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federal register

Monday
November 28, 1983

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Environmental Protection Agency

Aviation Safety
Federal Aviation Administration

Bridges
Coast Guard

Community Development
Community Services Office

Cultural Exchange Programs
Health and Human Services Department

Fisheries
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Meat and Meat Products
Agriculture Department
Foreign Agricultural Service

Milk Marketing Orders
Agricultural Marketing Service

Motor Vehicle Safety
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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

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Plant Diseases
Animal and Plant Health Inspection Service

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 16

Restriction of Importation of Meat From Australia

AGENCY: Foreign Agricultural Service, USDA.

ACTION: Final rule.

SUMMARY: This rule amends Subpart A of Part 16 of Title 7 of the Code of Federal Regulations to limit the importation of certain meats from Australia during calendar year 1983. This rule is necessary to carry out the voluntary agreement entered into by Australia with the United States pursuant to Section 204 of the Agricultural Act of 1956, as amended.

EFFECTIVE DATE: November 28, 1983. See **SUPPLEMENTARY INFORMATION.**

FOR FURTHER INFORMATION CONTACT: John E. Riesz (FAS), (202) 447–8031, Dairy, Livestock and Poultry Division, FAS, USDA, Room 6616, South Building, Washington, D.C. 20250.

SUPPLEMENTARY INFORMATION: Pursuant to the authority of Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and Executive Order 11539, as amended, the Office of the United States Trade Representative has negotiated an agreement with the Government of Australia whereby that country has voluntarily agreed to a limitation on the quantity of certain meats exported from it to the United States during calendar year 1983. The Secretary of Agriculture, with the concurrence of the Secretary of State and the United States Trade Representative, is authorized to issue regulations to carry out such agreement and to request the Commissioner of Customs to implement such action. Having obtained the concurrences of the Secretary of State and the United States Trade Representative, I am hereby issuing these regulations to implement the agreement with Australia.

Effective Date

Meat from Australia released under the provisions of Sections 448(b) and 484(a)(1)(A) of the Tariff Act of 1930 (19 U.S.C. 1448(b) (immediate delivery), and 19 U.S.C. 1484(a)(1)(A) (entry)), prior to November 28, 1983 shall not be denied entry.

The action taken herewith has been determined to involve foreign affairs functions of the United States. Therefore, this regulation falls within the foreign affairs exception of Executive Order 12291 and the notice, public participation and effective date provisions of 5 U.S.C. 553. Further, the provisions of the Regulatory Flexibility Act do not apply to this rule since the notice of proposed rulemaking provisions of 5 U.S.C. 553 do not apply.

List of Subjects in 7 CFR Part 16

Meat and Meat Products, Imports.

Accordingly, Subpart A of Part 16 of Title 7 of the Code of Federal Regulations is amended as follows:

PART 16—[AMENDED]

1. The authority citation for Part 16 reads as follows:

Authority: Sec. 204, Pub. L. 540, 84th Cong., 70 Stat. 200, as amended (7 U.S.C. 1854), and E.O. 11539 (35 FR 10733) as amended by E.O. 12188 (45 FR 989).

2. Section 16.4 is revised to read as follows:

§ 16.4 Transshipment restrictions.

During calendar year 1983, no meat of New Zealand or Australian origin may be entered or withdrawn from warehouse for consumption in the United States unless (1) It is exported into the Customs Territory of the United States as a direct shipment or on a through bill of lading from the country of origin or, (2) if processed in Foreign-Trade Zones, territories, or possessions of the United States, it is exported into the Customs Territory of the United States as a direct shipment or on a through bill of lading from the Foreign-Trade Zone, territory, or possession of the United States in which it was processed.

3. Section 16.5 is revised to read as follows:

§ 16.5 Quantitative restrictions.

(a) *Imports from New Zealand.* During calendar year 1983, no more than 364.5 million pounds of meat exported from New Zealand on the form in which it would fall within the definition of meat in TSUS 106.10, 106.22, 106.25, 107.55, or 107.62 may be entered or withdrawn from warehouse for consumption in the United States, whether shipped directly or indirectly from New Zealand to the United States.

(b) *Imports from Australia.* During calendar year 1983, no more than 600.0 million pounds of meat exported from Australia in the form in which it would fall within the definition of meat in TSUS 106.10, 106.22, 106.25, 107.55, or 107.62 may be entered or withdrawn from warehouse for consumption in the United States, whether shipped directly or indirectly from Australia to the United States.

Issued at Washington, D.C., this 21st day of November, 1983.

Richard E. Lyng,

Acting Secretary.

[FR Doc. 83-31675 Filed 11-25-83; 8:45 am]
BILLING CODE 3410-10-M

Agricultural Marketing Service

7 CFR Part 985

Spearmint Oil Produced in the Far West; Amendment of Administrative Rules and Regulations; Change in Spearmint Oil Classes

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule would change two classes into which spearmint oil is segregated under Marketing Order No. 985 by combining "Class 1" and "Class 2" Scotch Spearmint oil and deletes references to "Class 2" oil, because that class would become obsolete. This change is made because differences between "Class 1" and "Class 2" Scotch Spearmint oil largely have been eliminated.

EFFECTIVE DATE: November 28, 1983.

FOR FURTHER INFORMATION CONTACT: Frank M. Grasberger, Acting Chief, Specialty Crops Branch, Fruit and

Vegetable Division, AMS, USDA, Washington, D.C. 20250 (202) 447–5053.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under USDA guidelines implementing Executive Order 12291 and Secretary's Memorandum No. 1512–1 and has been determined to be a "non-major" rule under criteria contained therein.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities.

It is found that good cause exists for not postponing the effective time of this action until 30 days after publication in the **Federal Register** (5 U.S.C. 553). The reclassification must be effective promptly so marketing policy determinations for the 1984–85 marketing year can be finalized and necessary administrative changes can be made.

Notice of this action was published in the September 20, 1983, issue of the **Federal Register** (48 FR 42823), and interested persons were afforded an opportunity to submit written comments. No comments were received.

The action amends Subpart—Administrative Rules and Regulations by adding a new section 985.104 entitled "Changed classes of spearmint oil". This subpart is issued under Marketing Order No. 985 (7 CFR 985), hereinafter referred to as the "order", regulating the handling of spearmint oil produced in the Far West. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

Currently, § 985.4 of the order designates four classes of spearmint oil. These are: (1) "Class 1"—Oil extracted from the first cutting of Scotch Spearmint; (2) "Class 2"—Oil extracted from the second cutting of Scotch Spearmint; (3) "Class 3"—Oil extracted from Native Spearmint; and (4) "Class 4"—Oil which has a spearmint flavor, extracted from plants other than Scotch or Native Spearmint. Pursuant to that section, the Spearmint Oil Administrative Committee (SOAC), with the approval of the Secretary, may change these classes to recognize new or delete obsolete classes. This action was recommended by the SOAC, which works with the Department of Agriculture in administering the order.

Changes in cultural practices have largely eliminated differences between "Class 1" and "Class 2" Oil so that the segregation of oil produced from first and second cutting Scotch into two classes in unnecessary and impractical. Hence, this action redefines "Class 1" Oil to include both "Class 1" Oil (currently, oil extracted from first cutting Scotch) and "Class 2" Oil (currently, oil extracted from second cutting Scotch), and deletes references to "Class 2" Oil, because that class would become obsolete.

After consideration of all relevant matter presented, including that in the notice, the information and recommendation submitted by the SOAC, and other available information, it is determined that changes in the classification of spearmint oil will promote orderly marketing and be in the public interest, and will tend to effectuate the declared policy of the act.

List of Subjects in 7 CFR Part 985

Marketing Agreements and Orders; Oregon; and Washington.

PART 985—[AMENDED]

Therefore, a new § 985.104 should be added to the Subpart—Administrative Rules and Regulations to read as follows:

§ 985.104 Changed classes of spearmint oil.

Pursuant to § 985.4, the classes of spearmint oil contained in that section are changed by deleting the term and definition "Class 2" Oil and changing the definition of "Class 1" Oil. The changed classes are as follows:

"Class 1"—Oil extracted from Scotch Spearmint.

"Class 3"—Oil extracted from Native Spearmint.

"Class 4"—Oil which has a spearmint flavor, extracted from plants other than Scotch or Native Spearmint.

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

Dated: November 21, 1983.

Russell L. Hawes,

Acting Deputy Director, Fruit and Vegetable Division.

[FR Doc. 83-31756 Filed 11-25-83; 8:45 am]

BILLING CODE 3410-02-M

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 725

Central Liquidity Facility; Repayment, Security and Credit Reporting Agreement

AGENCY: National Credit Union Administration.

ACTION: Notice of Changes to repayment provisions.

SUMMARY: The notice announces a change to the Repayment, Security and Credit Reporting Agreements prescribed by the Central Liquidity Facility. This change modifies the repayment provisions of the Agreement to provide for a prepayment penalty. The change will bring the Agreement into conformity with the early payment clause in the financing note between the CLF and the Federal Financing Bank of the United States Treasury.

EFFECTIVE DATE: February 1, 1984.

ADDRESS: National Credit Union Administration; Central Liquidity Facility, 1776 G Street, NW., Washington, D.C. 20456.

FOR FURTHER INFORMATION CONTACT: Joseph M. Strahs at the above address. Telephone: (202) 357–1142.

SUPPLEMENTARY INFORMATION: The Repayment, Security and Credit Reporting Agreements ("Agreements") of the CLF permit borrowers to "make a prepayment in any amount at any time." The CLF's borrowing agreement with the Federal Financing Bank (FFB), however, provides for early repayment in the following manner:

> This note may be repurchased in whole or in part at any time prior to the maturity of this note by payment to the FFB of a price on the amount being repurchased which would result in a yield for a period from the date of repurchase to the maturity date of the note equal to the U.S. Treasury new issue rate for a comparable period as computed by the Secretary of the Treasury as of the close of business 2 days prior to the date of repurchase.

Thus, the CLF may be subject to a prepayment penalty whereas the member initiating the prepayment is not.

During the past 18 months, the CLF has primarily made short-term adjustment type loans with maturities of 90 days or less. These advances were funded by draws from the FFB with matched dollar amounts and maturities. Since loans of CLF members and CLF borrowings from the FFB are funded on a "matched book" concept, the CLF may incur a penalty if a member repays a loan prior to its scheduled maturity. Penalties imposed on the CLF ultimately affect funds available for dividends for CLF members. Prepayment by one credit union results in reduced earnings for all CLF members.

Rather than eliminating the early payment option for borrowers, thus precluding prepayments, the NCUA Board has decided to maintain that option and amend the Agreements to permit the CLF to pass any FFB prepayment penalty through to the member credit union.

At the present time, the following Agreements have been prescribed by the CLF:

1. CLF and Regular member;
2. CLF and Agent Member;
3. Agent Loans, Central credit union (Agent Member) and natural person credit union (member of Agent Central);
4. CLF and Agent group representative;
5. Agent group representative and central credit union; and
6. CLF and state credit union insurance organization.

With the exception of the last agreement, which already provides for a prepayment penalty, all of the above Agreements are modified hereby.

The above Agreements relate to advances made by the CLF, either directly or through an Agent member or Agent group representative. In effect, they are contractual arrangements whereby the CLF loans funds either directly to a credit union or indirectly through an intermediary. For this reason, the NCUA Board has determined that section 107(5)(A)(viii), which provides that a member of a Federal credit union may prepay a loan without penalty, would be inapplicable to a CLF loan even though, for example, the borrowing credit union may be a member of a Federal corporate credit union acting in its CLF member capacity. In the case of a non-CLF loan, the borrowing credit union could make a prepayment to a Federal corporate credit union, of which it is a member, without penalty pursuant to section 107(5)(A)(viii). For purposes of these Agreements, however, a Federal credit union acting as an Agent member or Agent group representative is viewed as a pass through for the CLF advance; passing through the prepayment penalty that the CLF can impose.

The authority for this change is contained in 12 CFR Part 725.21 and in the modification provision of the Agreements. The effective date is 60 days after publication in the **Federal Register**.

The usual rulemaking procedures involving notice and comment have not been complied with pursuant to the specific exemption for contracts found in 5 U.S.C. Section 3553(a)(2).

Accordingly, the National Credit Union Administration Central Liquidity Facility Repayment, Security and Credit Reporting Agreements are modified as follows:

Each of the following provisions in the respective Agreements is modified by:

1. (a) For Regular member, by deleting the "." in section (5) after the language "The Regular member may make a prepayment in any amount at any time";

(b) For Agent member, by deleting the "." in section (4) after the language "The Agent may make a prepayment in any amount at any time";

(c) For Agent Group Representatives, by deleting the "." in section (4) after the language "The Agent group representative may make a prepayment in any amount at any time";

(d) For Members of Agent Centrals, by deleting the "." in section (5) after the language "The credit union may make a prepayment in any amount at any time"; and

(e) For Agent group central credit unions, by deleting the "." in section (4) after the language "The central credit union may make a prepayment in any amount at any time"; and by

2. Inserting in lieu thereof the following: "; provided, however, that the Facility shall have the right to impose a prepayment penalty in an amount not to exceed the penalty incurred by the Facility from the early retirement of the funding for the credit union's loan at the Federal Financing Bank."

By the National Credit Union Administration Board on November 10, 1983.

Rosemary Brady,

Secretary, NCUA Board.

[FR Doc. 83-31810 Filed 11-25-83; 8:45 am]

BILLING CODE 7535-01-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket C-2916]

Damon Corp.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Modifying order.

SUMMARY: The Federal Trade Commission has modified Part II of the order issued against Damon Corp. on February 23, 1978 (43 FR 13056). The addition of Paragraph E exempts from the prior approval requirements of Paragraph A–C of Part II, acquisitions of any independent laboratory whose net sales of tests and services during the 4 most recent fiscal quarters preceding the acquisition was less than $2 million.

DATES: Consent Order issued February 23, 1978. Modifying Order issued October 14, 1983.

FOR FURTHER INFORMATION CONTACT: FTC/CC, Elliot Feinberg, Washington, D.C. 20580, (202) 634–4604.

SUPPLEMENTARY INFORMATION: In the Matter of Damon Corporation, a corporation. Codification appearing at 43 FR 13056 remains unchanged.

List of Subjects in 16 CFR Part 13

Medical testing services, Trade practices.

(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)

Modified Order To Cease and Desist

The Commission having considered respondent Damon Corporation's Petition of June 1, 1982, for reopening and modification of the Commission's Order, entered February 23, 1978, in Docket No. C–2916; and the Commission having denied the said Petition and, instead, having issued, on March 29, 1983, an Order to Show Cause Why Order Requiring Commission Approval For Certain Acquisition Should Not Be Modified; and the Commission, having considered responses to its Order to Show Cause, now enters the following order:

It is hereby ordered that pursuant to 15 U.S.C. 45, and Section 3.72 of the Commission's Rules of Practice, 16 CFR 3.72 (1983), Part II, Paragraph E of the aforesaid order to cease and desist be, and it hereby is, modified to read:

E. Acquisitions consummated after [the date at which this modification becomes effective], of any independent laboratory which, during the four most recent fiscal quarters preceding the acquisition, has had less than $2 million in Net Sales of Medical Laboratory Tests and Test Services performed on all specimens (from wherever originating) are exempt from the provisions of Paragraphs A through C of this Part II.

By the Commission. Commissioner Pertschuk dissents for the reasons stated in his Dissenting Statement on the Order to Show Cause.

Issued: October 14, 1983.

Emily H. Rock,

Secretary.

[FR Doc. 83-31791 Filed 11-25-83; 8:45 am]

BILLING CODE 6750-01-M

16 CFR Part 13

[Docket C-3123]

Emergency Devices, Inc., et al.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order requires a San Francisco, Ca. corporation and two corporate officers,

among other things, to cease disseminating advertisements which represent that the "Extra Margin Emergency Escape Mask" provides protection from carbon monoxide gas; will permit a person to breathe normally, or for an express amount of time; or has been endorsed or approved by any municipal, state or federal agency, unless such claims are true and are substantiated by competent and reliable scientific evidence. Any representation that an emergency escape mask will protect a person from the hazards associated with fire must be accompanied by the statement, "The mask does not filter carbon monoxide—a lethal gas associated with fire." Additionally, should the company continue to market any emergency escape mask in its current packaging, it is required to affix to such packaging a permanent adhesive label advising users of the mask's inability to filter out lethal carbon monoxide gas. Further, respondents must retain documentation substantiating or contradicting advertising claims for a period of three years; notify the Commission of any change in their business status; and provide all present and future sales, advertising and policymaking personnel with a copy of the order and an acknowledgment form.

DATES: Complaint and Order issued November 3, 1983.[1]

FOR FURTHER INFORMATION CONTACT: FTC/PA, Wendy Kloner, Washington, D.C. 20580, (202) 724–1479.

SUPPLEMENTARY INFORMATION: On Friday, August 26, 1983, there was published in the **Federal Register**, 48 FR 38848, a proposed consent agreement In the Matter of Emergency Devices, Inc., a corporation, Steven Weiss, individually and as an officer of said corporation, and Michael Weiss, individually and as an officer of said 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.

