting officer's profit objective is relatively small, no discussion of individual factors may be necessary. If the negotiating parties' objectives are relatively far apart, a disclosure of weightings and rationale by both parties may be made concerning the total assigned to contractor effort, contractor risk, facilities investment, and special factors. By thus developing a mutual understanding of the logic of the respective positions, an orderly progression to final agreement should result. Simultaneous, not sequential, agreement will be reached on cost, any incentive profit-sharing formulas or limitation on profits, and price. The profit objective is a part of an overall negotiation objective which, as a going-in objective, bears a distinct relationship to the target cost objective and any proposed sharing arrangement. Since the profit is merely one of several interrelated variables, the Government negotiator shall not complete the profit negotiation without simultaneously agreeing on the other variables. Specific agreement on the exact weights or values of the individual factors is not required and shall not be attempted.

(b) *Exceptions.*

(1) Under the following listed circumstances, other methods for establishing profit objectives may be used.

(i) Architect-engineering contracts;
(ii) Management contracts for operation and/or maintenance of Government facilities;
(iii) Construction contracts;
(iv) Contracts primarily requiring delivery of material supplied by subcontractors;
(v) Termination settlements;
(vi) Cost-plus-award-fee contracts;
(vii) Contracts not expected to exceed $100,000; and
(viii) Unusual pricing situations where the weighted guidelines method has been determined to be unsuitable. Such exceptions shall be justified in writing and shall be authorized by the head of the contracting activity.

(2) If the contracting officer makes a written determination that the pricing situation meets any of the circumstances set forth above and that application of the manufacturing weighted guidelines will result in an inequitable profit objective, other methods for establishing the profit objective may be used. These methods shall be supported in a manner similar to that used in the weighted guidelines (profit factor breakdown and documentation of profit objectives); however, investment or other factors that would not be applicable to the contract shall be excluded from the profit objective determination. It is intended that the methods will result in profit objectives for noncapital intensive contracts that are below those generally developed for capital intensive contracts.

(c) *Application to Subcontracts.* The prime contractor may use the weighted guidelines or a structured approach that discriminates among different levels of investment if the acquisition would be subject to the weighted guidelines under a prime contract. (For applicability see 3-1300.1(c).) If the acquisition falls into one of the exceptions to the weighted guidelines in 3-808.2(b)(1), the prime contractor may use another method to establish profit objectives. In the absence of a structured approach that discriminates among different levels of investment, similar to the weighted guidelines, the profit objective will be reduced by the amount of facilities capital cost of money allowed in accordance with 15-205.50.

(d) *Limitation.* In the event this or any other method would result in establishing a fee objective in violation of limitations established by statute or this regulation, the maximum fee objective shall be the percentage allowed pursuant to such limitations. (See 3-405.) No local administrative ceilings on profit shall be permitted.

3-808.3 *Profit Objective.*

(a) A profit objective is that part of the estimated contract price objective or value which, in the judgment of the contracting officer, is appropriate for the acquisition being considered, covering the profit or fee element of the price objective. This objective should realistically reflect the total overall task to be performed and the requirements placed on the contractor. Prior to the negotiation of a contract, change order, or contract modification where cost analysis is undertaken, the negotiator shall develop a profit objective. The weighted

guidelines method, if applicable, shall be used for developing this profit objective. If a change or modification is of a relatively small dollar amount and is basically the same type of work as required in the basic contract, the application of the weighted guidelines method will generally result in a profit objective similar to the profit objective in the basic contract and, therefore, this basic rate may be applied to the contract change or modification. In cases where the change or modification calls for substantially different work, then the basic contract profit and the contractor's effort may be radically changed and a detailed analysis is necessary. Also, if the dollar amount of the change or contract modification is very significant in comparison to the contract dollar amount, a detailed analysis shall be made.

(b) Development of a profit objective should not begin until after a thorough—

(i) review of proposed contract work;
(ii) review of all available knowledge regarding the contractor, pursuant to Section I, Part 9, including capability reports, audit data, preaward survey reports and financial statements, as appropriate; and
(iii) analysis of the contractor's cost estimate and comparison with the Government's estimate or projection of cost.

3-808.4 *Profit Factors.*

(a) The following factors shall be considered in all cases in which profit is to be specifically negotiated. The weight ranges listed after each factor shall be used in all instances where the weighted guidelines method is used.

	WEIGHT RANGES		
	Manufacturing*	R&D	Services
A. CONTRACTOR EFFORT			
Material Acquisition			
Subcontract Items	1 to 5%	1 to 5%	1 to 5%
Purchased Parts	1 to 4%	1 to 4%	1 to 4%
Other Material	1 to 4%	1 to 4%	1 to 4%
Engineering			
Direct Labor	9 to 15%	9 to 15%	N/A
Manufacturing			
Direct Labor	5 to 9%	5 to 9%	N/A
Services			
Direct Labor	N/A	N/A	5 to 15%
Overhead	N/A	N/A	4 to 8%
Other			
General Management	6 to 8%	6 to 8%	6 to 8%
B. CONTRACTOR RISK	0 to 8%	0 to 7%	0 to 4%
C. FACILITIES INVESTMENT	16 to 20%	N/A	N/A
D. SPECIAL FACTORS			
Productivity	See 3-808.8(a)	N/A	N/A
Independent Development	1 to 4%	1 to 4%	N/A
Other	-5 to +5%	-5 to +5%	-5 to +5%

* An adjustment factor of .7 is applied to the results of the Contractor Effort evaluation to arrive at the dollar profit objective for this factor (see DD Form 1547). Also see 3-1300.5(a)(2).

(b) Under the weighted guidelines method, the contracting officer shall first measure the "Contractor's Effort" by the assignment of a profit percentage, within the designated weight ranges, to each element of contract cost recognized by the contracting officer. Although certain classifications of acceptable cost, including travel, subsistence, facilities, test equipment, special tooling, federal manufacturers' excise taxes, and royalty expenses, may have been historically excluded from the base upon which profit has been computed, they shall not be excluded when using the weighted guidelines method. Not to be included for the computation of profit as part of the cost base is the amount calculated for the cost of money for facilities capital. How this cost is determined and how it will be applied and administered is fully set forth in 3-1300.

(c) The suggested categories under the Contractor's Effort are similar to those on the Contract Pricing Proposal (DD Form 633). Often, individual proposals will be in a different format, but, since these categories are broad and basic, they provide sufficient guidance to evaluate all other items of cost.

(d) After computing a total dollar profit for the Contractor's Effort, the contracting officer then shall add the specific profit dollars assigned for cost risk, facilities investment risk, and special factors. Weighted Guidelines Profit/Fee Objective (DD Form 1547) is to be used, as appropriate, to facilitate the calculation of this profit objective. (See F-200.1547.)

(e) The weighted guidelines method was designed for arriving at profit or fee objectives for other than nonprofit organizations. However, if appropriate adjustments are made to reflect differences between profit and nonprofit

organizations, the weighted guidelines method can be used as a basis for arriving at fee objectives for nonprofit organizations. Therefore, the policy of the Department of Defense is to use the weighted guidelines method, as modified in (2) below, to establish fee objectives that will stimulate efficient contract performance and attract the best capabilities of nonprofit organizations to defense-oriented activities. The modifications shall not be applied as deductions against historical fee levels but to the fee objective for such a contract, as calculated under the weighted guidelines method.