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—Advertising Falsely or Misleadingly: § 13.10 Advertising falsely or misleadingly; § 13.85 Government approval, action, connection or standards; 13.85–35 Government endorsement; 13.83–65 States; 13.85–70 Tests and investigations; § 13.110 Endorsements, approval and testimonials; § 13.170 Qualities or properties of product or service; 13.170–70 Preventive or protective; § 13.195 Safety; 13.195–60 Product; § 13.205 Scientific or other relevant facts. Subpart—Claiming or Using Endorsements or Testimonials Falsely or Misleadingly: § 13.330 Claiming or using endorsements or testimonials falsely or misleadingly; 13.330–90 U.S. Government. Subpart—Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; 13.533–45 Maintain records. Subpart—Disseminating Advertisements, Etc.: § 13.1043 Disseminating advertisements, etc. Subpart—Misrepresenting Oneself and Goods—Goods: § 13.1632 Government endorsement or recommendation; § 13.1710 Qualities or properties; § 13.1740 Scientific or other relevant facts. Subpart—Neglecting, Unfairly or Deceptively, To Make Material Disclosure: § 13.1863 Limitations of product; § 13.1885 Qualities or properties; § 13.1890 Safety; § 13.1895 Scientific or other relevant facts.

List of Subjects in 16 CFR Part 13

Advertising, Gas masks, Trade practices.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

Emily H. Rock,

Secretary.

[FR Doc. 83-31790 Filed 11-25-83; 8:45 am]

BILLING CODE 6750-01-M

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16 CFR Part 13

[Docket C-3124]

Monte Proulx; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent Order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order requires Monte Proulx to, among other things, cease disseminating advertisements which represent that the "Extra Margin Emergency Escape Mask" provides protection from carbon monoxide gas; will permit a person to breathe normally, or for an express amount of time; or has been endorsed or approved by any municipal, state or federal agency, unless such claims are true and are substantiated by competent and reliable scientific evidence. Any representation that an emergency escape mask will protect a person from the hazards associated with fire must be accompanied by the statement, "The mask does not filter carbon monoxide—a lethal gas associated with fire." Additionally, should he continue to market any emergency escape mask in its current packaging, he is required to affix to such packaging a permanent adhesive label advising users of the mask's inability to filter out lethal carbon monoxide gas. Further, respondent must retain documentation substantiating or contradicting advertising claims for a period of three years; notify the Commission of any change in his business status; and provide all present and future sales, advertising and policy-making personnel with a copy of the order and an acknowledgement form.

DATES: Complaint and order issued Nov. 3, 1983.[1]

FOR FURTHER INFORMATION CONTACT: FTC/PA, Wendy Kloner, Washington, D.C. 20580. (202) 724–1479.

SUPPLEMENTARY INFORMATION: On Friday, Aug. 26, 1983, there was published in the **Federal Register**, 48 FR 38848, a proposed consent agreement with analysis In the Matter of Monte Proulx, an individual, 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—Advertising Falsely or Misleadingly: § 13.10 Advertising falsely or misleadingly; § 13.85 Government approval, action, connection or standards; 13.85–35 Government endorsement; 13.85–65 States; 13.85–70 Tests and investigations; § 13.110 Endorsements, approval and testimonials; § 13.170 Qualities or properties of product or service; 13.170–70 Preventive or protective; § 13.195

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

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

Safety; 13.195–60 Product; § 13.205 Scientific or other relevant facts. Subpart—Claiming or Using Endorsements or Testimonials Falsely or Misleadingly: § 13.330 Claiming or using endorsements or testimonials falsely or misleadingly; 13.330–90 U.S. Government. Subpart—Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; 13.533–45 Maintain records. Subpart—Disseminating Advertisements, Etc.: § 13.1043 Disseminating advertisements, etc. Subpart—Misrepresenting Oneself and Goods—Goods: § 13.1632 Government endorsement or recommendation; § 13.1710 Qualities or properties; § 13.1740 Scientific or other relevant facts. Subpart—Neglecting, Unfairly or Deceptively, To Make Material Disclosure: § 13.1863 Limitations of product; § 13.1885 Qualities or properties; § 13.1890 Safety; § 13.1895 Scientific or other relevant facts.

List of Subjects in 16 CFR Part 13

Advertising, Gas masks, Trade practices.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

Emily H. Rock,

Secretary.

[FR Doc. 83-31780 Filed 11-25-83; 8:45 am]

BILLING CODE 6750-01-M

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16 CFR Part 13

[Docket 9148]

Flowers Industries, Inc.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent Order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order requires a Thomasville, Georgia food processor, among other things, to timely divest to a Commission-approved buyer, its bakery plants located in High Point, North Carolina and Gadsden, Alabama, together with specified assets. Further, under certain conditions, the company is required to transfer its rights to the Sunbeam, Buttermaid and Hometown tradenames and trademarks to a qualified acquirer or to another qualified baker. Pending divestiture, the company is required to keep the bakeries in operation and use reasonable efforts to retain the respective shelf space and position of the Sunbeam, Buttermaid and Hometown tradenames and trademarks.

DATES: Complaint issued Dec. 12, 1980. Order issued Nov. 3, 1983.[1]

FOR FURTHER INFORMATION CONTACT: Roger E. Meiners, Director, 1R, Atlanta Regional Office, Federal Trade Commission, 1718 Peachtree St., N.W., Room 1000, Atlanta, Ga. 30367, (404) 881–4836.

SUPPLEMENTARY INFORMATION: On Tuesday, July 12, 1983, there was published in the **Federal Register**, 48 FR 31871, *correction*, 48 FR 33908, a proposed consent agreement with analysis In the Matter of Flowers Industries, Inc., 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.

Comments were filed and considered by the Commission. 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—Acquiring Corporate Stock or Assets: § 13.5 Acquiring corporate stock or assets; § 13.5–20 Federal Trade Commission Act. Subpart—Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; § 13.533–43 Grant license(s).

List of Subjects in 16 CFR Part 13

Bakeries, Trade practices.

(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)

Emily H. Rock,

Secretary.

[FR Doc. 83-31692 Filed 11-25-83; 8:45 am]

BILLING CODE 6750-01-M

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16 CFR Part 13

[Docket C-3125]

Lomas & Nettleton Financial Corp., et al.; Prohibited Trade Practices, and Affirmative Correction Actions

AGENCY: Federal Trade Commission.

ACTION: Consent Order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order requires a Dallas, Texas mortgage banker, among other things, to establish and maintain procedures to ensure that it will timely pay all obligations due and payable from homeowners' escrow accounts. The company must also maintain procedures to identify and correct any injury caused by its failure to pay obligations from a homeowner's escrow account when due. The company is further prohibited from misrepresenting that funds have been withdrawn from escrow and the nature of any fee or obligation imposed upon a homeowner's escrow account.

DATES: Complaint and Order issued Nov. 1, 1983.[1]

FOR FURTHER INFORMATION CONTACT: Roger E. Meiners, Director, 1R, Atlanta Regional Office, Federal Trade Commission, 1718 Peachtree St., N.W., Room 1000, Atlanta, GA 30367. (404) 881–4836.

SUPPLEMENTARY INFORMATION: On Monday, Aug. 8, 1983, there was published in the **Federal Register**, 48 FR 35888, a proposed consent agreement with analysis In the Matter of Lomas & Nettleton Financial Corp., a corporation, and The Lomas & Nettleton Co., 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.

A comment was filed and considered by the Commission. 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—Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements.

List of Subjects in 16 CFR Part 13

Mortgage banks, Trade practices.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

Emily H. Rock,

Secretary.

[FR Doc. 83-31693 Filed 11-25-83; 8:45 am]

BILLING CODE 6750-01-M

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

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

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 240

[Release No. 34-20397; File No. S7-976]

Recourse to the Courts Notwithstanding Arbitration Clauses in Broker-Dealer Customer Agreements

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: The Commission is adopting a rule that prohibits broker-dealers from using predispute arbitration clauses in customer agreements that purport to bind public customers to the arbitration of claims arising under the federal securities laws. The rule also requires broker-dealers to disclose to existing public customers that they are not precluded by such clauses from judicial recourse with respect to those claims. The purpose of this rule is to ensure that public customers are not misled concerning such recourse.

EFFECTIVE DATE: December 28, 1983.

FOR FURTHER INFORMATION CONTACT: Robert A. Love, Esq., Division of Market Regulation (202-272-2792).

SUPPLEMENTARY INFORMATION: The Commission today announced the adoption of a rule that prohibits the use in broker-dealer customer agreements of provisions purporting to bind public customers to the arbitration of future disputes arising under the federal securities laws. The Commission's rule codifies its longstanding view that such clauses are inconsistent with the deceptive practice prohibitions of section 10(b) [15 U.S.C. 78j(b)] and section 15(c) [15 U.S.C. 78*o*(c)] of the Securities Exchange Act of 1934 ("Act") [15 U.S.C. 78a *et seq.*]

Discussion

The Commission proposed rule 15c2-2 for comment in Securities Exchange Act of 1934 Release No. 19813 (May 23, 1983) 48 FR 24728 (June 2, 1983). The Commission reaffirmed in that release its support for the use of arbitration as an important means for the resolution of certain disputes between broker-dealers and their customers. For example, the Commission recognizes that the Uniform Code of Arbitration (the "Code"), drafted by the Securities Industry Conference on Arbitration (SICA) and adopted by the securities industry's self-regulatory organizations ("SROs"), provides an efficient procedure for the resolution of disputes and is often an economical alternative to litigation.[1]

The federal securities laws, however, provide that broker-dealer agreements purporting to bind public customers to the arbitration of disputes arising in the future are void and unenforceable as applied to claims arising under those laws.[2] *Wilko v. Swan*, 346 U.S. 427 (1953), and subsequent cases have held that Congress had determined that public customers should have available the special protection of the federal courts for the resolution of disputes arising under the federal securities laws, and that under the anti-waiver provisions of those laws, that protection may not be waived in advance by contract of the parties. For example, in *First Heritage Corp. v. Prescott, Ball & Turben*, [3] the court noted that "[c]ourts have consistently held that *Wilko's* holding and rationale [under the Securities Act of 1933] are equally applicable to cases arising under the 1934 Act."[4]

In *First Heritage Corp.* the litigants were broker-dealers and members of the National Association of Securities Dealers, Inc. ("NASD"), which has rules providing for the arbitration of disputes between NASD members firms.[5] The court held, however, that section 29(a), the Act's anti-waiver provision, precluded enforcement of the predispute arbitration provision because the plaintiff broker-dealer also represented numerous public customers.

The Commission has received seventeen letters of comment regarding proposed rule 15c2-2. Those comments, which can be reviewed in file no. S7-976 in the Commission's Public Reference Room, and amendments to the proposed rule are address below.

Virtually all of the commentors on the proposed rule agreed that the statutory and case law clearly render unenforceable agreements to arbitrate future disputes between broker-dealers and their public customers arising under the federal securities laws. [6] Nethertheless as we have stated in earlier releases, many broker-dealer continue to include in standard customer agreements language substantially as follows:

> Any controversy between us arising out of or relating to this agreement or the breach thereof, shall be settled by arbitration, in accordance with the rules, then obtaining, of either * * *.

In light of the clearly contrary law in this area, such language is a misleading statement of customers' rights under the federal securities laws. Because years of informal discussions have failed to correct this practice, the Commission has decided that it is appropriate to adopt this rule.

Paragraph (a) of the rule embodies the general prohibition that broker-dealers' customer agreements may not contain clauses that purport to bind public customers to the arbitration of future disputes arising under the federal securities laws. A violation of the rule requires both the existence of a deficient clause and a purchase or sale of securities. In response to those comments noting that courts often enforce predispute arbitration clauses for disputes under the federal securities laws involving such nonpublic customers as parties to international commercial disputes and members of the securities industry's SROs, the word "public" has been added to the paragraph before "customer" to clarify the intended scope of this rule. The term "public customer" has long been used in the Code and SRO arbitration pamphlets.

Paragraph (b) of rule 15c2-2 as proposed required that predispute arbitration clauses that do purport to bind public customers to the arbitration of future federal securities law disputes include the disclosure "Arbitration cannot be compelled with respect to disputes arising under the federal securities laws." The disclosure was designed to ensure the public customers

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[1] The Commission notes that SICA has recently reconvened in an effort to improve the Code with the benefit of the industry's first few years of experience with it. The Commission notes further that its approval of the adoption of the Code by the SROs specifically took into account that with respect to claims arising under the federal securities laws, arbitrations conducted under the Code were to be an alternative to litigation, which could be agreed to by public customers only after a dispute had arisen. *See, e.g.*, Securities Exchange Act Release No. 16390 (November 30, 1979).

[2] The basis for this view was discussed at length by the Commission in Securities Exchange Act Release No. 15984 (July 2, 1979).

[3] Fed. Sec. L. Rep. (CCH) ¶99,404 (6th Cir. 1983).

[4] *Id.* at pp. 96,328 and 96,329 (citation omitted).

[5] Courts have recognized an exception to the *Wilko* doctrine for suits between members of the securities industry's self-regulatory organizations. The Commission need to consider those decisions here as they are outside the scope of rule 15c2-2.

[6] One commentator, the Securities Industry Association ("SIA"), maintained, without citing a specific basis, that the case law "rests on questionable legal ground." Several commentators noted that to date predispute arbitration clauses have been held unenforceable only with respect to causes of action arising under the Securities Act of 1933 and the Securities Exchange Act of 1934. American Bar Association ("ABA"); Shearson/American Express, Inc. ("Shearson"); Goldman Sachs & Co. ("Goldman"); American Stock Exchange, Inc. ("ASE"). These commentators have cited no basis upon which the Commission can determine that the Wilko analysis does not hold equally true for other federal securities acts, which contain substantially identical anti-waiver provisions.

are not misled by predispute arbitration clauses.

Proposed paragraph (b) has been deleted from the rule. Beginning January 1, 1985, it will no longer be sufficient for arbitration clauses, such as the one described above, to be supplemented with disclosure language. All new customer agreement forms must reflect as of that date the prohibition expressed by the rule and this release. The use of alternate disclosure language prescribed in new paragraph (b), however, is permitted in order to amend the agreements of existing customers and to allow broker-dealers to use existing supplies of preprinted forms that otherwise violate paragraph (a). In those instances the rule requires the following disclosure:

> Although you have signed a customer agreement form with FIRM NAME that states that you are required to arbitrate any future dispute or controversy that may arise between us, you are not required to arbitrate any dispute or controversy that arises under the federal securities laws but instead can resolve any such dispute or controversy through litigation in the courts.

With respect to the disclosure language contained in proposed paragraph (b), various commentators have pointed out that for certain unrelated situations, the disclosure was too broad. A discussion of those comments will be helpful in understanding the amended rule. For example, although the proposing release noted that the rule is not intended to affect existing law with respect to contractual agreements for the resolution by arbitration of international commercial disputes, the proposed disclosure in paragraph (b) did not specifically make that distinction.[7] Also, commentators noted that certain other agreements to arbitrate federal securities laws claims have in some instances been enforced by the courts. The validity of any such agreements, between members of the securities industry's SROs or between a broker-dealer and its public customers, agreed to *after* a dispute has arisen,[8] is outside the scope of rule 15c2-2. The arbitration agreements that are the subject of this rule are those entered into by a public customer with his broker-dealer prior to the existence of any dispute and before an investor normally would be concerned with the matter of choosing a forum for dispute resolution. Since the rule applies only to those standard agreements between broker-dealers and their public customers that purport to govern the parties' alternatives in future disputes under the federal securities laws, these other categories of disputes are unaffected by the rule.

Several commentators expressed the view that the Commission should not require specific disclosure language for the arbitration clauses in customer agreements.[9] On a related point, another commentator, Wall Street Clearing Co., while "agree[ing] completely with this concept [of disclosure] and find[ing] it a proper position for the Commission to take in furthering the protection of customers," commented that it believes the Commission has "sufficient authority to ensure compliance with the principles of Release No. 15984 without recourse to formal rulemaking."[10]

The Commission is sensitive to each of these concerns. In adopting the rule the Commission has determined that prescribing specific language for the disclosure to existing public customers would simplify broker-dealer compliance in this area. The language is intended to remove any remaining uncertainty by broker-dealers as to what language is adequate to counter language currently employed in certain of their agreements.

The use of the prescribed disclosure, however, is available only for the notification of existing public customers and the amendment of existing supplies of customer agreements. Subsequent to the transition period provided for in the rule, broker-dealers' customer agreements may not contain the representation that all future disputes between a broker-dealer and its public customers are required to be settled by arbitration.

The Commission agrees with those commentators that stated that it should not prescribe specific language for such agreements and that the broker-dealer community and the SROs are capable of drafting agreements that will be in compliance with this rule. However, as stated in the proposing release, the Commission believes that language currently appearing in some broker-dealers' customer agreement forms, such as "unless unenforceable due to state or federal law," or "to the extent consistent with state or federal law" or which is otherwise ambiguous concerning the investors' rights is inadequate with respect to the concerns addressed by the Commission in this rule.

Although the Commission agrees with the comment that it has authority under the general anti-fraud provisions to enforce compliance by broker-dealers with the principles in the 1979 release without recourse to rulemaking, we have determined to adopt this rule in order to provide guidance to the industry and promote compliance with the federal securities laws.

One commentator offered its support for an alternative "proposal which codified [attempts to compel arbitration of federal securities law disputes] as a violation of the Act, with appropriate sanctions."[11] Although such an approach might address "the aggressive conduct of certain broker-dealers",[12] it would miss certain of the intended beneficiaries of this rule. For example, some public customers may decide not to pursue their claims in any forum rather than submit a claim to an industry-administered arbitration forum as dictated in their customer agreement. Whether a given public customer's reservations or suspicion of arbitration have merit, the fact remains that the federal securities laws provide him with the right to seek the resolution of his disputes under those laws in forums other than arbitration. Therefore, those cases where public customers abandon a federal securities law claim based upon the dictates of an arbitration clause would most likely not be flagged for enforcement action.[13]

Another commentator expressed the view that no cause of action exists under the federal securities laws unless properly pleaded under the federal rules of civil procedures and that, consequently, it is appropriate for it to pursue arbitration pursuant to predispute arbitration clauses, subject to challenge by customers.[14] The comment, however, does not focus on the narrow issue addressed by the rule. The determination of claims "under the federal securities laws" is a separate question.

Other commentators stated that the approach of employing predispute arbitration clauses as a basis for submitting all claims to arbitration has resulted in wasteful and costly litigation.

[7] *See* comments of Thurston R. Moore, Esq.; ABA; American Arbitration Association ("AAA"); Shearson; Smith Barney, Harris Upham & Co. ("Smith Barney").

[8] *See* comments of Thurston R. Moore, Esq.; Professor Egon Guttman; SIA; Smith Barney.

[9] Wall Street Clearing Co., Seligman Securities Inc.; SIA; ASE.

[10] Hanifen, Imhoff Inc. commented that use of arbitration clauses that "state the customer has no other remedy for violations of the federal securities laws" is deceptive, but believed that such "deceptive practices . . . can be dealt with on a case-by-case basis."

[11] Tucker, Anthony & R.L. Day, Inc.

[12] *Id.*

[13] The same commentator also suggested the Commission might "require any firm which proposes arbitration to a customer as a forum for resolving a dispute be required to make the disclosure." The Commission believes that compliance with any such rule would be very difficult to monitor and thus less effective than this rule.

[14] Shearson.

Egon Guttman, Professor of Law at the American University commented that:

> This * * * has led to the numerous cases following *Wilko v. Swan* in which the broker-dealers have attempted to enforce arbitration clauses in customer contracts even though the attorneys representing the broker-dealers must have been aware that securities laws violations were in issue [citations omitted].[15] The effect of such attitude is to violate the primary duty of a broker-dealer as a fiduciary to his customer as was stated by Mr. Chief Justice Cardozo in *Meinhard v. Salmon*, 249 N.Y. 458, 164 N.E. 545 (1928).
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> * * * * *
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> Insistence on arbitration would thus be a clear overreaching and * * * a misrepresentation of legal rights of the customer. To deliberately obfuscate the existence of a right which has been repeatedly recognized by the courts and which would be material in determining the overall decision whether to deal through a particular broker [citations omitted] in connection with the purchase and sale of securities would lead to the conclusion that such obfuscation could amount to a violation of Securities Exchange Act 10(b) and Commission Rule 10b–5 promulgated thereunder. [citations omitted]

One commentator[16] suggested that the proposal be adopted as a rule of the National Association of Securities Dealers, Inc. ("NASD"), presumably to promote just and equitable principles of trade, rather than as a Commission rule under the anti-fraud provisions.[17] Inasmuch as the Commission has determined that the clauses discussed in this release are misleading statements when employed in connection with the purchase or sale of securities,[18] adoption of this rule under the deceptive practice prohibitions of sections 10(b) and 15(c) of the Act is appropriate in the public interest.

The commentator also suggested that the rule apply prospectively and not require notification of existing clients. The Commission believes, however, that it is important for existing customers to be made aware that they are not required by agreements they have signed in order to open an account with a broker-dealer to resolve federal securities law disputes by arbitration. The notification of existing customers anticipated by paragraph (c) of the rule is designed to correspond as closely as possible to the periodic mailings of broker-dealers and consequently should entail only minimal expense. Paragraph (c) provides that broker-dealers may amend outstanding customer agreements which do not comply with paragraph (a). Not all outstanding agreements must be amended. Those customers for whom a broker-dealer, after July 1, 1983, has carried a free credit balance, or held securities in safekeeping or as collateral, or has effected a securities transaction must be sent the required disclosure prior to January 1, 1985. These persons have had sufficiently recent dealings with their broker-dealers for it to be appropriate to ensure that they are supplied with the required disclosure. Furthermore, these persons should be readily identifiable by broker-dealers for inclusion into the mailing list for their next regularly scheduled mailing.

Any other customer agreements would have to be amended only upon the completion of the next transaction pursuant to that agreement. Thus, a customer who has not had any activity in his account since July 1, 1983 would not have to be sent the disclosure unless and until he again does business with the firm under the agreement.

Paragraph (b) permits broker-dealers to enter into new agreements with customers using existing supplies of preprinted forms that otherwise would violate paragraph (a) of the rule, until December 31, 1984, provided that adequate written disclosure accompany such agreements.[19]

Another point mentioned by a number of the commentators concerns disclosure of the *Wilko* doctrine contained in the arbitration pamphlets of the SROs that administer arbitrations under the Code.[20] These commentators believed that since all investors who are likely to submit a claim to arbitration receive the pamphlet, there is no need for additional disclosure or other changes to current customer agreement forms. The Commission does not agree with this view. First, as noted above, some investors may never receive the pamphlet because of their reluctance to submit a dispute to arbitration. Second, the disclosure in that pamphlet does not appear to have discouraged a number of broker-dealers from attempting to compel the arbitration of federal securities law claims.[21]

Two of the commentators suggested that legislation be recommended that would permit the use of binding predispute arbitration clauses for future federal securities law disputes.[22] Such a change in the law would require additional study and is beyond the scope of this rulemaking proceeding.[23] Today's action should not be interpreted as inconsistent with the Commission's traditional strong support for the use of arbitration for the resolution of disputes that may arise between broker-dealers and their customers.

Regulatory Flexibility Act Certification

Pursuant to 5 U.S.C. 605(b), the Chairman certified at the time this rule was proposed that it would not, if promulgated, have a significant economic impact on a substantial number of small entities. The Commission has received one comment on the certification.[24]

List of Subjects in 17 CFR Part 240

Reporting and recordkeeping requirements, Securities.

Text of Rule

In accordance with the foregoing, Chapter II of Title 17 of the Code of Federal Regulations is amended by adding § 240.15c2–2 to read as follows:

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

§ 240.15c2–2 Disclosure regarding recourse to the courts notwithstanding arbitration clauses in broker-dealer customer agreements.

(a) It shall be a fraudulent, manipulative or deceptive act or practice for a broker or dealer to enter into an agreement with any public customer which purports to bind the

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[15] Similarly, Richard F. Hill, Esq. commented that "[i]n each case [in which he has represented public customers in disputes with broker-dealers], counsel to the broker-dealer has demanded that the entire action, including the securities claims, be submitted to arbitration [based upon arbitration clauses described by this release]. Consequently, [his] clients have had to incur legal fees to oppose Motions to Compel Arbitration."

[16] Bear, Stearns & Co.

[17] The NASD has not indicated an intention to propose such a rule during discussions on this subject over the past several years.

[18] Several other commentators also questioned the connection between an agreement for the purchase or sale of securities and a purchase or sale of securities. ABA; SIA; Smith Barney; Shearson.

[19] Thurston R. Moore, Esq. suggested that an interlineation on existing supplies of customer agreements would be as effective as a separate paper containing the written disclosure. Such a practice would be consistent with paragraph (b).

[20] Bear Stearns, ASE; SIA, Smith Barney; ABA.

[21] *See* comment letter of Professor Guttman for a partial list of cases litigated on this question.

[22] Goldman; SIA.

[23] For a concise statement of views in this regard *see* Puser, Norman "Litigate? or Arbitrate? A proposed SEC rule ensuring investors know they can sue in disputes with brokers raises a minor storm of protest" Investment Dealers Digest (September 13, 1983).

[24] Smith Barney commented that compliance with the rule would be "an unreasonable financial burden in light of the proposed rule's questionable benefit." The comment does not offer support that there would be any significant impact on a substantial number of small entities, the inquiry anticipated by the Regulatory Flexibility Act. The Commission finds that there would be no such impact.

customer to the arbitration of future disputes between them arising under the federal securities laws, or to have in effect such an agreement, pursuant to which it effects transactions with or for a customer.

(b) Notwithstanding paragraph (a) of this section, until December 31, 1984 a broker or dealer may use existing supplies of customer agreement forms if all such agreements entered into with public customers after December 28, 1983 are accompanied by the separate written disclosure:

Although you have signed a customer agreement form with FIRM NAME that states that you are required to arbitrate any future dispute or controversy that may arise between us, you are not required to arbitrate any dispute or controversy that arises under the federal securities laws but instead can resolve any such dispute or controversy through litigation in the courts.

(c) A broker or dealer shall not be in violation of paragraph (a) of this section with respect to any agreement entered into with a public customer prior to December 28, 1983 if:

(1) Any such public customer for whom the broker or dealer has after July 1, 1983 (i) carried a free credit balance, or (ii) held securities for safekeeping or as collateral, or (iii) effected a securities transaction is sent, no later than December 31, 1984, the disclosure prescribed in paragraph (b) of this section; or

(2) Any other public customer is sent upon the completion of his next transaction pursuant to such agreement, the disclosure prescribed in paragraph (b) of this section.

Statutory Authority and Competitive Considerations

The Securities and Exchange Commission, acting pursuant to the Act, and particularly sections 2, 10, 15, 23 and 29 thereof (15 U.S.C. 78b, 78j, 78o, 78w and 78cc), hereby adopts the amendment to § 240.15c2-2. The Commission finds that there will be no burden upon competition imposed by the amendments. This action becomes effective thirty days after publication in the **Federal Register.**

By the Commission.

Dated: November 18, 1983.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 83-31695 Filed 11-25-83; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 650

Bridges, Structures, and Hydraulics; Discretionary Bridge Criteria

Correction

In FR Doc. 83-30988 beginning on page 52292 in the issue of Thursday, November 17, 1983, make the following corrections:

1. On page 52295, in both of the formulas, brackets should have enclosed the expression:

$$1+\frac{\text{Unobligated HBRRP Balance}}{\text{Total HBRRP Funds Received}}$$

2. Also on page 52295, in the middle column, in the fourteenth line from the bottom of the page, "ADT [1]" should have read "ADT'".

3. On page 52296, in the middle column, § 650.707(a), in the formula, "ADT" should have read "ADT'".

BILLING CODE 1505-01-M

DEPARTMENT OF JUSTICE

Parole Commission

28 CFR Part 2

Paroling, Recommitting, and Supervising Federal Prisoners

AGENCY: Parole Commission, Justice.

ACTION: Final rule.

SUMMARY: The Commission is putting into effect a statement of its policy with respect to rewarding assistance given by prisoners in aid of law enforcement efforts, including the prosecution of other criminals. The rule provides explicit criteria for an independent determination by the Commission of the appropriateness of rewarding such assistance. It also sets a guideline permitting up to a one year advancement of the prisoner's parole date in reward for meritorious assistance with the possibility of a greater reward in exceptional cases. However, no prisoner will be considered for a reward (regardless of assistance given) if early release would jeopardize the public safety. This rule attempts to achieve a satisfactory balance between the need for a meaningful system of rewards and the need for just punishment of the cooperating prisoner's own crime.

EFFECTIVE DATE: January 1, 1984.

FOR FURTHER INFORMATION CONTACT: Michael Stover, Office of General Counsel, U.S. Parole Commission, 5550 Friendship Blvd., Chevy Chase, Maryland 20815, Telephone (301) 492-5959.

SUPPLEMENTARY INFORMATION: On May 23, 1983, at 48 FR 22949, the U.S. Parole Commission published an invitation for public comment on this subject which was favorably received by Federal prosecutors, defense attorneys, and U.S. Probation Officers. It was apparent from the comment, however, that the Commission would be required to strike a balance between, on the one hand, the concern for a powerful prosecutorial bargaining tool (the possibility of early release from imprisonment) and, on the other hand, the statutory requirements that parole release not "depreciate the seriousness of the offense" (i.e., the cooperating prisoner's own crime) and that release not "jeopardize the public welfare." 18 U.S.C. 4206(a) (1) and (2) (1976).

These threshold requirements cannot be waived, regardless of the potential value of the prisoner's testimony. Moreover, a prisoner's cooperation in other prosecutions does not diminish the seriousness of the crime he himself committed, and it is not necessarily proof of the prisoner's reform. Nonetheless, on the theory that there is built into every parole determination a certain measure of condemnation of the prisoner as an anti-social individual, in addition to a measure of the seriousness of the crime itself, some justification can be found for a moderate reduction of punishment if the criminal attempts to reduce the extent to which he deserves such condemnation by giving assistance to law enforcement efforts when he is in a position to do so (even if pure self-interest is the motive in almost all cases).

Accordingly, the final rule adopted herein permits a limited reduction of up to one year (save for exceptional circumstances) from the actual time in prison which the Commission would have ordered absent such cooperation. This guideline may have the effect of holding out a greater incentive for cooperation to prisoners with sentences of short to moderate length than to those with long prison terms. However, holding an offender to his just punishment should presumptively be a matter of principle when an extremely serious crime or recidivistic offender is at issue.

"Exceptional circumstances" for a departure from this guideline cannot at this time be defined. Prosecutors may, in individual cases, suggest factors for the Commission's consideration, which could include, for example, actual retaliation against the prisoner or the extraordinary seriousness of the criminal activity targeted by the law enforcement effort. However, prosecutors may not promise particular actions by the Commission, and should not expect the Commission to consider any advancement of the parole date until the expected assistance is fully completed.

The rule will be applied whether the cooperation was given before or after the individual went to prison. In the case of cooperation given prior to imprisonment, an important concern from the Commission's point of view, will be the determination of whether or not assistance has been "adequately rewarded." In some cases, an intended reward may confer no actual benefit. For example, the elimination of a minimum term of parole ineligibility on a Rule 35 sentence reduction motion will not necessarily result in a change in the release date set by the Commission. (The Commission may have set the release date to require more than the minimum service.) In other cases, a charge may have been dismissed as an incentive to cooperation, but the underlying criminal behavior may have been fully accounted for in setting the release date. (See 18 U.S.C. 4206(a) which requires the Commission to consider the "nature and circumstances" of the offense.) In such cases, the only action which would constitute a reward in terms of the Commission's standards (which it imposes through its guidelines at 28 CFR 2.20) would be an appropriate reduction from the presumptive parole date established by the Commission. At initial hearings (when a presumptive date would not yet have been established) the Commission will first consider what parole release date it would have deemed warranted in the absence of any cooperation; the Commission would then measure an appropriate reduction from that hypothetical date to establish the actual release date.

On the other hand, the Commission may refuse to grant any advancement if the prisoner has received a sentence already requiring release at or below the date which the Commission would deem warranted after consideration of such cooperation. For example, if the Commission would have deemed warranted a hypothetical release date at 40 months on a guideline range of 40 to 52 months, that date could be reduced by up to one year. If a full twelve month reduction were granted, the release date would be reduced to 28 months. But if a three year sentence had been imposed (requiring release with good time credits at 28 months), the actual release date would coincide with the maximum reward the Commission would be prepared to give under its own standards. Thus, a further reduction would be considered only in exceptional circumstances.

It is to be stressed that the Commission will not consider any reward at all if the result would be early release for a serious offender who constitutes a substantial threat to the public safety. Cooperation in such cases should be rewarded by the other appropriate means (prison transfers or privileges, etc.) within the discretion of the Director of the U.S. Bureau of Prisons.

Finally, the Commission has postponed consideration of the question of grants of immunity raised in the invitation of public comment. Further comment on any feature of the rule which is printed below will be welcomed.

List of Subjects in 28 CFR Part 2

Administrative practice and procedures, Prisons, Probation and Parole.

PART 2—[AMENDED]

Accordingly, pursuant to the provisions of 18 U.S.C. 4203(a)(1) and 4204(a)(6), 28 CFR Part 2 is amended by adding a new § 2.63 as follows:

§ 2.63 Rewarding assistance in the prosecution of other offenders; criteria and guidelines.

(a) Under the limited circumstances described below, the Commission may consider as a factor in parole release decisionmaking a prisoner's assistance to law enforcement authorities in the prosecution of other offenders. The following criteria must be met:

(1) The assistance must have been an important factor in the investigation and/or prosecution of an offender other than the prisoner. Other significant law enforcement assistance (e.g., providing information critical to prison security) may also be considered.

(2) The assistance must be reported to the Commission in sufficient detail to permit a full evaluation to be made, and must be supported by the personal endorsement of the responsible United States Attorney or an official of equivalent rank. However, no promises, express or implied, as to a Parole Commission reward shall be given any weight in evaluating a prosecutorial recommendation for leniency.

(3) The release of the prisoner must not threaten the public safety.

(4) The assistance must not have been adequately rewarded by other official action.

(b) If the assistance meets the above criteria, the Commission may consider providing a reduction of up to one year from the presumptive parole date that the Commission would have deemed warranted had such assistance not occurred. If the prisoner would have been continued to the expiration of sentence, any reduction will be taken from the presumptive parole date that would have been deemed warranted if the maximum sentence had been long enough to permit the Commission to exercise full discretion. Reductions exceeding the one year limit specified above may be considered only in exceptional circumstances.

I certify that this rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

Dated: November 14, 1983.

Benjamin F. Baer,

Chairman, Parole Commission.

[FR Doc. 83-31688 Filed 11-25-83; 8:45 am]

BILLING CODE 4410-01-M

28 CFR Part 2

Paroling, Recommitting and Supervising Federal Prisoners

AGENCY: Parole Commission, Justice.