(1) For purposes of this subparagraph, nonprofit organizations are defined as those business entities organized and operated exclusively for charitable, scientific, or educational purposes, of which no part of the net earnings inure to the benefit of any private shareholder or individual, of which no substantial part of the activities is carrying on propaganda or otherwise attempting to influence legislation or participating in any political campaign on behalf of any candidate for public office, and which are exempt from Federal income taxation under Section 501 of the Internal Revenue Code.

(2) For contracts with nonprofit organizations where fees are involved, the following adjustments are required in the weighted guidelines method.

(i) An adjustment of -1 percent of the total effort shall be assigned in all cases where the manufacturing weighted guidelines method is used. An adjustment of -3 percent of the total effort shall be assigned in all cases where the research and development or services weighted guidelines method is used.

(ii) The weight range under "Contractor Cost Risk" shall be -1 percent to 0 percent in lieu of 0 percent to 8 percent for contracts with those nonprofit organizations, or elements thereof, identified by the Secretary of Defense or the Secretary of a Department (or their respective designees) as receiving sustaining support on a cost-plus-a-fixed-fee basis from a particular Department or Agency of the Department of Defense.

(f) In making a judgment of the value of each factor, the contracting officer should be governed by the definition, description, and purpose of the factors, together with considerations for evaluating them as set forth herein.

3-808.5 *Contractor Effort.*

(a) *General.* This factor is a measure of how much the contractor is expected to contribute to the overall effort necessary to meet the contract performance requirements in an efficient manner. This factor, which is apart from the contractor's responsibility for contract performance, takes into account what resources are necessary and what the contractor must do to accomplish a conversion of ideas and materials into the final product called for in the contract. This is a recognition that, within a given performance output or within a given sales dollar figure, necessary efforts on the part of individual contractors can vary widely in both value and quantity, and that the profit objective should reflect the extent and nature of the contractor's contribution

to total performance. The evaluation of this factor requires an analysis of the cost content of the proposed contract as follows.

(b) *Material Acquisition (Subcontracted Items, Purchased Parts, and Other Material).* Analysis of these cost items shall include an evaluation of the managerial and technical effort necessary to obtain the required purchased parts, subcontracted items, and other materials, including special tooling. This evaluation shall include consideration of the number of orders and suppliers and whether established sources are available or new sources must be developed. The contracting officer shall also determine whether the contractor will obtain the material and tooling by routine orders from readily available supplies (particularly those of substantial value in relation to the total contract cost) or by detailed subcontracts, for which the prime contractor will be required to develop complex specifications involving creative design or close tolerance manufacturing requirements. Consideration shall be given to the managerial and technical efforts necessary for the prime contractor to administer subcontracts and select subcontractors, including efforts to break out subcontracts from sole sources through the introduction of competition. These determinations shall be made for purchases of raw materials or basic commodities, purchases of processed material, including all types of components of standard or near standard characteristics, and purchases of pieces, assemblies, subassemblies, special tooling, and other products special to the end item. In the application of this criterion, it should be recognized that the contribution of the prime contractor to his purchasing program may be substantial. This may apply in the management of subcontracting programs involving many sources, new complex components and instrumentation, incomplete specifications, and close surveillance by the prime contractor's representative. Recognized costs proposed as direct material costs, like scrap charges, shall be treated as material for profit evaluation. If intracompany transfers are accepted at price, in accordance with 15-205.22(e), they shall be evaluated as material. Other intracompany transfers shall be evaluated by individual components of cost, i.e., material labor, and overhead. Normally, the lowest unadjusted weight for direct material is 2 percent. A weighting of less than 2 percent would be appropriate only in unusual circumstances when there is a minimal contribution by the contractor.

(c) *Conversion (Engineering, Manufacturing, and Service Labor).* Analysis of the engineering, manufacturing, and service labor items of the cost content of the contract shall include evaluation of the comparative quality and level of the engineering talents, manufacturing and service skills, and experience to be employed. In evaluating engineering labor for the purpose of assigning profit dollars, consideration shall be given to the amount of notable scientific talent or unusual or scarce engineering talent needed in contrast to journeyman engineering effort or supporting personnel. The diversity, or lack thereof, of scientific and engineering specialties required for contract performance and the corresponding need for engineering supervision and coordination shall be evaluated. Similarly, the variety of manufacturing labor skills required and the contractor's manpower resources for meeting these requirements shall be considered. Service contract labor shall be evaluated in a like manner by

assigning higher weights to engineering or professional-type skills and lower weights to semiprofessional or other type skills required for contract performance. A weighting in excess of 10 percent for service contract labor will be justified normally only when the quality, skill, and experience of the service contract labor warrants a corresponding weighting under a research and development contract.

(d) *General Management (Overhead and G&A).*

(1) Analysis of these overhead items of cost includes the evaluation of the makeup of these expenses and how much they contribute to contract performance. This analysis shall include a determination of the amount of labor within these overhead pools and how this labor would be treated if it were considered as direct labor under the contract. The allocable labor elements shall be given the same profit consideration that they would receive if they were treated as direct labor. The other elements of these overhead pools shall be evaluated to determine whether they are routine expenses, like utilities, depreciation, and maintenance, and hence given lesser profit consideration, or whether they are significant contributing elements. The composite of the individual determinations in relation to the elements of the overhead pools will be the profit consideration given the pools as a whole. The procedure for assigning relative values to these overhead expenses differs from the method used in assigning values of the direct labor. The upper and lower limits assignable to the direct labor are absolute. In the case of overhead expenses, individual expenses may be assigned values outside the range as long as the composite ratio is within the range.

(2) It is not necessary that the contractor's accounting system break down the overhead expenses within the classifications of engineering overhead, manufacturing overhead, and general and administrative expenses, unless dictated otherwise by Cost Accounting Standards (CAS). The contractor whose accounting system only reflects one overhead rate on all direct labor need not change the system (if CAS exempt) to correspond with the above classifications. In evaluating such a contractor's overhead rate, the contracting officer can break out the applicable sections of the composite rate which can be classified as engineering overhead, manufacturing overhead, and general and administrative expenses and follow the appropriate evaluation technique.

(3) There is a critical factor to consider in the determination of profit in this area. Management problems surface in various degrees and the management expertise exercised to solve them shall be considered as an element of profit. For example, a new program for an item that is on the cutting edge of the state of the art will cause more problems and require more managerial time and abilities of a higher order than a follow-on contract. If new contracts create more problems and require a higher profit weight, follow-ons shall be adjusted downward as many of the problems shall have been solved. In any event an evaluation shall be made of the underlying managerial effort involved on a case-by-case basis.

(4) It may not be necessary for the contracting officer to make a separate profit evaluation of overhead expenses with each acquisition of substantially the same product with the same contractor. Where an analysis of

the profit weight to be assigned to the overhead pool has been made, the weight assigned may be used for future contracts with the same contractor until there is a change in the cost composition of the overhead pool or the contract circumstances, or until the factors discussed in (3) above are relevant.