ACTION: Final rule.

SUMMARY: The Parole Commission is amending its voting procedures for original jurisdiction cases, 28 CFR 2.17 and 2.27, to expand consideration of these important cases. To provide broader consideration of these important and difficult cases without unduly increasing workload, the Commission is amending the voting procedures in its rules by increasing the voting quorums required for decisions.

EFFECTIVE DATE: January 1, 1984.

FOR FURTHER INFORMATION CONTACT: Toby D. Slawsky, Office of General Counsel, U.S. Parole Commission, 5550 Friendship Blvd., Chevy Chase, Maryland 20815, Telephone (301) 492-5959.

SUPPLEMENTARY INFORMATION: Those cases designated for the Commission's original jurisdiction consideration are the most serious and complex cases the

Commission decides. To provide broader consideration of these important and difficult cases without unduly increasing workload, the Commission is amending the voting procedures in its rules at 28 CFR 2.17, Original Jurisdiction Cases and § 2.27, Appeals of Original Jurisdiction Cases by increasing the voting quorums required for decisions. These amendments provide that 1) in the initial consideration of a case designated for original jurisdiction review, a decision be based upon the concurrence of four votes, rather than the present requirement of three votes; and 2) in the consideration of an appeal of a case designated for original jurisdiction review, a decision be based upon a quorum of six Commissioners rather than the present quorum of five Commissioners.

List of Subjects in 28 CFR Part 2

Administrative practice and procedures, Prisoners, Probation and parole.

PART 2—[AMENDED]

Accordingly, pursuant to 18 U.S.C. 4203(a)(1) and 4204(a)(6), 28 CFR Part 2 is amended by revising § 2.17(a) and § 2.27(a) as follows:

§ 2.17 Original jurisdiction cases.

(a) Following any hearing conducted pursuant to these rules, a Regional Commissioner may designate certain cases for decision by a quorum of Commissioners as described below, as original jurisdiction cases. In such instances, he shall forward the case with his vote, and any additional comments he may deem germane, to the National Commissioners for decision. Decisions shall be based upon the concurrence of four votes, with the appropriate Regional Commissioner and each National Commissioner having one vote. Additional votes, if required, shall be cast by the other Regional Commissioners on a rotating basis as established by the Chairman of the Commission.

* * * * *

§ 2.27 Appeal of original jurisdiction cases.

(a) Cases decided under the procedure specified in § 2.17 may be appealed within thirty days of the date of the decision on a form provided for this purpose. Appeals will be reviewed at the next regularly scheduled meeting of the Commission provided they are received thirty days in advance of such meeting. Appeals received in the office of the Commission's National Appeals Board in Washington, D.C., less than thirty days in advance of a regularly scheduled meeting will be reviewed at the next regularly scheduled meeting thereafter. A quorum of six Commissioners shall be required and decisions shall be by majority vote. In case of a tie vote, the previous decision shall stand. This appellate decision shall be final.

* * * * *

I certify that this rule will not have a significant economic impact upon a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

Dated: November 14, 1983.

Benjamin F. Baer,

Chairman, Parole Commission.

[FR Doc. 83-31687 Filed 11-25-83; 8:45 am]

BILLING CODE 4410-01-M

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28 CFR Part 2

Paroling, Recommitting, and Supervising Federal Prisoners

AGENCY: United States Parole Commission, Justice.

ACTION: Final rule.

SUMMARY: On May 23, 1983 the U.S. Parole Commission published an interim rule with request for comment in the **Federal Register** (48 FR 22918) amending 28 CFR to remove an inconsistency from its sanctions for escape. The Commission is now making this a final rule.

Previously, 28 CFR 2.36 provided a range of 3–6 months for escape without force from a non-secure facility if the prisoner was absent less than 7 days, and 6–12 months if the prisoner was absent 7 days or more. This provision seemed to suggest that the sanction for escape may be determined by how swiftly the escapee was apprehended rather than by any efforts on the part of the escapee to surrender. To remove this ambiguity the phrase "absent less than 7 days" is changed to read "voluntary return in 6 days or less". Additionally, the guideline range for escape from a non-secure facility and voluntary return in six days or less is amended from 3–6 months to less than or equal to 6 months.

EFFECTIVE DATE: January 1, 1984.

FOR FURTHER INFORMATION CONTACT: Toby D. Slawsky, Office of General Counsel, U.S. Parole Commission, 5550 Friendship Blvd., Chevy Chase, Maryland 20815, Telephone (301) 492–5959.

SUPPLEMENTARY INFORMATION: The only public comment received on this rule was from the Washington Legal Foundation which supported amendment of the rule insofar as it removed an ambiguity. However, they opposed the removal of the three month minimum sanction for escape from a non-secure facility because, in their view, it allows for an "unwarranted amount of descretion and serves only to depreciate the wrongfulness of the escape." The Commission believes that a three month minimum for a walk away from a non-secure facility with a voluntary return before seven days appears excessive and that the sanction for such escape should be more flexible making it consistent with the sanction for absconding from supervision.

List of Subjects in 28 CFR Part 2

Administrative practice and procedure, Prisons, Probation and parole.

Accordingly, purusuant to the provisions of 18 U.S.C. 4203(a)(1) and 4204(a)(6), 28 CFR 2.36(a)(2)(i) published as an interim rule with request for comment at 48 FR 22918 on May 23, 1983 is made a final rule.

I certify that this rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

Dated: November 14, 1983.

Benjamin F. Baer,

Chairman, U.S. Parole Commission.

[FR Doc. 83-31688 Filed 11-25-83; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Parts 1–39

[DAC 76–46]

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 76–46. Some of the changes include: DoD Replenishment Parts Breakout Program; preference for U.S. flag air carriers; Defense Contract Simplification Program; cost accounting standards; four-step source selection procedures; short form research contract; affirmative action for disabled veterans and veterans of the Vietnam Era; relocation costs; procurement management reporting system; and editorial corrections. Also included in this document are the following items issued for information and guidance: (1)

Information with respect to an OMB rule which establishes applicability of the Paperwork Reduction Act to collection of information associated with Federal acquisition; (2) special notice regarding logistic support and privileges for DoD contractor personnel and family members; and (3) a price list for jewel bearings manufactured by the William Langer Jewel Bearing Plant, effective May 31, 1983.

EFFECTIVE DATE: Upon receipt, in accordance with DAR 1–106.2(d).

FOR FURTHER INFORMATION CONTACT: J. Brannan, Director, Defense Acquisition Regulatory Council, OUSDRE(AM)(DARS), OUSDRE(M&RS), Room 3D 139, Pentagon, Washington, D.C. 20301, Telephone (202)697–7266.

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 (CFR). The July 1, 1983 revision of the CFR is the most recent edition of that title. It reflects amendments to the 1976 edition of the DAR made by Defense Acquisition Circulars 76–1 through 76–44.

The Department of Defense announced the promulgation of the 1979 CFR edition in the **Federal Register** of December 31, 1979 (44 FR 77158), and also announced at that time that subsequent amendments to the DAR would be published in the **Federal Register.**

Defense Acquisition Circular 76–46

This document contains amendments to the Defense Acquisition Regulation in the form of replacement pages which were included in DAC 76–46, issued August 24, 1983. The following is a summary of the amendments:

DAR Supplement No. 6, DoD Replenishment Parts Breakout Program, dated June 1, 1983, has been published. DAR 1–313 and 1–326.1 are revised to reflect reference to supplement No. 6. A new paragraph 1–201.42 is added to provide the definition for replenishment part.

Preference for United States Flag Air Carriers. DAR 1–336 and 7–104.95 are revised to implement a Comptroller General's memorandum entitled "Guidelines for Implementation of the Fly America Act."

Defense Contract Simplification Program. As a preliminary result of the Department of Defense Contract Simplification Program, three changes are included in this document: (1) Additional latitude in the use of master solicitations (2–201(c)); (2) authority to use letter RFPs and RFQs (3–501(b)); and (3) authority to unilaterally modify purchase orders prior to commencement of performance (3–608.4(b)).

Cost Accounting Standards. Section III, Part 12 and the clause at DAR 7–104.83(b) on the administration of cost accounting standards and the submission of cost impact proposals have been revised to aid the contracting officer in obtaining sufficient information in a timely manner to resolve cost accounting related issues. One change will authorize the contracting officer to withhold up to 10% of each subsequent payment made after a contractor fails to submit a cost impact proposal, and another change will require the contractor to display shifts in costs among contract types and agencies or departments in a more organized manner when submitting a cost impact proposal.

Four-Step Source Selection Procedures. DAR 4–107 is revised to make the Four-Step procedures discretionary, as opposed to mandating their use on certain large research and development procurements.

Short Form Research Contract. As a result of a two-year test of a Short Form Research Contract (SFRC) for awards to educational institutions and nonprofit organizations whose primary purpose is the conduct of scientific research, when the basis of award is an unsolicited proposal, it has been determined to incorporate in the DAR the SFRC format, procedures, and contract provisions (Section IV, Part 10 and Section VII, Part 22).

Affirmative Action for Disabled Veterans and Veterans of the Vietnam Era. Paragraph (d) of DAR 7–103.27 is deleted to remove the requirement for filing quarterly hiring reports with local offices of state employment services. This deletion reflects suspension of the requirement by the Department of Labor.

Relocation Costs. DAR 15–107, 15–205.25, and 15–205.46 are revised to clarify that costs associated with both individual and mass moves are subject to the limitations and exclusions of 15–205.25

Procurement Management Reporting System (DD Forms 350 and 1057). Effective with Fiscal Year 1984 reporting, Section XXI, Parts 1 and 2 have been revised extensively in conjunction with the DD Forms 350 and 1057. The revisions reflect the maximum use of standard data elements, improved data element and data item nomenclature, the elimination of unnecessary data elements, and improved conformance with the Federal reporting system.

Editorial Corrections. The clause in DAR 7–104.33 is revised to change the reference to paragraph (a) of the "Inspection" clause. DAR 22–103 is revised to raise the dollar figure from $500 to $1,000.

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. 533 (a) and (d). The amendments became effective on receipt in accordance with DAR 1–106.2(d).

How to Use Replacement Pages

Reproduced at the end of this document are replacement pages from DAC 76–46. The number at the top of each page (for example, 1:20) 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.

List of Subjects in 32 CFR Parts 1–39

Government procurement.

Adoption of Amendments

Therefore, the Defense Acquisition Regulation contained in the July 1, 1983 edition of 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	
1-201.42 (added)	1:20.
1-313(a)	1:31.
1-326.1(b)	1:60.
1-336.1(a)	1:75.
1-336.2(a)-(c)	1:76.
1-336.2(d)-(h) (added)	1:76, 1:76-A.
1-336.3	1:76-A, 1:76-B.
1-1003.1(c)	1:168.
2-201(c)	2:17-A.
3-501(b)	3:58.
3-608.4(b)	3:95 through 3:97.
3-1201	3:178.
3-1202	3:178.
3-1203(a)	3:178, 3:179.
3-1203(c)	3:179.
3-1203(d)-(g)	3:179, 3:180.
3-1204.1(a)	3:181.
3-1204.1(b)	3:182.
3-1204.2(a)	3:182.
3-1204.2(b)	3:182.
3-1205(d)	3:183.
3-1206(a)	3:184.
3-1206(c)	3:184.
3-1207(a)-(c)	3:184, 3:185.
3-1208(c)	3:186.
3-1210 (reserved) (deleted)	3:186.
3-1211	3:187.
3-1212(d)	3:187.

DAR paragraph	Replacement pages
3-1212(f)	3:188.
3-1212(h)	3:188.
3-1213(c)-(e) (added)	3:189.
3-1213(f)	3:189-A.
3-1214(b)-(d) (added)	3:189-A, 3:189-B.
3-1214(e)	3:189-B.
4-107.1(c)	4:8.
4-107.2	4:8-A.
4-107.3	4:8-A.
4-107.4 (4-107.4 deleted; 4-107.5 changed to 4-107.4).	4:8-A through 4:8-C, 4:9.
Section IV, Part 10 (added)	4:49.
4-1000 (added)	4:49.
4-1001(a)-(c) (added)	4:49.
4-1002(a) and (b) (added)	4:49.
4-1003(a)-(f) (added)	4:49, 4:49-A.
4-1004(a)-(h) (added)	4:49-B.
4-1005(a)-(d) (added)	4:49-B, 4:49-C.
4-1006 (added)	4:49-C.
4-1007 (added)	4:49-C.
4-1008 (added)	4:49-C.
DD Form 2222 (added)	4:49-E through 4:49-K.
Volume II	
7-103.27	7:26 through 7:28.
7-104.33	7:76-A.
7-104.83(a)	7:126 through 7:126-B.
7-104.83(b)	7:126-C, 7:128-D, 7:128-E.
7-104.95	7:139.
7-203.27	7:192.
7-2003.67	7:522 through 7:524, 7:524-A.
7-2200 (added)	7:538-A.
7-2001(a) and (b) (added)	7:538-A.
7-2202 (added)	7:538-A.
7-2202.1 (added)	7:538-A.
7-2202.2 (added)	7:538-A.
7-2202.3 (added)	7:538-A.
7-2203 (added)	7:538-A.
7-2203.1 (added)	7:538-A.
7-2203.2 (added)	7:538-A.
7-2203.3 (added)	7:538-B.
7-2203.4 (added)	7:538-B.
7-2203.5 (added)	7:538-C.
7-2203.6 (added)	7:538-C.
7-2203.7 (added)	7:538-C through 7:538-E.
7-2203.8 (added)	7:538-E, 7:538-F.
7-2203.9 (added)	7:538-F.
7-2203.10 (added)	7:538-F.
7-2203.11 (added)	7:538-F, 7:538-G.
7-2203.12 (added)	7:538-G.
7-2203.13 through 7-2203.29 (added).	7:538-G.
7-2203.30 through 7-2203.51 (added).	7:538-H.
7-2203.52 through 7-2203.56 (added).	7:538-I.
7-2204 (added)	7:538-I.
7-2204.1 and 7-2204.2 (added)	7:538-I.
7-2204.3 and 7-2204.4 (added)	7:538-J.
7-2204.5 (added)	7:538-J, 7:538-K.
7-2204.6 (added)	7:538-K.
7-2204.7 (added)	7:538-K, 7:538-L, 7:538-M.
7-2204.8 (added)	7:538-M.
7-2204.9 through 7-2204.11 (added)	7:538-N.
7-2204.12 (added)	7:538-N, 7:538-O.
7-2204.13 through 7-2204.36 (added).	7:538-O.
7-2204.37 through 7-2204.55 (added).	7:538-P.
7-2204.56 through 7-2204.62 (added).	7:538-Q.
15-107(g)	15:5.
15-205.23	15:29.
15-205.24	15:29.
15-205.25	15:29.
15-205.25 (a) through (d)	15:29-A to 15:30.
15-205.26(e) (added)	15:30.
15-205.45	15:47-A.
15-205.46(a)-(d)	17:47-A.
15-205.46(e) (deleted)	17:47-A.
15-205.46 (f) and (g) relettered (e) and (f).	15:47-A.
Volume III	
21-000	21:1.
21-001(a)-(c)	21:1.
21-100	21:1.
21-101	21:1.
21-102(a)-(d)	21:2, 21:3.
21-103(a)-(e)	21:3, 21:4.
21-104	21:4.
21-104.1(a)-(c)	21:4, 21:5.
21-104.2 (a) and (b)	21:5.
21-104.3	21:5.
21-104.4	21:5.
21-105	21:5.
21-105.1 (a) and (b)	21:5.
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contract are assigned either by this Regulation or by individual assignment to a contract administration office.

1-201.27 *Transfer of a Contract* means that process whereby all future responsibility for a contract held by an individual or office is transferred, in writing by proper authority, to another office to take action necessary to carry out the responsibility transferred.

1-201.28 *Local Purchase* means the authorized purchase of materials, supplies and services by an installation for its own use or the use of an installation or activity logistically supported by it. Local purchase is not limited to the immediate geographical area in which the purchasing installation is located.

1-201.29 *Automatic Data Processing Equipment (ADPE)* means:

(i) Digital and Analog Computer components and systems, irrespective of type of use, size, capacity or price;

(ii) all peripheral, auxiliary, and accessorial equipment used in support of Digital and/or Analog Computers, either cable connected, or "self standing" and whether selected or acquired with the computers or separately;

(iii) Punched Card Machines (PCM) and systems used in conjunction with or independently of Digital or Analog Computers; and

(iv) Digital and Analog Terminal and Conversion equipment that is acquired solely or primarily for use with a system which employs a Computer or Punched Card Machines.

1-201.30 *Paying Office* means the office which makes payments under the contract.

1-201.31 *Supporting Contract Administration* means the performance by another contract administration office of specific contract administration functions as required by the office to which the contract has been assigned for administration.

1-201.32 *Standard Dating Technique*. When it is necessary to insert the date on any contractual document or required report, it shall be written using seven characters in the following order: year (two digits), month (three letters), and day (two digits). For example, July 6, 1968, would be entered on contractual documents and required reports as "68 JUL 06."

1-201.33 *Exhibit* means a document attached to a procurement instrument, referenced by its capital letter identifier in a line or subline item in the procurement instrument Schedule, which establishes deliverable requirements in the attached document as an alternative to establishing an extensive list of line or subline items in the procurement instrument Schedule; see 20-305.

1-201.34 *Classified Contract* is any contract that requires or will require access to classified information by the contractor or his employees in the performance of the contract. A contract may be a classified contract even though the contract document is not classified.

1-201.35 *Data* means recorded information, regardless of form or characteristic.

1-201.36 *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.

1-201.37 *Reserved.*

1-201.38 *Computer Program* means a series of instructions or statements in 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.

1-201.39 *Automatic Data Processing System (ADPS)* means an interacting assembly of procedures, processes, methods, personnel, communications, and automatic data processing equipment to perform a series of data processing operations—a combination of automatic data processing resources and automatic data systems.

1-201.40 *Offer* means *bid* where the procurement is advertised, and *proposal* where the procurement is negotiated.

1-201.41 *Major Systems Acquisition* is an acquisition specifically designated by the Secretary of Defense / Deputy Secretary of Defense under the procedures set forth in Department of Defense Directive Number 5000.1, and such other systems as designated by the Secretaries of the Military Departments.

1-201.42 *Replenishment Part* means a part purchased after provisioning of that part.

question would be contrary to good conscience and equity. Generally, retention by the contractor or subcontractor shall not be considered contrary to good conscience and equity, and thus a voluntary refund shall not be requested, unless the overcharged or inadequate compensation was due, at least in part, to the fault of the contractor or subcontractor. The decision to solicit a voluntary refund shall be made by the Secretary concerned.

(c) *Disposition of Voluntary Refunds.*

(i) If a refund is offered prior to final payment, it is preferable that the contract price be appropriately modified to reflect the refund. In such a case, the amount of the refund shall be credited to the applicable appropriation cited in the contract.

(ii) In cases where the refund is to be made by check rather than by an adjustment in the contract price, the check shall be made payable to the office designated for contract administration and shall be forwarded immediately to the comptroller of the appropriate Department, or other Departmental officer responsible for the control of funds. When forwarded, the check shall be accompanied by a letter identifying it as a voluntary refund, giving the number of the contract or contracts involved and, where possible, giving the account number of the appropriation to which the refund should be credited.

1-313 Procurement of Parts.

(a) Any part, subassembly or component (hereinafter called "part") for military equipment, to be used for replenishment of stock, repair, or replacement, must be procured so as to assure the requisite safe, dependable, and effective operation of the equipment. Where it is feasible to do so without impairing this assurance, parts should be procured on a competitive basis, as in the kind of cases described in (b) below. However, where this assurance can be had only if the parts are procured from the original manufacturer of the equipment or his supplier, the procurement should be restricted accordingly, as in the kind of cases described in (c) below. Centrally managed replenishment parts for military systems and equipment (except replenishment parts acquired under other specifically defined initial support programs or acquired through local purchase) are governed by Supplement 6, the Replenishment Parts Breakout Program.

(b) Parts that are fully identified and can be obtained from a number of known sources, and parts for which fully adequate manufacturing drawings and any other needed data are available with the right to use for procurement purposes (or can be made so available in keeping with the policies in Section IX, Part 2) are to be procured on a competitive basis. In general, such parts are of a standard design configuration. They include individual items that are susceptible of separate procurement, such as resistors, transformers, generators, spark plugs, electron tubes, or other parts having commercial equivalents.

(c) Parts not within the scope of (b) above generally should be procured (either directly or indirectly) only from sources that have satisfactorily manufactured or furnished such parts in the past, unless fully adequate data (including any necessary data developed at private expense), test results, and quality assurance procedures, are available with the right to use for procurement purposes (or can reasonably be made so available in keeping with the policies in Section IX Part

2) to assure the requisite reliability and interchangeability of the parts, and acquisition on a competitive basis would be consistent with the assurance described in (a) above. In assessing this assurance, the nature and function of the equipment for which the part is needed should be considered. Parts qualifying under this criteria are normally sole source or source controlled parts (see MILSTD 100) which exclusively provide the performance, installation and interchangeability characteristics required for specific critical applications. To illustrate, acceptable tolerances for a commercial television part may be far less stringent than those for a comparable military radar part, permitting competitive contracting for the former but not for the latter. The exacting performance requirements of specially designed military equipment may demand that parts be closely controlled and have proven capabilities of precise integration with the system in which they operate, to a degree that precludes the use of even apparently identical parts from new sources, since the functioning of the whole may depend on latent characteristics of each part which are not definitely known.

(d) When an award is made to a source that has not previously produced the item, the cognizant Government inspection activity and the appropriate contract administration office should be notified by the contracting office that the contractor will be producing the item for the first time.

1-314 Disputes and Appeals.

(a) *General.* The Contract Disputes Act of 1978 (Public Law 95-563, 41 U.S.C. 601-613) establishes procedures and requirements for asserting and resolving claims by or against contractors relating to a contract subject to the Act. In addition, the Act provides for the payment of interest on contractor claims, for the certification of contract claims in excess of $50,000, and a civil penalty for contractor claims that are fraudulent or based on a misrepresentation of fact.

(b) *Definition.*

(1) As used herein, "claim" means a written demand on one of the contracting parties seeking, as a matter of right, the payment of money, adjustment or interpretation of contract terms, or other relief, arising under or related to the contract. However, a written demand by the contractor seeking the payment of money in excess of $50,000 is not a claim unless or until certified as required by (L) below.

(2) A voucher, invoice, or other routine request for payment that is not in dispute when submitted is not a claim for the purposes of the Act. However, where such submission is subsequently disputed either as to liability or amount or not acted upon in a reasonable time, it may be converted to a claim under Section 6(a) of the Act as provided in (h) below.

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sidered in establishing the ceiling price of the contract. All costs incurred or estimated to be incurred by the contractor in complying with the warranty shall be considered when establishing the total final price. Contractor compliance with the warranty after the establishment of the total final price shall be at no additional cost to the Government.

1-324.6 *Warranties of Technical Data.*

(a) The factors contained in 1-324.2 shall be considered in deciding whether to provide for warranties of technical data delivered under contracts calling for technical data.

(b) The factors of 1-324.2 should also be considered in determining whether there should be an extended liability provision, *e.g.*, 7-104.9(o)(2). Particular emphasis should be placed on whether the extended liability is justified by (1) the likelihood that correction or replacement of the nonconforming data, or a price adjustment in lieu thereof, will not afford adequate protection to the Government, and (2) the effectiveness of the additional remedy as a deterrent against furnishing nonconforming data.

(c) The "Warranty of Technical Data" clause, 7-104.9(o), may be included in both fixed price and cost reimbursement contracts. In addition, technical data is warranted under the clauses in 7-105.7(c), 7-203.5, 7-402.5, and 7-901.21 when the 7-104.9(o) clause is not included in the contract.

1-324.7 *Examples of Warranty Clauses.* The following are examples of warranty clauses:

(a) Fixed-price supply contracts, 7-105.7(a), for noncomplex items.

(b) Fixed-price research and development or supply contracts for deliverable complex items, 7-105.7(b).

(c) Fixed-price supply, service, or research and development contracts for systems and equipment when performance specifications and design are of major importance (*Correction of Deficiency* clause), 7-105.7(c).

(d) Fixed-price services contracts, 7-1904.5(b).

(e) Fixed-price construction contracts, 7-604.4.

1-325 Variation in Quantity.

1-325.1 *General.* To the extent that a variation is caused by the conditions specified in the clause in 7-103.4(a), that quantity may be accepted only to the extent specified in the Schedule. Except as set forth in 1-325.2, the permissible variation shall be stated as a percentage and may be an increase, a decrease, or a combination of both. There should be no standard or usual percentage or variation. Each procurement for which an overrun or underrun is permissible should be based upon the normal commercial practices of the particular industry for particular items, and the permitted percentage should be no larger than is necessary to afford a contractor reasonable protection. In no event shall the permissible variation exceed plus or minus 10%. The clause in 7-103.4(b) shall be included only when one or more of the causes of quantity variation foreseeable exists at the time of solicitation. Consideration shall be given to the quantity to which the percentage variation applies. For example, when it is contemplated that delivery will be made to multiple destinations and it is desired that the quantity variation extend to the item quantity for each destination, this requirement must be set forth with particularity. Similarly, when it is desired that the quantity variation ex-

tend to the total quantity of each item and not to the quantity for each destination, it may be desirable to express a percentage limitation for each destination to prevent unrealistic distribution of any increase or decrease.

1-325.2 *Subsistence.* The permissible variation in the procurement of small quantities of subsistence may be stated in the Schedule as follows:

(i) Standard pack items purchased on a package, carton, can or other than pound basis: maximum variation for 250 units or less— nearest full shipping container.

(ii) Nonstandard pack items other than carcass meats not purchased on a package, carton, or can basis: maximum variation for 250 pounds or less— nearest piece or shipping container

(iii) Carcass meats: maximum variation for 500 pounds or less— nearest piece, quarter, side or carcass.

1-326 Component Breakout.

1-326.1 *Scope of Paragraph.*

(a) This paragraph sets forth guidance for making decisions on whether or not components should be purchased by the Government directly and furnished to an end item contractor as Government-furnished material, for incorporation in the end item. This paragraph, however, does not pertain to all such decisions, but only to those which deal with whether components that have been included as contractor-furnished material in a previous procurement of the end item should be "broken out" from a forthcoming end item procurement for direct Government purchase. Thus, except as set forth in 1-2101, this paragraph does not pertain to the initial Government-furnished equipment/contractor-furnished equipment decisions that must be made at the inception of a procurement program.

(b) Parts procured for replenishment are not covered by this paragraph, but are governed by 1-313 and Supplement 6, Replenishment Parts Breakout Program.

(c) This paragraph applies to procurements of weapons systems or other items of major equipment involving components whose direct purchase by the Government may result in substantial net cost savings over the life of the procurement program. Accordingly, it will seldom be applicable to a procurement of such a system or item of less than $1,000,000. The term "component", as used in this paragraph, includes subsystems, assemblies, subassemblies, and other major elements of an end item, but does not include elements of relatively small annual purchase value

1-326.2 *Policy.* Whenever it is anticipated that the prime contract for a weapons system or other major end item will be awarded without adequate price competition, and the prime contractor is expected to acquire a component without such competition, it is Department of Defense policy to break out that component if:

(i) substantial net cost savings will probably be achieved; and

(ii) such action will not jeopardize the quality, reliability, performance or timely delivery of the end item.

The desirability of breakout should also be considered (regardless of whether the prime contract or the component being purchased by the prime contractor is on

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1-333 Reserved.

1-334 Major Defense Systems Acquisition. Contract type shall be consistent with all program characteristics including risk to the contractor and Government. Normally, the precise production cost of a new complex Defense system cannot be determined prior to development and this creates a situation of risk such that:

(i) the total package procurement concept will not be used;

(ii) firm or ceiling priced production options shall not be used in development contracts. However, when development of major systems has proceeded to a point that technical and performance uncertainties have been minimized and realistic estimates of their cost identified, firm or ceiling priced production options for limited quantities may be included in the development contract. Such options may be appropriate, for instance, when prototyping or other forms of technical and cost verification of concepts has occurred;

(iii) cost type prime and subcontracts are preferred where substantial development effort is involved;

(iv) when risk is reduced to the extent that realistic pricing can occur, fixed-price type contracts should be issued;

(v) letter contracts shall be minimized; and

(vi) changes shall be limited to those that are necessary or offer significant benefit to the DoD. When change orders are necessary, they shall be contractually priced or subject to an established ceiling before authorization, except where this is impractical.

1-335 Life Cycle Costing. The Life Cycle Cost of a system or item of equipment is the total cost to the Government of acquisition and ownership of that system or item of equipment over its full life. It includes the cost of development, acquisition, operation, support, and where applicable, disposal. Since the cost of operating and supporting the system or equipment over its useful life is substantial and, in many cases, greater than the acquisition cost, it is essential that such costs be considered in development and acquisition decisions in order that proper consideration can be given to those systems or equipments that will result in the lowest life cycle cost to the Government. Guidelines, including representative detailed procedures for implementing life cycle costing are contained in the following documents published by the Under Secretary of Defense for Research and Engineering:

(i) LCC-1, DoD Life Cycle Costing Procurement Guide (Interim);

(ii) LCC-2, DoD Life Cycle Costing Casebook;

(iii) LCC-3, Life Cycle Costing Guide for System Acquisitions (Interim).

1-336 Preference for United States Flag Air Carriers.

1-336.1 *Policy.*

(a) Public Law 93-623, as amended, requires that all Federal agencies, Government contractors and subcontractors will use U.S. flag air carriers for international air transportation of personnel (and their personal effects) or property to the extent service by such carriers is available.

(b) The clause in 7-104.95 shall be included in (i) invitations for bids, (ii) requests for proposals, and (iii) contracts (including contracts resulting from unsolicited proposals) whenever it is possible that international air transportation of personnel (and their personal effects) or property will be required in the performance of the contract. The requirements of this paragraph do not apply to small purchases made in accordance with Section III, Part 6.

1-336.2 *Availability or Unavailability of Certificated Air Carrier.*

(a) Expenditures for service furnished by a non-certificated air carrier generally will be allowed only when services by a certificated air carrier or carriers is "unavailable" as indicated by March 31, 1981, Comptroller General's memorandum (B-138942) entitled "*Guidelines for Implementation of the Fly America Act*."

(b) Use of foreign air carrier service may be deemed necessary if a U.S. air carrier otherwise available cannot provide the foreign air transportation needed or if use of such service will not accomplish the agency's mission.

(c) U.S. air carrier passenger and freight service is considered available even though:

(1) comparable or a different kind of service can be provided at less cost by a foreign air carrier;

(2) foreign air carrier service is preferred by or is more convenient for the agency or traveler;

(3) service by a foreign air carrier can be paid for in excess foreign currency, unless U.S. air carriers decline to accept excess or near excess foreign currencies for transportation payable only out of such monies.

(d) Except as provided in (1) below, U.S. air carrier service must be used for all Government-financed commercial foreign air travel if service provided by such carriers is available. In determining availability of a U.S. air carrier, the following scheduling principles should be followed unless their application results in the last or first leg of travel to or from the United States being performed by foreign air carrier:

(1) U.S. air carrier service available at point of origin should be used to destination or, in the absence of direct or through service, to the farthest interchange point on a usually traveled route;

(2) where an origin or interchange point is not served by U.S. air carrier, foreign air carrier service should be used only to the nearest interchange point on a usually traveled route to connect with U.S. air carrier service;

(3) where a U.S. air carrier involuntarily reroutes the traveler via a foreign carrier, the foreign air carrier may be used notwithstanding the availability of alternative U.S. air carrier service.

(e) For travel between a gateway airport in the United States (the last U.S. airport from which the traveler's flight departs or the first U.S. airport at which the traveler's flight arrives) and a gateway airport abroad (that

airport from which the traveler last embarks en route to the U.S. or at which he first debarks incident to travel from the U.S.), passenger service by U.S. air carrier will not be considered available:

(1) where the gateway airport abroad is the traveler's origin or destination airport, if the use of U.S. air carrier service would extend the time in a travel status, including delay at origin and accelerated arrival at destination, by at least 24 hours more than travel by foreign air carrier;

(2) where the gateway airport abroad is an interchange point, if the use of U.S. air carrier service would require the traveler to wait 6 hours or more to make connections at that point, or if delayed departure from or accelerated arrival at the gateway airport in the United States would extend his time in a travel status by at least 6 hours more than travel by foreign air carrier.

(f) For travel between two points outside the United States, the rules in (b) through (d) above will be applicable, but passenger service by U.S. air carrier will not be considered to be reasonably available:

(1) if travel by foreign air carrier would eliminate 2 or more aircraft changes en route;

(2) where one of the 2 points abroad is the gateway airport (as defined in (e) above) en route to or from the United States, if the use of a U.S. air carrier would extend the time in a travel status by at least 6 hours more than travel by foreign air carrier, including accelerated arrival at the overseas destination or delayed departure from the overseas origin as well as delay at the gateway airport or other interchange point abroad;

(3) where the travel is not part of trip to or from the United States, if the use of a U.S. air carrier would extend the time in a travel status by at least 6 hours more than travel by foreign air carrier, including delay at origin, delay en route, and accelerated arrival at destination.

(g) When travel under either (e) or (f) above involves 3 hours or less between origin and destination by a foreign air carrier, U.S. air carrier service will not be considered available when it involves twice such travel time or more.

(h) Nothing in the above guidelines shall preclude and no penalty shall attend the use of a foreign air carrier which provides transportation under an air transport agreement between the United States and a foreign government, the terms of which are consistent with the international aviation policy goals set forth at 49 U.S.C. § 1502(b) and provide reciprocal rights and benefits.

1-336.3 *Disallowance of Expenditures.* Expenditures for commercial foreign air transportation on foreign air carrier(s) will be disallowed unless there is attached to the appropriate voucher a certificate or memorandum adequately explaining why service by U.S. air carrier(s) is not available, or why it was necessary to use a foreign air carrier.

Where the travel is by indirect route or the traveler otherwise fails to use available U.S. air carrier service, the amount to be disallowed against the traveler is based on the loss of revenues suffered by U.S. air carriers as determined under the following formula set forth and more fully explained in 36 Comp. Gen. 209 (1977):

$$\frac{\text{Sum of certificated carrier segment mileage, authorized}}{\text{Sum of all segment mileage, authorized}} \times \text{Fare payable by Government}$$

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$$\frac{\text{Sum of certificated carrier segment mileage, traveled}}{\text{Sum of all segment mileage, traveled}} \times \text{Through fare paid}$$

1-336.4 *Air Freight Forwarders.*

(a) International air freight forwarders, as defined in 14 CFR 297.1(c) and 297.2 (1974) that are engaged in international air transportation (49 U.S.C. 1301(21)(c)(1970)) may be used for Government-financed movements of pro-

do not require voluminous specifications or drawings. With regard to classified acquisitions, the foregoing instructions apply to the extent consistent with Departmental security instructions and procedures.