3-808.6 *Contract Cost Risk.*

(a) *General.*

(1) This factor reflects the policy of the Department of Defense that contractors bear an equitable share of contract cost risk, and to compensate them for the assumption of that risk. A contractor's risk associated with costs to perform under a Government contract is usually minimal under cost-reimbursement-type contracts. However, as acquisitions progress from basic research through follow-on production and supply contracts, the use of increased contractor-risk-assumption-type contracts is appropriate for increasing the contractor's responsibility for performance. The generally accepted progression of the acquisition spectrum ranging from basic research through supply acquisitions and from cost to firm fixed-price contracts, is shown below:

	TYPE OF EFFORT	TYPE OF CONTRACT
1.	Basic Research	Cost, CPFF
2.	Applied Research	Cost, CPFF
3.	Exploratory Development	Cost, CPFF
4.	Advanced Development	CPFF, CPAF
5.	Engineering Development	CPFF, CPAF, CPIF
6.	Operational System Development	CPIF, CPAF, FPI
7.	First Production	FPI
8.	Follow-on Production	FPI, FFP
9.	Supply	FFP

Research and the various categories of development are defined in 4-101.

(2) In developing the prenegotiation profit objective, the contracting officer will need to consider strongly the type of contract anticipated to be negotiated and the associated contractor risk when selecting the position in the weight range for profit that is appropriate for the risk to be borne by the contractor. This is one of the most important factors in arriving at prenegotiation profit objectives.

(b) *Evaluation of Contractor's Assumption of Contract Cost Risk.*

(1) Evaluation of this risk requires a determination of (i) the degree of cost responsibility the contractor assumes, (ii) the reliability of the cost estimates in relation to the task assumed, and (iii) the complexity of the task assumed by the contractor. This factor is specifically limited to the risk of contract costs. Thus, such risks on the part of the contractor as reputation, losing a commercial market, losing potential profits in other fields, or any risk on the part of the contracting activity, such as the risk of not acquiring an effective weapon, are not within the scope of this factor.

(2) The first and basic determination of the degree of cost responsibility assumed by the contractor is related to the sharing of total risk by contract cost by the Government and the contractor through the selection of contract type. The extremes are a cost-plus-fixed-fee contract, requiring only that the

contractor use his best efforts to perform a task, and a firm fixed-price contract for a complex item. A cost-plus-fixed-fee contract reflects a minimum assumption of cost responsibility, whereas a firm fixed-price contract reflects a complete assumption of cost responsibility.

(3) The second determination is that of the reliability of the cost estimates. Sound price negotiation requires well-defined contract objectives and reliable cost estimates. Prior production experience assists the contractor in preparing reliable cost estimates on new contracts for similar equipment. An excessive cost estimate reduces the possibility that the cost of performance will exceed the contract price, thereby reducing the contractor's assumption of contract cost risk.

(4) The third determination is that of the difficulty of the contractor's task. The contractor's task can be difficult or easy, regardless of the type of contract.

(5) Contractors are likely to assume greater cost risk only if contracting officers objectively analyze the risk incident to proposed contracts and are willing to compensate contractors for it. Generally, a cost-plus-fixed-fee contract will not justify a reward for risk in excess of 0.5 percent, nor will a firm fixed-price contract justify a reward of less than the minimum on the weighted guidelines. Where proper contract-type selection has been made, the reward for risk, by contract type, will usually fall into the following percentage ranges:

(i) type of contract and percentage ranges for profit objectives developed by using the manufacturing weighted guidelines method:

Cost-Plus-Fixed Fee	0 to 0.5%
Cost-Plus-Incentive Fee	
With Cost Incentives Only	1 to 2%
With Multiple Incentives	1.5 to 3%
Fixed-Price-Incentive	
With Cost Incentives Only	3 to 5%
With Multiple Incentives	4 to 6%
Prospective Price Redetermination	4 to 6%
Firm Fixed-Price	6 to 8%

(ii) type of contract and percentage ranges for profit objectives developed by using the research and development weighted guidelines method:

Cost-Plus-Fixed Fee	0 to 0.5%
Cost-Plus-Incentive Fee	
With Cost Incentives Only	1 to 2%
With Multiple Incentives	1.5 to 3%
Fixed-Price-Incentive	
With Cost Incentives Only	2 to 4%
With Multiple Incentives	3 to 5%
Prospective Price Redetermination	3 to 5%
Firm Fixed-Price	5 to 7%

(iii) type of contract and percentage ranges for profit objectives developed by using the service contract weighted guidelines method:

Cost-Plus-Fixed Fee	0 to 0.5%
Cost-Plus-Incentive Fee	1 to 2%
Fixed-Price-Incentive	2 to 3%
Firm Fixed-Price	3 to 4%

a. These ranges may not be appropriate for all acquisitions. For instance, a fixed-price-incentive contract that is closely priced with a low ceiling price and high incentive share may be tantamount to a firm fixed-price contract. In this situation, the contracting officer may determine that a basis exists for high confidence in the reasonableness of the estimate and that little opportunity exists for cost reduction without extraordinary efforts. On the other hand, a contract with a high ceiling and low incentive formula can be considered to contain cost-plus-incentive-fee contract features. In this situation, the contracting officer may determine that the Government is retaining much of the contract cost responsibility and that the risk assumed by the contractor is minimal. Similarly, if a cost-plus-incentive-fee contract includes an unlimited downward (negative) fee adjustment on cost control, it could be comparable to a fixed-price-incentive contract. In such a pricing environment, the contracting officer may determine that the Government has transferred a greater amount of cost responsibility to the contractor than is typical under a normal cost-plus-incentive-fee contract.

b. The contractor's subcontracting program may have a significant impact on the contractor's acceptance of risk under a contract form. It can cause risk to increase or decrease in terms of both cost and performance. This consideration shall be a part of the contracting officer's overall evaluation in selecting a factor to apply for cost risk. It may be determined, for instance, that the prime contractor has effectively transferred real cost risk to a subcontractor and the contract cost risk evaluation, as a result, may be below the range that would otherwise apply for the contract type being proposed. This situation will be found to exist only in a few extraordinary situations under circumstances of (i) a follow-on production contract, in which a substantial portion of the total contract costs represents a single subcontract or a few subcontracts, (ii) the fullest incentive reward and penalty feature on cost performance having been passed by the prime contractor to the subcontractor. In an acquisition in which all of these circumstances are found to exist, a lower than usual profit weight may be applied to the aggregate of all recognized costs including the subcontract portion. The contract cost risk evaluation shall not be lowered, however, merely on the basis that a substantial portion of the contract costs represents subcontracts without any substantial transfer of contractor's risk, since this can result eventually in a lessening of the amount of work let on subcontracts.

c. In making a contract cost risk evaluation in an acquisition that involves definitization of a letter contract, unpriced change orders, and unpriced orders, under BOAs, consider the effect on total contract cost risk as a result of having partial performance before definitization. Under some circumstances it may be reasoned that the total amount of cost risk has been effectively reduced. Under other circumstances it may be apparent that the contractor's cost risk remained substantially unchanged. To be equitable, the determination of a profit weight for application to the total of all recognized costs, both those incurred and those yet to be expended, must be made with consideration to all attendant circumstances and not be just the portion of costs incurred, or percentage of work completed, prior to definitization.