1-1002.2 *Limited Availability of Certain Specifications, Plans, and Drawings.* When the purchasing activity is not in possession of complete sets of specifications, plans, and drawings (as in some procurements of airframes, shipbuilding, or major weapons systems), or the drawings and specifications are classified, or are so voluminous that display and distribution in accordance with 1-1002 is impracticable, the solicitation shall contain notice of this fact and of the locations at which the specifications, plans, or drawings may be examined (see 1-1203).

1-1002.3 *Reserved.*

1-1002.4 *Displaying in Public Place.* A copy of each solicitation for an unclassified procurement in excess of $5,000 which provides at least 10 calendar days for submission of offers shall be displayed at the contracting office and, if appropriate, at some additional public place from the date issued until 7 days after bids or proposals have been opened. Small purchases are exempt from these requirements.

1-1002.5 *Information Releases to Newspapers and Trade Journals.* A brief announcement of the proposed purchase may be made available to newspapers, trade journals, and magazines for publication without cost to the Government.

1-1002.6 *Paid Advertisements in Newspapers and Trade Journals.* See Section IV, Part 8.

1-1003 Synopses of Proposed Procurements.

1-1003.1 *General.*

(a) Except for procurements described in (b) and (c), every proposed advertised or negotiated procurement, including those basic ordering agreements which:

(i) involve specific supplies or services;

(ii) are supported by appropriate determinations and findings limiting future orders thereunder to the basic ordering agreement contractor; and

modifications to existing contracts when new funds are obligated for additional supplies and services made in the United States, its possessions, and Puerto Rico which may result in an award in excess of $10,000 shall be publicized promptly in the *Commerce Business Daily* "Synopsis of U.S. Government Proposed Procurement, Sales and Contract Awards". When an item is assigned or is within a Federal Supply Class assigned for procurement in Section V, Part 12, and is purchased by other than the assigned Department, the synopsis shall cite the applicable purchase exclusion number from 5-1201.1 or 5-1201.2(a). Modifications to an existing contract resulting from price changes, engineering changes, overruns, definitization of letter contracts, orders under a basic ordering agreement which was previously synopsized in accordance with 3-410.2(c)(4), and other similar transactions need not be publicized in the *Commerce Business Daily*.

(b) Only those classified procurements, where the information necessary to be included in the Synopsis cannot be worded in such a manner so as to preclude the disclosure of classified information, or where the mere disclosure of the Government's interest in the area of the proposed procurement would violate security requirements, shall not be publicized in the Synopsis. All other classified

procurements shall be publicized in the Synopsis, even though access to classified matter might be necessary in order to submit a proposal or to perform the contract (see 1-1003.9(f)(3)). The intent of the exception for classified procurement in the synopsis requirements of P.L. 87-305 is not to exempt every classified procurement from publicizing, but to provide a safeguard against violating security requirements.

(c) The following need not be publicized in the Synopsis:

(i) see (b) above;

(ii) procurement of perishable subsistence;

(iii) procurement of electric power or energy, gas (natural or manufactured), water, or other utility services;

(iv) procurement (whether advertised or negotiated) which is of such urgency that the Government would be seriously injured by the delay involved in permitting the date set for receipt of bids, proposals, or quotations to be more than 15 calendar days from the date of transmittal of the synopsis or the date of issuance of the solicitation, whichever is earlier;

(v) procurement to be made by an order placed under an existing contract other than an order placed under a Basic Ordering Agreement (but see 4-1104.6 for use of General Services Administration Automatic Data Processing Schedule Contracts);

(vi) procurement to be made from or through another Government department or agency, including procurements from the SBA using the authority of section 8(a) of the Small Business Act, or a mandatory source of supply such as an agency for the blind under the blind-made products program;

(vii) procurement of personal and professional services other than architect-engineer services (see 1-1003.4(b)(1));

(viii) procurement from educational institutions to be negotiated under 3-205;

(ix) procurement in which only foreign sources are to be solicited.

1-1003.2 *Time of Publicizing.* To allow concerns which are not on current bidders lists ample time to prepare bids, proposals or quotations, purchasing offices should, when feasible, synopsize proposed procurements no later than ten days before the issuance of solicitations, or the placement of orders against basic ordering agreements if such basic ordering agreement has not previously been synopsized in accordance with 3-410.2(c)(4), as specified in 1-1003.9(b), *provided* that in the case of "Architectural and Engineering Services" and "Research and Development Procurements," every effort shall be made to allow an interval of 14 days. If definite dates for issuance of the solicitation document have not been established, show such dates as being either on or about a given date. If this is not feasible or practicable, purchasing offices shall synopsize proposed procurements not later than the date of issuance of solicitations unless the exceptions cited in 1-1003.1(b) and (c) are applicable.

1-1003.3 *Pre-Invitation / Solicitation Notices.* Where pre-invitation notices (see 2-205.6) or pre-solicitation notices (see 3-106.2) are used, a synopsis of the pre-invitation or pre-solicitation information shall be included in the *Commerce Business Daily*. This information need not be republished in the synopsis when the invitation for bids is issued. However, if the pre-invitation notice contains a set-

(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 may include Section VII clauses.

(4) Copies of a master solicitation shall be made available upon request.

(5) Each individual solicitation shall reference the date of the current master solicitation and any changes thereto. Significant revisions or a significant number of revisions should result in a reissuance of 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.

2-202 Miscellaneous Rules for Solicitation of Bids.

2-202.1 *Bidding Time.*

(a) 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 no less than 30 calendar days. For potential sources in participating countries, see 6-1403.1(a); for sources in FMS/offset arrangement countries, see 6-1310.3(b); and for sources in defense cooperation countries, see 6-1502.1.

(b) 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 contracting 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 acquisition of an acceptable product. It may be appropriate to require bid samples, for example, where the acquisition 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

(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. Letter RFPs and RFQs may also be used provided they otherwise comply with the requirements of this regulation.

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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 a purchase order prior to commencement of performance and within the scope of the original order, a unilateral modification may be issued on a Standard Form 30. The modification may not be unilaterally issued unless:

(A) The modification reflects the contractor's written or oral confirmation of the proposed revision(s). Unilateral modifications may include withdrawal of all or part of the original purchase order.

(B) It contains a statement similar to that in 26-702(h).

(iii) To otherwise modify the purchase order, and if not previously included in the purchase order, the Additional General Provisions (Clauses 16-19 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 $25,000 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, 15, and 19. However, the "Ship To" (Block 14) and "Ship To" / "Mark For" (Block 19 (viii) and (xi)) shall use a DODAAD code for non-Government entities for shipments to satisfy MILSTRIP requisitions for that non-Government entity. Foreign Military Sales (FMS) and Military Assistance Program (MAP), "Ship To" / "Mark For" (Block 14) shall use a Military Assistance Program Address Directory (MAPAD) code (MAPAC and TAC) in accordance with DoD 5105.38-D.

(ii) *Codes published in Handbook of Non-Government Organizations for MILSCAP H8-1 / H8-2 Handbooks.* These codes will be used for non-Government entities in Blocks 9, 14, and 19, except for the condition as noted in (i) above.

(c) The right hand columns designate by alpha code the activities responsible for completing certain blocks on the form. The legend is "C" for contractor, "P" for purchasing office, and "—" for not applicable.

BLOCK #	TITLE & INSTRUCTIONS FOR ENTRIES	APPLICABLE TO: RFQ	PO	DO
1	*Contract/Purchase Order Number*—Enter the Procurement Instrument Identification (PII) number and, when applicable, the supplementary identification number for contracts and purchase orders as prescribed in ASPR Section XX, Part 2.	-	P	P
2	*Delivery Order Number*—Enter PII number for delivery orders as prescribed in ASPR Section XX, Part 2.	-	-	P
3	*Date of Order*—Enter the date of the order, i.e., 2 position numeric year, 3 position alpha month and 2 position numeric day. For example: 71 Sep 30.	-	P	P
4	*Requisition/Purchase Request Number*—Enter the applicable number authorizing the purchase. When the number differs by line item it will be listed in the schedule and this block annotated "see schedule."	P	P	P
5	*Certified for National Defense Under DMS Reg 1*—Enter the appropriate claimant program number as defined in Volume I, Section III of the DoD Procurement Coding Manual.	-	P	P
6	*Issued by*—Insert the name and address of the issuing office. In the Code Block, insert the appropriate DODAAD code for the issuing office. Directly below the address insert: Buyer/Symbol, followed by the appropriate buyer's name and routing symbol. Directly below the Buyer/Symbol insert: Phone: followed by the buyer's phone number and extension.	P	P	P
7	*Administered by*—Enter the name and address of the DCAS or military activity responsible for administration service. The "DoD Directory of Contract Administration Services Components" No. 4105.59H contains the complete listing of activities performing contract administration services. On purchase orders retained by purchasing offices for administration this block may be marked "see block 6." Enter in the code block the organizational entity code (address code) of the administration services office. In the lower right or left-hand corner, insert Criticality Designator code (see 25-103).	-	P	P
8	*Delivery FOB*—Indicate the FOB point by checking the applicable box.	P	P	P

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SUGGESTED PURCHASE/LEASE ANALYSIS FORMAT

ASP System As of Date	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16
	ASPS Components	Qty.	Vendor	Amt. Monthly Rental/Lease ($) (a)	Initial Date	Useful Life (c)	Orig. Purchase Price	Equity ($)	Current Purchase Price	(Other Vendors Purchase Price	Residual Value ($)	Other Investment Costs (9)-(11) or 10-11	Other Costs ($)	Total Other Costs (12)+(13)	Total Rental/Lease Costs ($) (a)	Differential ($) (15)-(14)

Includes projected extra shift where necessary.
Includes other costs (taxes, maintenance, insurance, etc.).
Documentation must be provided and attached per ASPR 1-1100.3 or 15-005.5b, as applicable.
Assumed equity on rented/leased equipment (accumulated rental credits).
Residual value discount at end of useful life.
Includes taxes, maintenance, insurance, selling costs, lease cancellation costs, etc.
When considering annual justification for retention of existing ADPE under option (b), the need to obtain testing, only the resulting rental costs to be paid under the lease should be entered.
(a) If lease is favorable, enter differential figures.

3-1100.3

Part 12—Cost Accounting Standards

3-1200 Cost Accounting Standards.

3-1201 General. Public Law 91-379, 50 U.S.C. App. 2168, as implemented by the Cost Accounting Standards Board (see Appendix 0) requires the development of Cost Accounting Standards to be used in connection with negotiated national defense contracts and disclosure of cost accounting practices to be used in such contracts. The term *"national defense"* is defined in paragraph 331.20(d) of Appendix 0.

3-1202 Definitions. When used in this part, the words and terms defined in Appendix 0 shall have the meanings set forth therein. In addition, the words and terms defined in this paragraph shall have the meanings set forth below:

(i) *"Net awards"* means the obligated value of negotiated national defense prime contracts and subcontracts, awarded in the reporting period, minus cancellations, terminations, and other credit transactions relating thereto.

(ii) *"Company"* includes all divisions, subsidiaries, and affiliates of the contractor under common control.

(iii) *"Small business concern"* is any concern, firm, person, corporation, partnership, cooperative, or other business enterprise which pursuant to paragraph 331.20(n) of Appendix 0 and the rules and regulations of the Small Business Administration set forth in Part 121 of Title 13 of the Code of Federal Regulations, is determined to be a small business concern for the purpose of Government procurement (see 1-701.1).

(iv) *"CAS-covered contract"* is any negotiated contract or subcontract which pursuant to the requirements of the Cost Accounting Standards Board or agency regulations includes a cost accounting standards clause (see 7-104.83(a)(1) or (2)).

3-1203 Prime Contractor Disclosure Statement(s).

(a) *Solicitation Notice.* The notice entitled Disclosure Statement—Cost Accounting Practices and Certification in 7-2003.67(a) shall be inserted in all solicitations which are likely to result in a negotiated contract exceeding $100,000, except when the price is (i) based on established catalog or market prices of commercial items sold in substantial quantities to the general public, or (ii) set by law or regulation. The notice shall not be included in: solicitations limited to small business concerns; solicitations limited to educational institutions subject to the cost principles in Section XV, Part 3 (except that the notice shall be inserted in solicitations sent to federally funded research and development centers operated by an educational institution); solicitations limited to a foreign government, an agency or instrumentality of such government; solicitations which will result in contracts executed and performed in their entirety outside the United States, its territories or possessions; or solicitations which will result in firm fixed price contracts awarded without the submission of any

3-1203

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cost data; *Provided*, That the failure to submit such data is not attributable to a waiver of the requirement for certified cost or pricing data.

(b) *Pre-Award Submission of Disclosure Statement(s).* Each offeror submitting an offer which could result in a CAS-covered contract shall furnish copies of his Disclosure Statement(s) to the offices listed in paragraph (c) below concurrently with the submission of his proposal to the PCO except when the offeror has executed the Certificate of Monetary Exemption, Certificate of Interim Exemption, or the Certificate of Previously Submitted Disclosure Statement (see 7-2003.67(a)). More than one Disclosure Statement may be required in connection with the award of a contract (see paragraph 351.40(a) of Appendix O). Award of a contract shall not be made until a determination has been made by the cognizant ACO that a Disclosure Statement is adequate (see 3-1205(b)) unless, in order to protect the interests of the Government, the PCO waives this requirement. In this event, a determination shall be made as soon after award as possible.

(c) *Distribution of Disclosure Statement(s).* The offeror shall distribute the Disclosure Statement(s) as follows:

(i) Original and one copy to the cognizant Contract Administration Office (Attn: ACO) (see DoD Directory of Contract Administration Components DoD 4105.59H) unless otherwise specified in accordance with 3-1208(c); and

(ii) one copy to the cognizant contract auditor.

(d) *Determination of Secretary That It Is Impractical To Secure Disclosure Statement(s).* If the cognizant Assistant Secretary for a Military Department or the Director for the Defense Logistics Agency, the Defense Communications Agency, the Defense Nuclear Agency, or the Defense Mapping Agency determines that it is impractical to secure the Disclosure Statement(s) in accordance with the clause(s) in 7-104.83(a) and this part, he may authorize award of such contract without obtaining such Statement(s). This authority shall not be delegated.

(e) *Privileged and Confidential Information in Disclosure Statement(s).* If the offeror or contractor notifies the contracting officer that the Disclosure Statement contains trade secrets and commercial or financial information which is privileged and confidential, the Disclosure Statement will be protected and will not be released outside the Government (see paragraph (a)(1) of the Cost Accounting Standards clause in 7-104.83(a)(1) or paragraph (a)(2) of the Disclosure and Consistency of Cost Accounting Practices clause in 7-104.83(a)(2)).

(f) *Amendment of Disclosure Statements.* Amendments of a Disclosure Statement after contract award shall be processed in accordance with paragraph 351.120 of Appendix O, 3-1205(d), and 3-1207. Normally, the ACO should require resubmission of a complete, updated Disclosure Statement pursuant to paragraph 351.120 of Appendix O only when the number of amended pages or the nature of the amendments are so extensive that the review process would be substantially expedited as a result of the resubmission.

(g) *Responsibility to Maintain Accuracy of Disclosure Statement(s).* The contractor or subcontractor who has contracts containing either the Cost Accounting Standards clause or the Disclosure and Consistency of Cost Accounting Practices clause (7-104.83(a)(1) or (2)) has a responsibility to maintain an accurate Disclosure Statement(s) and comply with those disclosed practices if:

(i) he was awarded a negotiated national defense contract in his current cost accounting period of $10,000,000 or more, or

(ii) he is, or is a part of, a company which, together with its subsidiaries, received net awards of negotiated national defense prime contracts and subcontracts subject to cost accounting standards totaling more than $10,000,000 in his most recent completed cost accounting period.

Should his obligation to maintain the Disclosure Statement cease because he no longer meets or exceeds the financial 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(d);

(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 (FFRDC) 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;

(vii) firm fixed price contracts awarded without submission of any cost data; *Provided*, That the failure to submit such data is not attributable to a waiver by the Secretary of the requirement for certified cost or pricing data; or

(viii) contracts for which the Cost Accounting Standards Board has approved other waivers or 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)(7) 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 (viii)(B) 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 (a) above;

(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 requiring 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 paragraph (e) of the clause in 7-104.83(b) 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. Exemptions applicable to prime contracts are also applicable to subcontracts. (See 3-1204.1(a).)

(b) When a subcontractor accepts a CAS-covered subcontract, he is responsible for providing to the higher tier contractor the information specified in paragraph (e) of the clause in 7-104.83(b). 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)).

(c) *Determination of Compliance.* Subsequent to the issuance of the above notification, a more detailed review of the Disclosure Statement shall be made by the auditor to ascertain whether the disclosed practices are in compliance with Cost Accounting Standards and, for DoD procurements, with Section XV; the auditor shall advise the ACO of his findings. The ACO shall take action regarding noncompliance with Cost Accounting Standards in accordance with 3-1212. A revised Disclosure Statement may be required. In addition, adjustment of the prime contract price or cost allowance in accordance with 3-1207(b) may be required. Noncompliance with Section XV shall be processed separately in accordance with normal administrative practices.