d. Time and material, labor hour, and overhaul contracts priced on a time and material basis shall be considered to be cost-plus-fixed-fee contracts for the purpose of establishing a profit weight in the evaluation of the contractor's assumption of contract cost risk.

e. In determining the contract cost risk percentage under CONTRACTOR RISK in profit factors of the weighted guidelines provided in 3–808.4(a), it is appropriate to consider additional risks associated with foreign military sales (FMS). To be recognized, an additional cost risk factor shall be demonstrated by the contractor to be significant and over and above that normally present in DoD contracts for similar items. If an additional cost risk factor associated with FMS is recognized, the total profit under the CONTRACTOR RISK section (3–808.4(a)) shall not exceed the limits set forth in 3–808.6(b)(5) for different types of contracts. For example, when the manufacturing weighted guidelines method is used, the limitation will be 0.5 percent for CPFF contracts, 3 percent for CPIF contracts, 6 percent for FPI contracts and 8 percent for FFP contracts. The additional cost risk factor shall not apply to foreign military sales made from inventories or stocks nor to acquisitions made under DoD cooperative logistics support arrangements.

3-808.7 *Facilities Capital Investment.* This element relates to the consideration to be given in the profit objective in recognition of the investment risk associated with the facilities employed by the contractor. Sixteen to twenty percent of the net book value of facilities capital allocated to the contract is the normal range of weight for this profit factor. The key factors that the contracting officer shall consider in evaluating this risk are:

(i) the overall cost effectiveness of the facilities employed;
(ii) whether the facilities are general purpose or special purpose items;
(iii) the age of the facilities;
(iv) the undepreciated value of the facilities;
(v) the relationship of the remaining writeoff life of the investment and the length of the program(s) or contract(s) on which the facilities are employed; and
(vi) special contract provisions that reduce the contractor's risk of recovery of facilities capital investment (termination-protection clauses, multiyear cancellation ceilings, etc.).

To assist in evaluating new investment, the contracting officer should request the contractor to submit reasonable evidence that the new facilities are part of an approved investment plan and that achievable benefits to the Government will result from the investment. New industrial facilities and equipment shall receive maximum weight when they—

(i) are to be acquired by the contractor primarily for defense business;
(ii) have a long service life;
(iii) have a limited economic life due to limited alternative uses; and
(iv) reduce the total life cycle cost of the products produced for the Department of Defense.

To the extent that the new investment represents routine replacement of existing assets, a lesser weight shall be assigned.

3-808.8 *Special Factors.*

(a) *Productivity.*

(1) *General.* A key objective of the DoD profit policy is to reduce the cost of defense preparedness by incentivizing defense contractors' investment in modern cost-reducing facilities and other improvements in efficiency. To the extent that costs serve as the basis for pricing (both cost and profit), success in reducing costs can serve, in turn, to reduce profit dollars opportunity. For example, a fixed-price incentive-type contract is typically used for the first production contract of a major weapon system program. The incentive to increase productivity and reduce cost within one contract works against a contractor on follow-on production contracts because the reduced level of cost becomes a part of the basis for pricing subsequent contracts. In order to mitigate the loss of profit dollars opportunity that occurs when costs are reduced due to productivity gains, a special "Productivity Reward" may be included in the prenegotiation profit objective of a pending acquisition under certain circumstances.

(2) *Applicability Criteria.* The "Productivity Reward" may be applied when the following criteria are met:

(i) The pending acquisition involves a follow-on production contract.
(ii) Reliable actual cost data is available to establish a fair and reasonable cost baseline.
(iii) Changes made in the configuration of the item being acquired are not of sufficient magnitude to invalidate price comparability.

(3) *Implementation Procedures.* The amount of productivity reward for a given contract is based on the estimated cost reduction that can be attributed to productivity gains. Set forth below are principles and procedures that apply to estimating cost reductions and calculating the productivity reward:

(i) The contractor shall prepare and support the cost reduction estimate.
(ii) The overall contract cost decrease shall be based on estimated decreases measured at the unit cost level.
(iii) The lowest average unit cost (exclusive of profit) for a preceding production run shall serve as the unit cost baseline.
(iv) A technique shall be employed to determine that portion of the cost decrease attributable to productivity gains as opposed to the effects of quantity differences between the base contract and the pending acquisition.
(v) When the parties agree that the estimated overall contract cost decrease is materially affected by price level differences between the base period and the current point in time, an economic price adjustment may be applied to the estimate.
(vi) The productivity reward shall be calculated by multiplying the contract cost decrease due to productivity gains by the base profit objective rate.
(vii) The degree of review and validation of the data supporting the productivity reward calculation shall be commensurate with the materiality of this profit element in relation to the overall price objective.

There may be several methods advanced, by both contracting officers and contractors, to quantify productivity gains. Any technique may be acceptable, provided it takes into account equitably the principles and procedures listed above.

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

(c) *Other Factors.* A composite percentage weight within the range of –5 percent to +5 percent of the basic profit objective may be assigned to other profit factors in arriving at the total profit objective. These other profit factors, which may apply to special circumstances or particular acquisitions, relate to contractor participation in the Government's Small Business, Small Disadvantaged Business, and Labor Surplus Programs, and to special situations not specifically set forth elsewhere in these guidelines. Participation that is rated as merely satisfactory shall be assigned a weight of zero, generally. Evidence of energetic support may justify a plus weight and poor support a negative weight. Special situations may be assigned either a plus or minus weight depending on the particular circumstances of the acquisition.

(1) *Small Business and Small Disadvantaged Business Participation.* The contractor's policies and procedures that energetically support Government small business and small disadvantaged business subcontracting programs, pursuant to 1-707 and 1-332, shall be given favorable consideration. Any unusual effort that the contractor displays in subcontracting with small business or small disadvantaged business concerns, particularly for development-type work likely to result in later production opportunities, and the overall effectiveness of the contractor in subcontracting with and furnishing assistance to such concerns shall be considered. Conversely, failure or

unwillingness on the part of the contractor to support Government small business or small disadvantaged business policies shall be viewed as evidence of poor performance for the purpose of establishing a profit objective.

(2) *Labor Surplus Area Participation.* A similar review and evaluation (as required in (1) above) shall be given to the contractor's policies and procedures supporting the Government's Labor Surplus Area Program, pursuant to 1-805.1. In particular, favorable consideration shall be given to a contractor who (i) makes a significant effort to help find jobs and provide training for the hardcore unemployed, or (ii) promotes maximum subcontractor utilization of certified eligible concerns, as defined in 1-801.1.

(3) *Energy Conservation.* Favorable consideration shall be given to the contractor's initiatives and accomplishments in the conservation of energy.

(4) *Special Situations.* Particular situations may justify use of a profit factor other than those specifically identified in these guidelines. These situations shall be identified and the reason(s) for their use documented in the records of price negotiation. Examples of such situations include contractor effort to exploit additional production cost-reduction opportunities or to improve or develop new product/manufacturing technologies to reduce production cost.

3-809 Contract Audit as a Pricing Aid.

(a) *General.* Contract audit services are available in two forms:

(i) Audit reports setting forth the results of auditors' reviews and analyses of cost data submitted by contractors as part of pricing proposals, reviews of contractors' accounting systems, estimating methods, and other related matters; and

(ii) "On-the-spot" personal consultation and advice to contracting and contract administration personnel in connection with analyses of contractors' cost representations and related matters by liaison auditors stationed at contracting and contract administration offices.

Contract auditors are professional accountants who, although organizationally independent, are the principal advisors to contracting officers on contractor accounting and contract audit matters. The terms "audit review" and "audit" refer to examinations by contract auditors of contractors' statements of actual or estimated costs to the extent deemed appropriate by the auditors in the light of their experience with contractors and relying upon their appraisals of the effectiveness of contractors' policies, procedures, controls, and practices. Such audit reviews or audits may consist of desk reviews, test checks of a limited number of transactions, or examinations in depth, at the discretion of the auditor.

(b) *Audit Reports on Contractor Price Proposals.*

(1) The auditor's role in the evaluation of contractor pricing proposals is set out in detail in 3-801. The procedures

(d) One of the following paragraphs shall be added to the Option clause when the Government either knows or anticipates that the option may be exercised to fulfill Foreign Military Sales (FMS) requirements. These added provisions are not required nor shall they be placed into contracts for the establishment or replenishment of Department of Defense inventories or stocks, or procurements made under DoD Cooperative Logistic Support Arrangements.

(1) Insert a paragraph substantially as follows when the Government and the contractor are able to negotiate a price in advance for FMS requirements:

The U S. Government may exercise the option or options under this clause to fulfill Foreign Military Sales commitments undertaken by the U S. Government on behalf of a foreign country

(2) Insert a paragraph substantially as follows when the Government anticipates that the option may be exercised for FMS requirements and the Government and the contractor are unable to negotiate any additional cost or profit considerations attributable to FMS included in 6-1304 and 3-808.6(b)(5)*e* until a specific country or countries are subsequently identified:

The U. S. Government may exercise the option or options under this clause to fulfill Foreign Military Sales commitments undertaken by the U S. Government on behalf of a foreign country At the date of exercise of the option, the U S. Government will identify the foreign country for the purpose of negotiating an equitable price adjustment for any additional cost or profit considerations attributable to Foreign Military Sales included in 6-1304 and 3-808. 6(b)(5)*e*. Failure to agree to such an equitable adjustment shall be treated as a dispute within the meaning of the clause of this contract entitled "Disputes."

(f) Purchases from overseas exchange and educational services (*e.g.*, Europe an - Korean Exchange Systems) shall be reported on line 4b of Section A and line 6 of Section B.

21–206 Section B, Negotiated Actions.

(a) Enter the number and dollar amount of negotiated actions of $10,000 or less according to the authority of 10 U.S.C. 2304(a) which was used. The totals of Lines 1 through 17 in Section B shall equal the sums of the entries on Lines 1*b*, 2*b*, 3*b*, and 4*b* in Section A.

(b) The following provision is applicable only to U.S. Army Troop Support Agency Activities. In lieu of separately tabulating nonfood/food transactions for commissary resale items that are reportable under negotiation authority 10 U.S.C. 2304(a)(8) and (9), a ratio of the total shall be reported as follows:

(1) Enter 26% of the total actions on Line 8 and 74% on Line 9.

(2) Enter 37% of the total dollar value on Line 8 and 63% on Line 9.

21–207 Section C, Research Development, Test and Evaluation Actions. (These actions are also reported in Sections A and B). Enter the number and dollar amount of actions of $10,000 or less for research, development, test and evaluation work on Lines 1 through 4. Do not include purchases of supplies or services that are incidental to the fulfillment of RDTE work but do not require contractor RDTE performance (see 21–116(a)).

21–208 Section D, Competition in Negotiated Actions.

(a) Enter on Line 1 the number and dollar amount of actions determined to be price competitive in accordance with the criteria set forth in 21–126(c).

(b) Enter on Line 2 the number and dollar amount of all actions which are not considered to be price competitive.

(c) Enter on Line 3 the sums of entries on Lines 1 and 2 of Section D. The Line 3 totals shall equal the totals on Line 18 of Section B.

21–209 Section E, Minority Business Actions. (See 1–332.2.)

(a) Enter on Line 1 the number and dollar amount of awards made to minority business firms that were made through the Small Business Administration pursuant to the Small Business Act - Public Law 85–536 Section 8(a).

(b) Enter on Line 2 the number and dollar amount of awards made directly to minority business firms.

(c) Enter on Line 3 the sums of the entries in Lines 1 and 2 of Section E.

21–210 Adjustments. Revised DD Form 1057 reports shall not be submitted; but the amounts of corrections or adjustments, if required, shall be included in the report for the following month. If the correction or adjustment results in a net reduction of either action or dollar amounts, enter the symbol "*CR*" following the amount to signify a credit entry.

Part 3—Report of Individual Contract Profit (DD Form 1499)

21-300 Scope and Purpose of Part. This part prescribes the reporting on DD Form 1499 (F-200.1499) of cost and profit plans on contract actions of $500,000 or more, negotiated by specified contracting offices. The form provides a basis for analyzing profit patterns and weighted guidelines objectives on defense contracts. As used in this part, the term *cost* includes target cost as well as estimated cost, and the term *profit* includes fee.

21-301 Applicability. DD Form 1499 shall be prepared by each contracting office of the—

(i) Army Materiel Development and Readiness Command, Ballistic Missile Defense Systems Command, Defense Supply Service, Washington, and U.S. Army Corps of Engineers;

(ii) Air Force Logistics and Systems Commands; and

(iii) Naval Air, Sea, and Electronic Systems Commands, Naval Facilities Engineering Command, Naval Regional Contracting Office, Philadelphia. The form also shall be prepared by the following Navy activities of the Naval Supply Systems Command: Navy Aviation Supply Office, Philadelphia; Navy Ships Parts Control Center, Mechanicsburg; and Naval Regional Contracting Office, Long Beach. Contracting offices located outside the United States, its possessions, and Puerto Rico, under the jurisdiction of the above-mentioned commands, are exempt from this reporting requirement.

21-302 Coverage.

(a) A DD Form 1499 shall be prepared by the contracting offices described in 21-301 for each negotiation of a contractual agreement involving a separate cost and profit that together total $500,000 or more. This negotiated total may agree, but not necessarily, with the amount obligated by the contractual instrument. The instrument may be a new definitive contract, an indefinite delivery-type contract, the definitization of a letter contract, or order under a basic ordering agreement, a supplemental agreement, or any other action in which the contracting officer and contractor negotiate an estimated cost and profit. If, in connection with a fixed-price-type contract or contract modification, the contracting officer requires the contractor to submit cost or pricing data pursuant to 3-807.3, a DD Form 1499 shall be prepared showing the contracting officer's best estimate of cost and profit.

(b) If more than one profit rate applies to a negotiation and the amount for each rate is $500,000 or more, a separate DD Form 1499 shall be used to report data for each rate. If the dollar amount for any profit rate of a multirate negotiation is less than $500,000, the data for the amount below $500,000 shall not be reported. If the separation of a contract into different rates produces no portion of $500,000 or more, a report on DD Form 1499 shall not be submitted.