(d) *Review of Changed Practices.*

(1) When a change to disclosed practices is proposed or required, a description of the changed practices shall be distributed in accordance with 3-1203(c). The cognizant contract auditor shall review the changed practices for adequacy and compliance (as defined in (b) and (c) above) concurrently. Upon completion of the review, the results shall be reported to the ACO. When the ACO determines that the changed practices are adequate and in compliance, he shall so notify the contractor with a copy to the auditor.

(2) When the ACO determines that the description of the changed practices is not adequate, or the changed practices are not in compliance, he shall identify the deficiencies and so notify the contractor with a copy to the auditor. This notice shall require the contractor to advise the ACO and the auditor of the corrective action that has been taken or is to be taken. Resubmission of the changed practices will be required. In the event the contractor has submitted an adequate description of the changed practices but these practices are determined to be in noncompliance and the contractor does not agree, the ACO shall issue an adequacy determination with the stipulation that if those changed practices are implemented for the purpose of pricing or costing Government contracts, the contractor shall be considered in noncompliance and the ACO shall take action in accordance with 3-1212.

(3) When a change to established (nondisclosed) practices is proposed or required, it shall be processed in accordance with (1) and (2) above.

3-1206 Administration of CAS Requirements on Subcontracts.

(a) In conformance with the policy set forth in 20-704(b) the prime contractor or higher tier subcontractor is responsible for administering the CAS requirements contained in the subcontracts awarded. However, in recognition of the protections provided to subcontractors by the CAS clause(s), subcontractor CAS reviews will often be performed by the Government.

(1) If the subcontractor has previously furnished a Disclosure Statement to a Government ACO, the subcontractor may satisfy the requirement for submission by identifying to the prime contractor or higher tier subcontractor the ACO to whom it was submitted.

(2) If the subcontractor considers his Disclosure Statement to contain privileged or confidential information, he may submit the statement directly to his cognizant ACO and auditor and notify the prime contractor or higher tier subcontractor as provided in (1) above. In such cases a pre-award determination of adequacy is not required. Instead, the ACO cognizant of the subcontractor shall notify the contract auditor that the review for adequacy as well as compliance will be performed during the post-award review conducted to ensure that the subcontractor has complied with his disclosed practices, CAS, and Section XV cost principles. After adequacy review, the ACO cognizant of the subcontractor shall notify the subcontractor of the findings of the Government. The findings shall, in turn, be forwarded to the prime contractor.

(3) In many cases a subcontractor will not be subject to the Disclosure Statement requirement. Yet the same protections against revealing confidential or proprietary data accrue to these subcontractors. Such subcontractors may claim in writing to their prime contractors or higher tier subcontractors, that such reviews by prime contractors or higher tier subcontractors would jeopardize their competitive position or that proprietary data are involved. In these cases, the ACO cognizant of the prime contract will make a determination that it is impractical for the prime or higher tier subcontractor to perform the reviews. The necessary documentation shall be forwarded to the ACO cognizant of the subcontractor for accomplishment of the reviews. In the event the prime contractor does accomplish the reviews envisioned by the CAS clause, he is responsible for the thoroughness of the reviews and must satisfy the ACO cognizant of the prime contract.

(b) When price adjustments or determinations of adequacy, inadequacy, or noncompliance are required by the Government, the ACO cognizant of the subcontractor shall make his recommendations to the ACO cognizant of the prime contractor or next higher tier subcontractor. In the case of price adjustments, the procedures described in 3-1207(c)(iii) shall be followed. The ACO cognizant of the prime contractor or next higher tier subcontractor shall not reverse the determinations of the ACO cognizant of the subcontractor. Such determinations shall be used as the basis for actions with respect to the prime contract.

(c) A determination that it is impractical to secure a subcontractor's Disclosure Statement must be made in accordance with 3-1203(d).

3-1207 Contract Price Adjustments.

(a) *Changes to Cost Accounting Practices.* Paragraphs (a)(4) and (a)(5) of the Cost Accounting Standards clause (7-104.83(a)(1)), and (a)(3) and (a)(4) of the Disclosure

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and Consistency of Cost Accounting Practices clause (7-104.83(a)(2)) provide for adjustment of contract price under certain circumstances. The cognizant ACO is responsible for obtaining the contractor's cost impact proposal and for the conduct of all negotiations of such adjustments to all Government prime contracts. Prior to the use of the equitable adjustment provisions of (a)(4)(C) of the Cost Accounting Standards clause or (a)(3) of the Disclosure and Consistency of Cost Accounting Practices clause, the cognizant contracting officer (ACO) shall make a finding that the change is desirable and is not detrimental to the interests of the Government.

(b) *Failure to Comply With Cost Accounting Standards Requirements.* Paragraph (a)(5) of the Cost Accounting Standards clause (7-104.83(a)(1)) and paragraph (a)(4) of the Disclosure and Consistency of Cost Accounting Practices clause (7-104.83(a)(2)) provide for an adjustment of the prime contract price or cost allowance, as appropriate, if the contractor or a subcontractor fails to comply with an applicable cost accounting standard or fails to follow any accounting practice consistently and such failure results in any increased cost paid by the Government. The cognizant contract auditor shall be responsible for the conduct of audits as necessary to disclose such failures. The cognizant ACO shall negotiate all resultant prime contract adjustments, including applicable interest.

(c) *Conduct of Negotiations and Execution of Supplemental Agreements.* The cognizant ACO shall require the contractor to include in the cost impact proposal sufficient information to assess the impact on each CAS-covered subcontract. Negotiations pursuant to (a) and (b) above shall be conducted on behalf of all Government agencies including, but not limited to DoD, NASA, DOE, and GSA. As part of these negotiations the ACO shall also determine the effect of the change in accounting practices on each CAS-covered subcontract being performed by the contractor. The ACO shall invite purchasing offices to participate in negotiations of adjustments when the price of any of their contracts will be increased or decreased by $10,000 or more. At the conclusion of negotiations the following actions shall be taken by the ACO:

(i) Execute supplemental agreements to DoD prime contracts. If additional funds are required, request them from the appropriate PCO.

(ii) Prepare a negotiation memorandum in accordance with 3-811. This negotiation memorandum is of particular importance in that it will be used in reviewing the effectiveness of Cost Accounting Standards, Rules and Regulations. Copies of the memorandum shall be furnished to cognizant auditors and contracting officers of other agencies which have prime contracts affected by the negotiation. Such other agencies shall execute supplemental agreements in the amounts negotiated.

(iii) When a subcontract is to be adjusted, copies of the memorandum indicating the effect on costs shall be furnished the ACO cognizant of the next higher tier subcontractor or prime contractor, as appropriate. This memorandum shall be the basis for negotiation between the subcontractor and the next higher tier subcontractor or prime contractor and execution of a supplemental agreement to the subcontract. The ACO cognizant of the next higher tier subcontractor shall furnish in turn a memorandum of these negotiations to the ACO cognizant of the next higher tier subcontractor or prime contractor until the adjustment is reflected in the prime contract.

3-1208 Assignment of Contract Administration Responsibility.

(a) When DoD has contract administration cognizance of a contractor facility, the Administrative Contracting Officer (ACO) cognizant of the facility shall be responsible for performance of the functions in 1-406(c)(lix) through (lxii) notwithstanding retention of responsibility by the purchasing office for administration of the contract or specific functions thereunder (see Section XX, Part 7). The cognizant ACO shall perform the functions cited above in 1-406(c) for DoD and all other Government agencies having contracts at that facility (NASA, DoE, GSA, etc.).

(b) When a purchasing office retains responsibility for administration of a CAS-covered contract containing either of the clauses in 7-104.83(a), the procuring contracting officer shall forward one copy of the contract to the contract administration office cognizant of the contractor's facility (see DoD 4105.59H). The following notation will be inserted in bold print on the face of the contract:

"FOR COST ACCOUNTING STANDARDS ADMINISTRATION ONLY"

(c) in some instances the contracting officer cognizant of a contractor facility will be the representative of a Government agency other than DoD. A list of such assignments will be published from time to time in Defense Acquisition Circulars. When prime contract awards are to be made to such contractors, Item I of the solicitation provision in 7-2003.67(a) shall be modified by deleting the words "see DoD Directory of Contract Administration Components (DoD 4105.59H)" and inserting the appropriate address. The PCO shall assure that when a CAS-covered contract is awarded to a contractor whose facility is under the cognizance of a non-DoD organization, a copy of such contract, stamped as indicated in (b) above, is forwarded to the contract administration office of the cognizant agency if the contract is not assigned for field administration. That contracting officer will perform the functions in 1-406(c)(lix) through (lxii) for DoD.

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 Reserved.

3-1211 Waiver of Cost Accounting Standards, Rules and Regulations. In some instances contractors or subcontractors may refuse to accept all or part of the provisions of the Cost Accounting Standards clauses in 7-104.83(a). If the PCO determines that it is impractical to obtain the materials, supplies or services from any other source, he shall prepare the documentation required by Paragraph 331.30(c) of Appendix O together with information indicating the date by which a reply is needed to meet the contract placement date. Data required by 331.30(c)(1)(iii) and 331.30(c)(2)(i) of Appendix O is available from the DD 350 Data Bank and may be obtained by contacting the Procurement and Economic Information Division, OASD(C), Washington, D. C. 20301, or calling 202-694-5614. This documentation and information shall be forwarded through channels to the Assistant Deputy Under Secretary of Defense for Acquisition, Office of the Under Secretary of Defense (R&E), Washington, D.C. 20301. When a waiver is being requested for substantially the same product or service from the same contractor for which a waiver has previously been granted by the Cost Accounting Standards Board, such request for waiver shall so note.

3-1212 Administration of Noncompliance Issues.

(a) *Initial Finding of Compliance or Noncompliance.* The ACO shall, upon receipt of a noncompliance report from the auditor, make an initial finding of compliance or noncompliance within 15 days and advise the auditor.

(b) *Notification to Contractor.* If an initial finding of noncompliance is made, the ACO shall immediately notify the contractor in writing of the exact nature of the noncompliance and request him, within 30 days, to agree or submit reasons why he considers his existing practices are in compliance.

(c) *Agreement of Contractor.* If the contractor agrees, he shall:

(i) correct the noncompliance; and

(ii) submit the information required by paragraph (a) of the Administration of Cost Accounting Standards clause (7-104.83(b)).

(d) *Review of Contractor Change.* Upon receipt of the information required in (c) above indicating agreement with the noncompliance, the ACO shall review the accounting change for adequacy and compliance concurrently in accordance with 3-1205(d). Upon completion of the review indicating that the change is both material and adequate and in compliance, the contractor shall be notified and requested to submit the cost impact proposal required pursuant to paragraph (b) of the *Administration of Cost Accounting Standards* clause (7-104.83(b)). It shall be in sufficient detail to permit evaluation, determination and negotiation of the cost impact upon each CAS-covered contract and subcontract. It shall contain as a minimum the following information:

(i) identification of all contracts and subcontracts containing the Cost Accounting Standards clause;

(ii) if the noncompliance involves Standards 401 or 402, or a failure to follow a cost accounting practice consistently, identification of all contracts and subcontracts containing the Disclosure and Consistency of Cost Accounting Practices clause; and

(iii) the cost impact on each such contract and subcontract from the date of failure to comply until the noncompliance is corrected.

(e) *Receipt of Cost Impact Proposal.* Upon receipt of an acceptable proposal from the contractor, the ACO shall promptly analyze the proposal with the with the assistance of the auditor, determine the impact, and negotiate the contract price adjustments pursuant to 3-1207.

(f) *Failure to Submit Cost Impact Proposal.* If the contractor accepts the noncompliance determination and fails to furnish the cost impact proposal in the form and time specified, the ACO may withhold an amount not to exceed 10% of each payment made after that date related to the contractor's CAS-covered prime contracts which contain appropriate withholding provisions until the proposal has been furnished by the contractor in accordance with paragraph (b) of the *Administration of Cost Accounting Standards* clause (7-104.83(b)).

(g) *Disagreement of Contractor.* The ACO shall review the contractor's submission in (b) above and make a determination of compliance or noncompliance.

(h) *Decision of Contracting Officer.*

(1) If the ACO makes a determination of compliance, he shall notify the contractor with a copy to the auditor.

(2) If the ACO makes a determination of noncompliance, and if the contractor fails to furnish the cost impact proposal, the ACO, with the assistance of the auditor shall determine the cost impact of the noncompliance on contracts and subcontracts containing a cost accounting standards clause.

(3) If the ACO determines that the noncompliance results in increased costs to the Government, he shall notify the contractor and request agreement as to the cost or price adjustment, together with any applicable interest. The contractor shall also be advised that in the event no agreement on the cost or price adjustment is reached within 20 days, action may be taken in accordance with paragraph (b) of the clauses in 7-104.83(a). If the ACO subsequently takes such action, he shall also consider appropriate action to protect the interest of the Government, pursuant to Appendix E, Part 6, with respect to the amount thus demanded from the contractor.

(4) If the ACO determines that there are no increased costs as a result of the noncompliance, and the contractor refuses to take corrective action, the ACO shall notify the contractor in writing that he is in noncompliance, that corrective action shaould be taken, and that if such noncompliance subsequently results in increased costs to the Government, the provisions of the cost accounting standards clauses shall be enforced.

3-1213 Administration of Equitable Adjustment for New Standards.

(a) *Additional Solicitation Notice.* Those solicitations required by 3-1203(a) to include the solicitation notice in 7-2003.67(a) shall also include the notice entitled *Additional Cost Accounting Standards Applicable to Existing Contracts* in

7-2003.67(d). The PCO shall assure that the contractor's response to the notice is made known to the ACO. This may be accomplished by attaching a copy of the response to the copy of the contract provided the ACO.

(b) *Requirement for Equitable Adjustment.* Contracts and subcontracts containing the *Cost Accounting Standards* clause (7-104.83(a)(1)) may require equitable adjustment to comply with new cost accounting standards. Such adjustments are limited to contracts and subcontracts awarded prior to the effective date of each new standard. A new standard becomes applicable prospectively to these contracts and subcontracts when a new contract or subcontract containing the clause is awarded on or after the effective date of such new standard. Contractors are encouraged to submit to the ACO any change in accounting practice in anticipation of complying with a new standard as soon as practicable after the new standard has been finally promulgated by the Cost Accounting Standards Board.

(c) *Review of Contractor Change.* Upon receipt of information required pursuant to paragraph (a) of the *Administration of Cost Accounting Standards* clause (7-104.83(b)) from the contractor indicating an accounting change is required to comply with a new standard, the ACO shall review the proposed change concurrently for adequacy and compliance in accordance with 3-1205(d). Upon completion of the review indicating that the change is both material and adequate and in compliance, the contractor shall be notified and requested to submit the cost impact proposal required pursuant to paragraph (b) of the *Administration of Cost Accounting Standards* clause (7-104.83(b)). It shall be in sufficient detail to permit evaluation, determination and negotiation of the cost impact upon each contract and subcontract containing the *Cost Accounting Standards* clause. It shall contain as a minimum the following information:

(i) identification of each additional standard, together with contract and subcontracts containing the *Cost Accounting Standards* clause having an award date prior to the effective date of such standard; and

(ii) the effect on each contract and subcontact from the date the contractor is required to follow the standard until completion of the contract or subcontract.

(d) *Receipt of Cost Impact Proposal.* Upon receipt of an acceptable proposal from the contractor, the ACO shall promptly analyze the proposal with the assistance of the auditor, determine the impact, and negotiate the contract price adjustments pursuant to 3-1207.

(e) *Failure to Submit Cost Impact Proposal.* If the contractor does not submit a proposal in the form and time specified, the ACO may withhold an amount not to exceed 10% of each payment made after that date related to the contractor's CAS-covered prime contracts which contain appropriate withholding provisions until the proposal has been furnished by the contractor in accordance with paragraph (b) of the *Administration of Cost Accounting Standards* clause (7-104.83(b)).

(f) *Failure to Reach Agreement Concerning Cost Impact.* The ACO shall request agreement from the contractor as to the cost or price adjustment. The contractor shall also be advised that in the event no agreement on the cost or price adjustment is reached within 20 days, action may be taken in accordance with the *Disputes* clause of the contract. If the ACO issues a unilateral determination under the *Disputes* clause, he shall consider appropriate action to protect the interests of the Government, with respect to the amount demanded from the contractor, pursuant to Appendix E, Part 6.

3-1214 Administration of Voluntary Changes.

(a) *Notification of Proposed Change.* When a contractor who has contracts or subcontracts containing either of the cost accounting standards clauses in 7-104.83(a) plans to make a voluntary change to an accounting practice, he must submit the information required by paragraph (a) of the *Administration of Cost Accounting Standards* clause (7-104.83(b)).

(b) *Review of Contractor Change.* Upon receipt of the information required in (a) above, the ACO shall review the accounting change concurrently for adequacy and compliance in accordance with 3-1205(d). Upon completion of the review indicating that the change is both material and adequate and in compliance, the contractor shall be notified and requested to furnish the cost impact proposal required pursuant to paragraph (b) of the *Administration of Cost Accounting Standards* clause (7-104.83(b)). In shall be in sufficient detail to permit evaluation, determination, and negotiation of the cost impact upon each contract and subcontract containing a cost accounting standards clause. It shall contain as a minimum the following information:

(i) identification of all contracts and subcontracts containing a cost accounting standards clause; and

(ii) the effect on each contract and subcontract from the effective date of the proposed change until completion of the contract or subcontract.