(c) If any reportable negotiation includes a cost or cost-sharing portion or a firm fixed-price portion not reportable pursuant to (a) above, that portion shall not be reported on DD Form 1499. If the application of this provision fragments

an action so that an otherwise reportable portion is less than $500,000, that portion shall not be reported on DD Form 1499.

(d) A DD Form 1499 shall be submitted if the above conditions are met, even though (i) price competition was used, (ii) weighted guidelines were not used, or (iii) a supplemental agreement involving cost and profit was executed without changing the profit rate applicable to the basic contract.

21-303 Due Date and Distribution.

(a) Contracting offices shall (i) prepare DD Form 1499 as soon as possible after the date of action, (ii) assemble the reports for the month of action, and (iii) forward the reports in duplicate within 10 days after the close of the month as follows:

(1) Army: HQDA (JDHQ-SV-W-P), Washington, D.C. 20310:

(i) Contracting offices under the jurisdiction of DARCOM and the BMDS Command shall report through U.S. Army Materiel Development and Readiness Command, Attn: DRCPP-SC, 5001 Eisenhower Avenue, Alexandria, Va. 22333;

(ii) Contracting offices under the jurisdiction of the U.S. Army Corps of Engineers shall report through the Office, Chief of Engineers, HQDA (DAEN-PRP), Washington, D.C. 20314.

(2) Navy: Headquarters, Naval Material Command, Attn: MAT-08C1D, Washington, D.C. 20360.

(3) Air Force: AFLC/ACOCD, Wright-Patterson Air Force Base, Ohio 45433.

(b) Prior to submission of DD Form 1499, contracting offices shall review the form and associated contract files sufficiently to insure that all reportable transactions are reported and that reports are complete and accurate.

(c) DD Form 1499 shall be submitted as an unclassified document. If the reporting office considers it necessary to apply a security classification to a DD Form 1499, a communication relating the reasons for the classification shall be submitted to the Office of the Assistant Secretary of Defense (Comptroller), Attn: Directorate for Information Operations and Control, through the appropriate organization in 21-303(a). In no case shall security classification be considered a reason for not reporting on DD Form 1499.

(d) The reporting requirements of this part are assigned RCS:DD-R&E(M)1215.

21-304 Specific Entries on DD Form 1499.

(a) *Department.* Enter Army, Navy, or Air Force, as appropriate.

(b) *Item 1, Report No.* Each contracting office identified by a separate number in the item 5 code block shall enter a four-digit number assigned consecutively starting with 0001 at the beginning of each fiscal year. This number shall be followed by the last two digits of the fiscal year. Numbers with less than four significant digits shall be preceded by zeros; e.g., the fourth report in fiscal year 1977 would be numbered 0004–77. This number identifies a specific DD Form 1499 and is not related to any DD Form 350 number.

(c) *Item 2, Contract No.* Enter the contract number in items 2.a., b., c., and d., in the manner prescribed for DD Form 350 in 21-108.

(d) *Item 3, SPIIN.* Enter in item 3 any order, supplemental agreement, or other modification number in the manner prescribed for DD Form 350 in 21–110.

(e) *Item 4, Date of Action.* Enter in numeric terms the year and month (e.g., 77–03 for 1977 March) when a mutually binding agreement was reached on the estimated cost and profit. For example, this may be the date when—

(i) a new definitive contract was awarded,

(ii) a letter contract was definitized,

(iii) a supplemental agreement was executed,

(iv) a change order was definitized, etc.

(f) *Item 5, Contracting Office Name.* Enter the name of the contracting office submitting the report, and enter in the item 5 code space, the symbol or number assigned to that contracting office in the DoD Procurement Coding Manual, Volume III.

(g) *Item 6, Type of Pricing Action.* Enter in the item 6 code space Code A for the first reportable action pertaining to a contract, i.e., the award of a new definitive contract, a definitive contract superseding a letter contract, or an indefinite delivery-type contract. Enter Code B for all other types of actions, including orders under basic ordering agreements.

(h) *Item 7, Contractor Identification.* Enter the complete name of the concern and, if applicable, the name of the division to which the award was made. Enter in the item 7 code space the first six digits of the contractor code as shown in the DoD Procurement Coding Manual, Volume II. If the contractor is not listed in the manual, no code shall be entered by the contracting office.

(i) *Item 8, Principal Place of Performance.* Enter the actual location of the plant or place of business where the items will be produced or the service rendered in accordance with instructions in 21-113 for DD Form 350. Enter in the item 8 code space the city and State codes shown for the contractor at the specified location in the DoD Procurement Coding Manual, Volume II. If the contractor's name is not listed in the manual, or is listed for a location or locations other than the one reported, no code shall be entered by the contracting office.

(j) *Item 9, Federal Supply Class or Service Code.* Enter the appropriate Federal Supply Class or Service Code from the DoD Procurement Coding Manual, Volume I, in accordance with instructions prescribed for item 10A of DD Form 350 in 21–116.

(k) *Item 10, DD Claimant Program No.* Enter in the item 10 code space the code from the DoD Procurement Coding Manual, Volume I, Section III, that describes the commodity or service called for by the contract.

(l) *Item 11, Weighted Guidelines Category.* Enter in the item 11 code space only one of the Codes A, B, C, or D, to identify the weighted guidelines applicable to the reported action.

(m) *Item 12, Type of Contract.* Enter in the item 12 code space only one of the codes A, J, K, L, R, U, or V to show the pricing provisions applicable to the reported action. If more than one type of pricing applies to a single negotiation, the provisions of 21–302(c) and (d) apply. That is, separate DD Forms 1499 shall be prepared for each type of pricing involving a cost and profit totaling

$500,000 or more; DD Forms 1499 shall not be prepared for (i) types of pricing with less than aggregate cost and profit of $500,000, (ii) cost-no-fee, or (iii) firm fixed-price without a negotiated cost and profit.

(n) *Item 13, Negotiation Summary.*

(1) Enter dollar amounts applicable to lines a. through f. as proposed by the contractor, the Government's objective, and the negotiated amounts. These entries shall be to the nearest whole dollar; do not show cents, or make entries involving cent positions. For example, $568,035.54 shall be entered as $568,036 and not as $568,036.00; $500,500.49 shall be entered as $500,500.

(2) The dollar entries shall reflect the entire reportable amounts negotiated in the contractual agreement, not merely the portion obligated. Thus, awards contemplating incremental funding shall be reported as total negotiated cost and profit at the time of initial award, not as the amounts initially obligated. However, amounts applicable to options for additional quantities shall be excluded unless the options are exercised. When options are exercised, a report shall be submitted if the amounts meet the dollar threshold of 21-302.

(3) For cost-plus-award-fee (CPAF) contracts, only the base fee shall be reported.

(4) For indefinite delivery-type contracts, the amounts reported shall reflect the best estimate of the annual requirement on the first reportable delivery order.

(5) Enter on line g. the cost of money percentage rate proposed by the contractor, obtained from block 1 of the CASB-CMF form. The objective and negotiated rate will be the cost of money percentage rate used on the DD Form 1861.

(o) *Item 14, Weighted Guidelines Profit Factors (see DD Form 1547).* If weighted guidelines are used, show the measurement base and profit/fee dollars in whole numbers in accordance with (n) above. If the weighted guidelines are not used to develop the prenegotiation profit objective, enter the measurement bases on line a. and complete only lines e., f., and g. The manufacturing guidelines adjustment, line a.(11), shall be completed only for contracts coded A in item 11 and must equal 30 percent of the amount entered on line a.(10). The cost of money adjustment, line e., shall be completed for all contracts coded as B, C, or D in item 11 and must equal the objective amount in item 13.b.

DEPARTMENT OF DEFENSE FORMS

F-200.1499 *DD Form 1499: Report of Individual Contract Profit Plan*

REPORT OF INDIVIDUAL CONTRACT PROFIT PLAN							DOD COMPONENT	
1. REPORT NO.	2. BASIC PROCUREMENT INSTRUMENT IDENTIFICATION NO.				3. SPIIN		4. DATE OF ACTION	
	a. PURCHASING OFFICE	b. FY	c. TY PROC INST CODE	d. PIIN			YEAR	MONTH
5. PURCHASING OFFICE NAME							ITEM 5 CODE	
6. TYPE OF PRICING ACTION A. INITIAL AWARD B. SUBSEQUENT NEGOTIATION OF COST/PROFIT							ITEM 6 CODE	
7. CONTRACTOR IDENTIFICATION	a. COMPANY NAME			b. DIVISION NAME (If any)			ITEM 7 CODE	
	c. STREET ADDRESS		d. CITY	e. STATE	f. ZIP CODE			
8. PRINCIPAL PLACE OF PERFORMANCE	a. CITY		b. STATE				ITEM 8 CODE CITY	STATE
9. FEDERAL SUPPLY CLASS OR SERVICE							ITEM 9 CODE	
10. DOD CLAIMANT PROGRAM							ITEM 10 CODE	
11. WEIGHTED GUIDELINES CATEGORY A. MANUFACTURING B. RESEARCH AND DEVELOPMENT C. SERVICES D. WEIGHTED GUIDELINES NOT USED							ITEM 11 CODE	
12. TYPE OF CONTRACT (Reference DAR, Section III, Part 4) A – FPR (All types) J – FPP K – FP (E) L – FPI (All types) R – CPAF U – CPFF Y – CPIF (All types)							ITEM 12 CODE	
13. NEGOTIATION SUMMARY	CONTRACTOR		OBJECTIVE		NEGOTIATED			
a. SUBTOTAL COST								
b. COST OF MONEY (DD Form 1861)								
c. TOTAL COST								
d. PROFIT OR FEE								
e. TOTAL PRICE								
f. CEILING PRICE (If applicable)								
g. COST OF MONEY RATE (DD Form 1861)								
14. WEIGHTED GUIDELINES PROFIT FACTORS (DD Form 1547)			MEASUREMENT BASE		PROFIT/FEE DOLLARS			
a. CONTRACTOR EFFORT								
(1) MATERIAL ACQUISITION								
(2) ENGINEERING – DIRECT LABOR								
(3) ENGINEERING – OVERHEAD								
(4) MANUFACTURING – DIRECT LABOR								
(5) MANUFACTURING – OVERHEAD								
(6) SERVICES – DIRECT LABOR								
(7) SERVICES – OVERHEAD								
(8) OTHER COSTS								
(9) GENERAL MANAGEMENT – G & A								
(10) PROFIT/FEE SUBTOTAL								
(11) MANUFACTURING GUIDELINES ADJUSTMENT								
(12) TOTAL EFFORT								
b. CONTRACTOR COST RISK								
c. FACILITIES CAPITAL EMPLOYED								
d. SPECIAL PROFIT/FEE OBJECTIVE								
(1) PRODUCTIVITY								
(2) INDEPENDENT DEVELOPMENT								
(3) OTHER								
e. PROFIT/FEE SUBTOTAL								
f. COST OF MONEY ADJUSTMENT								
g. TOTAL PROFIT/FEE OBJECTIVE								
15. DATE SUBMITTED (Yr, Mo, Day)	16a. TYPED NAME OF CONTRACTING OFFICER OR REPRESENTATIVE (Last, First, MI)		b. SIGNATURE OF CONTRACTING OFFICER OR REPRESENTATIVE			c. TELEPHONE EXTENSION		

DD FORM 1 JAN 80 1499 PREVIOUS EDITIONS ARE OBSOLETE.

F-200.1500 *Reserved.*

F-200.1547 *DD Form 1547: Weighted Guidelines Profit/Fee Objective*

WEIGHTED GUIDELINES PROFIT/FEE OBJECTIVE

1. CONTRACTOR IDENTIFICATION	a. COMPANY NAME				b. DIVISION NAME (If any)		
	c. STREET ADDRESS		d. CITY		e. STATE	f. ZIP CODE	
2. WEIGHTED GUIDELINES CATEGORY (Check one) a. ☐ MANUFACTURING b. ☐ RESEARCH AND DEVELOPMENT c. ☐ SERVICES			3. TYPE OF CONTRACT (Ref DAR, Sec III, Part 4)				
4. BASIC PROCUREMENT INSTRUMENT IDENTIFICATION NO.						5. SPIIN	
a. PURCHASING OFFICE	b. FY	c. TY PROC INST CODE	d. PRIIN				

6. WEIGHTED GUIDELINES PROFIT FACTORS (DAR 3-808.4)

PROFIT/FEE FACTOR OR SUBFACTOR (a)	MEASUREMENT BASE (b)	PROFIT WEIGHT RANGES MFG (%) (c)	R&D(%) (d)	SVCS(%) (e)	ASSIGNED WEIGHT (%) (f)	PROFIT/FEE DOLLARS (g)
PART I – CONTRACTOR EFFORT						
7. MATERIAL ACQUISITION						
a. SUBCONTRACTED ITEMS		1 TO 5	1 TO 5	1 TO 5		
b. PURCHASED PARTS		1 TO 4	1 TO 4	1 TO 4		
c. OTHER MATERIAL		1 TO 4	1 TO 4	1 TO 4		
8. ENGINEERING						
a. DIRECT LABOR		5 TO 10	5 TO 10			
b. OVERHEAD		5 TO 9	5 TO 9			
9. MANUFACTURING						
a. DIRECT LABOR		5 TO 9	5 TO 9			
b. OVERHEAD		4 TO 7	4 TO 7			
10. SERVICES						
a. DIRECT LABOR				5 TO 10		
b. OVERHEAD				4 TO 9		
11. OTHER COSTS						
12. GENERAL MGMT. – G & A		5 TO 8	5 TO 8	5 TO 8		
13. SUBTOTAL PROFIT/FEE						
14. LESS: ADJUSTMENT FACTOR		30				
15. TOTAL EFFORT						
PART II – CONTRACTOR RISK						
16. COST RISK	(Total from Col h)	6 TO 8	6 TO 7	6 TO 4		
PART III – FACILITIES INVESTMENT						
17. CAPITAL EMPLOYED	(Line 8, DD Form 1861)	18 TO 30				
18. BASIC PROFIT/FEE OBJECTIVE (Items 14 + 15 + 17, Col g)						
PART IV – SPECIAL FACTORS						
19. SPECIAL PROFIT/FEE OBJ	(See DAR 3-808.5(a))					
a. PRODUCTIVITY						
b. INDEPENDENT DEVELOPMENT	(See DAR 3-808.5(b))	1 TO 4	1 TO 4			
c. OTHER	(Total from Item 18)	-5 TO +5	-5 TO +5	-5 TO +5		
d. TOTAL SPECIAL PROFIT/FEE OBJECTIVE						
20. SUBTOTAL PROFIT/FEE OBJECTIVE (Items 18 + 19d, col g)						
PART V – COST OF MONEY OFFSET (Applicable to Research and Development and Services Weighted Guidelines only.)						
21. LESS: FACILITIES CAPITAL COST OF MONEY (DAR 3-808.8(a)(1)(ii))						
22. TOTAL PROFIT/FEE OBJECTIVE (Items 20 + 21, col g)						

DD FORM 1 JAN 80 1547 PREVIOUS EDITIONS ARE OBSOLETE.

DEPARTMENT OF DEFENSE FORMS

F-200.1564 *DD Form 1564: Pre-Award Patent Rights Documentation*

PRE-AWARD PATENT RIGHTS DOCUMENTATION	FORM APPROVED OMB NO. 22-R0...
PROCUREMENT IDENTIFICATION	
1 CONTRACTOR IDENTIFICATION (TO BE COMPLETED BY OFFEROR)	
a. COMPANY NAME	
b. DIVISION NAME (If any)	c. ADDRESS (Number and Street, City, State, Zip Code or Country)

CHECK APPLICABLE BLOCK	YES	NO
2. IS THE OFFEROR INTERESTED AT THIS TIME IN ACQUIRING PRINCIPAL OR EXCLUSIVE RIGHTS TO INVENTIONS MADE UNDER ANY RESULTING CONTRACT? IF ANSWER IS "YES" REMAINING QUESTIONS SHALL BE ANSWERED. IF ANSWER IS "NO" REMAINING QUESTIONS NEED NOT BE ANSWERED AND THE PATENT RIGHTS DEFERRED CLAUSE OF ASPR 7-302.23(c) OR 7-302.23(i) WILL BE APPLICABLE.		
3. IS OFFEROR REGULARLY ENGAGED AS A MANUFACTURER OR SOURCE OF PRODUCTS OR SERVICES DIRECTLY RELATED TO A FIELD OF TECHNOLOGY INVOLVED IN THIS PROCUREMENT TO THE GENERAL DOMESTIC PUBLIC, OR TO FOREIGN GOVERNMENTS, NATIONALS OR BUSINESS, OR TO MULTINATIONAL ORGANIZATIONS? (See ASPR 9-107.3(a)(1)(i))		
4. HAS OFFEROR WITHIN THE IMMEDIATE PAST FIVE YEARS DEVELOPED NONGOVERNMENTAL MARKETS FOR INVENTIONS DIRECTLY RELATED TO A FIELD OF TECHNOLOGY INVOLVED IN THIS PROCUREMENT? (See ASPR 9-107.3(a)(1)(ii))		
5. IF ANSWER TO 3 AND OR 4 IS "YES" INDICATE WHETHER THE PRODUCTS, SERVICES OR INVENTIONS ARE FOR SALE OR LEASE TO:		
a. U.S. GENERAL PUBLIC		
b. FOREIGN GOVERNMENTS		
c. FOREIGN NATIONALS OR BUSINESSES		
d. MULTINATIONAL ORGANIZATIONS		
6. IF ANSWER TO 3 AND OR 4 IS "YES" IDENTIFY REPRESENTATIVE PRODUCTS, SERVICES OR INVENTIONS AND THEIR ASSOCIATED MARKETS		
7a. DOES OFFEROR HAVE AN EFFECTIVE PROGRAM FOR THE TRANSFER OF TECHNOLOGY AS BY LICENSING OF INVENTIONS DIRECTLY RELATED TO A FIELD OF TECHNOLOGY INVOLVED IN THIS PROCUREMENT. (See ASPR 9-107.3(a)(1)(iii))		
b. IF ANSWER TO 7a IS "YES" IDENTIFY REPRESENTATIVE LICENSES BY LICENSEE, TECHNOLOGY, DOMESTIC OR FOREIGN MARKETS TO WHICH TECHNOLOGY TRANSFERRED, AND PATENT NUMBERS, AS APPROPRIATE		

TYPED NAME AND TITLE	SIGNATURE OF PERSON COMPLETING THIS FORM	DATE SIGNED

DD FORM 1564 1 OCT 75 EDITION OF 1 JUNE 66 IS OBSOLETE

F-200.1564

ARMED SERVICES PROCUREMENT REGULATION

[FR Doc. 80-19736 Filed 6-30-80; 8:45 am]

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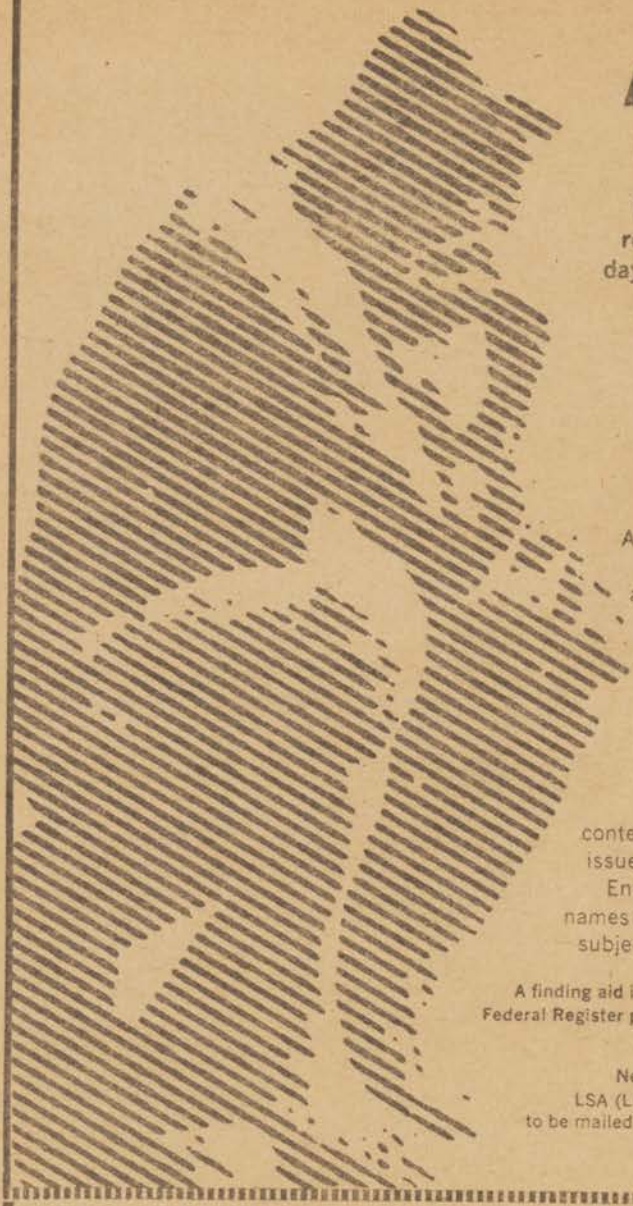

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