(c) *Receipt of Cost Impact Proposal.* Upon receipt of an acceptable proposal from the contractor, the ACO shall promptly analyze the proposal with the assistance of the auditor to determine whether or not the proposed change will result in increased costs being paid by the United States. In considering the proposed adjustments to subcontracts containing the *Cost Accounting Standards* clause for the purposes of determining whether increased cost to the United States will result from the change, the ACO shall not consider the effect of the proposed adjustments upon the prime contracts and subcontracts under which the subcontracts were entered into. If the ACO determines that the proposed adjustments will not result in an increase in the aggregate cost to be paid under the contracts and subcontracts, containing a *Cost Accounting Standards* clause, he shall promptly negotiate the contract price adjustments pursuant to 3-1207. If the ACO determines that the proposed adjustments will result in an increase in the aggregate cost to be paid under the contracts and subcontracts containing a *Cost Accounting Standards* clause, he shall so notify the contractor and advise him that the proposed change will not be recognized unless an agreement can be

reached which will prevent an increase in the aggregate cost to be paid under such contracts and subcontracts. Contracts and subcontracts containing the equitable adjustment provisions of paragraph (a)(4)(C) of the *Cost Accounting Standards* clause or paragraph (a)(3) of the *Disclosure and Consistency of Cost Accounting Practices* clause may be equitably adjusted for changes if the contracting officer determines that the change is desirable and not detrimental to the interests of the Government (see 3-1207(a)). When the ACO makes such a determination, he shall notify the contractor and the parties will negotiate an equitable adjustment.

(d) *Failure to Submit Cost Impact Proposal.* If the contractor does not submit a proposal in the form and time specified, the ACO may withhold an amount not to exceed 10% of each payment made after that date related to the contractor's CAS-covered prime contracts which contain appropriate withholding provisions until the proposal has been furnished by the contractor in accordance with paragraph (b) of the *Administration of Cost Accounting Standards* clause (7-104.83(b)).

(e) *Failure to Reach Agreement Concerning Cost Impact.* The ACO shall request agreement from the contractor as to the cost or price adjustment. The contractor shall also be advised that in the event no agreement on the cost or price adjustment is reached within 20 days, action may be taken in accordance with the *Disputes* clause of the contract. If the ACO issues a unilateral determination under the *Disputes* clause, he shall consider appropriate action to protect the interests of the Government, with respect to the amount demanded from the contractor, pursuant to Appendix E, Part 6.

Part 13—Facilities Capital Employed for Facilities in Use or Under Construction

3-1300 Facilities Capital Employed for Facilities in Use.

3-1300.1 *Policy.*

(a) It is the policy of the Department of Defense to recognize facilities capital employed as an element in establishing the price of certain negotiated defense contracts when such contracts are priced on the basis of cost analysis. The inclusion of this recognition is intended to reward contractor investments, motivate increased productivity and reduced costs through the use of modern manufacturing technology, and to generate other efficiencies in the performance of defense contracts. The recognition of contractor investments in the development of the profit objective will result in a profit objective based on a combination of effort, risk, and investment factors.

(b) Separate recognition shall be given to the cost of capital and the special risk associated with the facilities capital employed for defense contract purposes.

(1) The risk aspect of facilities capital employed shall be recognized as a part of profit when the profit objective is established in accordance with the guidelines set forth in 3-808. (See especially 3-808.7).

(2) Cost of money for facilities capital will be recognized as an allowable cost in those negotiated defense contracts priced on the basis of cost analysis. (See 15-205.50).

(c) *Applicability.* This policy shall apply to contracts awarded on or after 1 October 1976. This policy shall apply to modifications to contracts awarded prior to 1 October 1976, *provided* the contractor will estimate, accumulate and report the cost of the modification without incurring unreasonable administrative expense, and contract terms and conditions are amended to make 15-205.50 applicable to the modification. This policy and the above requirement shall apply to any tier subcontract or modifications thereto, upon the subcontractor's request, *provided* the prime contract or modification thereto was eligible as of the date of award for facilities capital cost of money in accordance with 15-205.50.

3-1300.2 *Definitions, Measurement and Allocation.* Cost Accounting Standard (CAS) No. 414, "Cost of Money as an Element of the Cost of Facilities Capital," incorporated in ASPR Appendix O, establishes criteria for the measurement and allocation of the cost of capital committed to facilities, as an element of contract cost for historical cost determination purposes. Important features of the CAS are its definitions, techniques for application, and a prescribed Form CASB-CMF with instructions. This Part adopts the techniques of CAS 414 as the approved method of measurement and allocation of facilities cost of money to overhead pools at the business unit level, and adds only such supplementary procedures as are necessary to extend those techniques to contract forward pricing and administration purposes. Therefore, these procedures are intended to be completely compatible with, and an extension of, the definitions, criteria and techniques of CAS 414. Contractors who computerize their financial data are encouraged to meet the requirements of both CAS 414 and this Part from the same data bank and programs.

3-1300.3 *Estimating Business Unit Facilities Capital and Cost of Money.* The method of estimating the business unit facilities capital and cost of money utilizes

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adhering to contract requirements, weighing each factor in accordance with the requirements of the particular procurement. When a Small Business concern would otherwise be selected for award but is deemed not responsible because of lack of capacity or credit, see 1-705.4 for applicability of SBA Certificates of Competency. Proposals for cost reimbursement type or fixed price incentive contracts may be penalized during evaluation to the degree that the estimated cost is unrealistically low. The Contracting Officer shall notify those sources whose proposals or offers have been determined to be unacceptable of that decision in accordance with 3-508.

4-106.5 *Evaluation of Price and Costs.*

(a) While cost or price should not be the controlling factor in selecting a contractor for a research or development contract, cost or price should not be disregarded in the choice of the contractor. It is important to evaluate a proposed contractor's cost or price estimate, not only to determine whether the estimate is reasonable but also to determine his understanding of the project and ability to organize and perform the contract. The most useful tools for this purpose are price analysis and cost analysis (see 3-807.2).

(b) Price analysis generally considers the overall reasonableness of the proposals in relation to the total contemplated expenditures and the extent and nature of the task scheduled to be accomplished. In most research and development contracts, the inability to define specifications and the nature of the end items prevent the effective use of certain techniques of price analysis, such as comparisons with prior quotations and current prices and evaluations in terms of quantitative yardsticks. The conclusions reached by price analysis techniques must be supported by cost analysis procedures, used to examine the details of the offerors' proposals.

(c) The analysis of cost factors begins with an evaluation of the reliability of the offeror's cost estimating procedures and the dependability of his cost controls, as demonstrated by his history of cost management in the performance of other contracts or by his establishment of sound practices for this purpose. The cost analysis proceeds with a critical examination of the composition of each cost element in terms of its expected application to the objectives of the contract, and its conformance to the accepted principles of allocability and reasonableness. (See Section XV, Part 3, and 15-201.) A Government cost estimate may help in projecting tools for these purposes and may develop the expected incidence of various cost factors in relation to performance phases, planned segments, or identifiable "milestones." This estimate should provide a summary forecast of the time, effort, materials, equipment, and services necessary to accomplish the research or development objective. The comparison and reconciliation of the Government cost estimate with the offeror's cost estimate for the same phases, segments, or events should bring into focus any areas of excessive or insufficient emphasis and provide a foundation for meaningful discussions with the offeror.

(d) Special care should be exercised to comply with 15-205.1 and 15-205.33 in the allowance of advertising costs under 15-309.1.

4-106.6 *Profit or Fee.* See 3-405.6(c)(2), 3-806, 3-807.9(d), and 3-808.

4-106.7 *Documentation.* Contract files for research and development procurement shall be fully documented to include the basis and reasons for the

selection of the sources solicited and for the award. Such documentation should be adequate to justify the selection of the contractor over others whose proposals, from the standpoint of some single factor (such as lower estimated costs or shorter performance time), might appear more advantageous to the Government (See 1-308.)

4-107 "Four-Step" Source Selection Procedures.

4-107.1 *General.*

(a) The Four-Step process, briefly described, is the (i) submission and evaluation of the offeror's technical proposal; (ii) submission and evaluation of the offeror's cost proposal; (iii) establishment of the competitive range and selection of the apparent successful offeror; and (iv) negotiation of a definitive contract.

(b) The conventional process differs in that (i) offerors' technical and cost proposals are submitted and evaluated simultaneously; (ii) definitive contracts are negotiated with all offerors in the competitive range; and (iii) the contractor is selected. One additional difference in the two processes involves discussion of proposal deficiencies. In the Four-Step process, deficiencies are not revealed to the individual offerors, while in the conventional process protracted discussions may evolve around proposal deficiencies.

(c) These procedures are designed primarily to: focus attention on technical excellence, maintain the integrity of each offeror's proposal, provide visibility of discriminating features between proposals, reduce the opportunity for buy-ins, preclude the opportunity for the use of auctioning techniques and assure a disciplined and orderly process in the selection of sources. To this end, early and open dialogue, e.g., presolicitation notices and conferences, pre-proposal conferences, informal solicitations and the tailoring of specifications, is encouraged to establish a better understanding of the Government's needs.

(d) Following the technical evaluation and discussions, cost/price proposals are obtained from each offeror together with any necessary clarifications of technical proposals. Subsequent to the receipt of the cost/price proposals and any technical clarifications, a competitive range is established. Those proposals outside the competitive range are eliminated at this point and the offerors so notified. Limited discussions are then held with the remaining offerors on their cost/price proposals and any technical clarifications. Following such discussions, a proposal may be eliminated from further consideration and the offeror so notified when it is determined to be no longer in the competitive range.

(e) At the completion of technical and cost/price discussions, a common cut-off date for the receipt of final technical and cost/price proposals based upon those discussions is then established and the remaining offerors so notified. An evaluation is then made of each offeror's total proposal and a single offeror is normally selected for negotiation of a contract (see 4-107.5(e)(7)). In order to release proposal teams at the earliest practical date, all offerors are notified of the contractor selected.

(f) A definitive contract is then negotiated with the selected offeror and contract award accomplished. These negotiations must be completed in a timely manner and must not involve changes in the Government's requirements or the contractor's proposal which would affect the basis for source selection. In the event a definitive contract cannot be awarded on a timely basis, negotiations may be terminated and a new source selection decision made.

4-107.2 *Applicability.* These procedures may be used at the discretion of the Contracting Officer for competitively negotiated research and development acquisitions with an estimated value of $2 million or more. They may also be used for any other acquisition when approved in accordance with Departmental procedures subject to the restrictions below. Use of these procedures is most appropriate when Government evaluation of initial proposals, without discussion of proposal deficiencies, will be sufficient to determine the best overall offer to the Government. Acquisitions for which these procedures are not used shall follow the procedures of 3-805.

4-107.3 *Restrictions.* These procedures should not be used for acquisitions in which the necessity to conduct extensive negotiations is anticipated. These procedures shall not be used for any acquisitions which:

(i) are negotiated pursuant to 3-202;
(ii) are solely for personal or nonpersonal services;
(iii) are for architect-engineer services; or
(iv) have an estimated value of less than $2 million.

4-107.4 *Procedures.* Acquisitions subject to this paragraph shall be conducted in accordance with the following procedures:

(a) *Solicitations.* Solicitations shall be developed in accordance with 3-501 and shall include the following special requirements and instructions:

(1) A general statement explaining the concept and procedures to be used in the selection of a contractual source for the proposed acquisition.

(2) The relative importance of technical/system performance criteria.

(3) A notification that any proposals which are unrealistic in terms of technical or schedule commitments or unrealistically low in cost or price will be deemed reflective of an inherent lack of technical competence or indicative of failure to comprehend the complexity and risks of the proposed contractual requirements and may be grounds for the rejection of the proposal.

(4) A schedule of planned source selection events including, but not limited to, specific dates for the submission of both technical and cost/price proposals.

(5) Provisions requiring sequential submission of separate technical and cost/price proposals.

(6) Requirements for the technical proposal to include, where appropriate, identification of trade-offs among performance, production costs, operating and support costs, schedule and logistic support factors; and requirements for cost estimates which illustrate the impact of these trade-offs. In addition, requirements for the technical proposal to include information necessary to indicate that the design to cost and operating and support cost objectives, when used, would be achieved when the item(s) enters production.

(7) Requirements for the cost proposal to include the detailed, substantiating cost information pertaining to the performance of the contemplated contract and other detailed data necessary for evaluation of cost factors to be considered in the source selection decision.

(8) A statement that both technical and cost/price discussions will be limited as set forth in (b) and (c) below.

(9) A notification that negotiations will be conducted only with the selected offeror, and that offerors should present their most favorable technical and cost/price proposals initially.

(b) *Step One - Evaluation and Discussion of Technical Proposals.* A detailed evaluation shall be accomplished on all technical proposals received based upon the established criteria in the solicitation. Upon completion of the initial evaluation, limited discussions shall be conducted with all offerors for the purpose of achieving maximum understanding and clarification of the contents of the proposal. During such discussions, offerors shall not be advised of deficiencies in their proposals. A deficiency is defined as that part of an offeror's proposal which would not satisfy the Government's requirements. Offerors shall be advised of areas of their proposal in which the intent or meaning is unclear or for which additional substantiating data is required for evaluation. When necessary for complete understanding of proposals, clarifications and/or additional substantiating data may be requested concerning those areas of an offeror's proposal when there is uncertainty that a deficiency exists. In most cases, clarification of proposals and additional substantiating data, if required, will be included by offerors with their cost/price proposals in Step Two. When it is apparent from the proposals received that the Government's requirements have been misinterpreted, clarification shall be provided to all offerors to ensure complete understanding.

(c) *Step Two - Evaluation and Discussion of Cost/Price Proposals.*

(1) Following the technical evaluation and discussions, complete, fully documented cost/price proposals and clarifications, if required, of technical proposals shall be obtained. Each proposal shall be evaluated and those which have no reasonable chance for award may be eliminated from the competition at this point and the offerors notified that they are outside the competitive range and will be given no further consideration.

(2) Limited discussions as indicated herein shall then be conducted with all remaining offerors in connection with their respective cost/price proposals, either on an element-by-element basis or in their entirety. These discussions may include (i) rectification and/or correction of inconsistencies or mathematical errors; (ii) correlation of elements of cost with their respective technical efforts, in order to assess the extent of realism in the cost proposal; and (iii) discussion necessary to ensure a complete understanding of the Government's requirements, what is being offered (including delivery schedules, trade-offs among performance, design to cost, life cycle cost, and logistics support factors) and other contract terms. An offeror shall not be advised during these discussions that its proposal or any of its elements are either too high to too low. When discussions of technical proposals are required, they shall be limited as stated in (b) above.

(3) Following such discussions, a proposal may be eliminated from further consideration and the offeror so notified (i) when the proposal was initially included in the competitive range because it might have been susceptible of being made acceptable, or (ii) because there was uncertainty whether it was in the competitive range, and in either case, through discussions relating to ambiguities and omissions it becomes clear that the proposal should not have been included in the competitive range initially.

(d) *Step Three - Common Cut-Off.*

(1) A common cut-off date for receipt of technical and cost/price proposal clarifications or substantiations shall be established and all participants so notified in accordance with 3-805.3.

(2) Offerors shall be informed that any changes incorporated in the final proposal must be fully substantiated. Supporting data must provide traceability to the causative technical, business, or financial conditions that brought about any change. Lump sum reductions in cost/price shall not be accepted without supporting rationale.

(3) After the common cut-off date, requirements shall not be imposed for additional proposals or revisions to submitted technical or cost proposals without the prior approval of an official at a level no lower than that of a Head of a Procuring Activity (HPA). Auctioning through repetitive calls for offers is strictly prohibited.

(4) Final detailed negotiations leading to the bilateral execution of a definitive contract shall be deferred until after the selection of an offeror for final contract negotiations.

(e) *Selection of an Offeror for Final Contract Negotiations.*

(1) Complete evaluation of all factors in accordance with the criteria set forth in the solicitation, including cost/fee or price, shall be conducted with careful regard for security procedures and good business practice.

(2) Based upon the offeror's latest total acceptable technical and cost proposals, selection of a single source shall be made for the conduct of final negotiations leading to a definitive contract. (This does not preclude selecting more than one source when multiple sources are desired; e.g., competitive prototypes.) Procedures for waiver of this requirement are at (7) below.

(3) Proposals unrealistic in terms of technical or schedule commitments or unrealistically low in cost or price will be deemed reflective of an inherent lack of technical competence or indicative of failure to comprehend the complexity and risks of the contract requirements and may be grounds for rejection of the proposal.

(4) The selection will be based on an integrated decision, involving consideration of technical approach, capability, management, design to cost, operating and support cost objectives, historical performance, price/cost and other factors.

(5) Following selection of the best offeror, all competitors shall be notified of the source to be awarded the contract, subject to negotiation of a satisfactory definitive contract.

(6) The source selection decision is conditional in that award of a fully negotiated contract to the selected offeror must be accomplished within a period of time prescribed by the source selection authority. In the event a definitive contract cannot be awarded on a timely basis, negotiations may be terminated and a new source selection decision made.

(7) Proposed contracts may be negotiated with two or more offerors within the competitive range, if the HPA makes a written determination that a final selection of a single source should not be made until such proposed contracts have been negotiated. Such determination shall not be made solely for the purpose of maintaining a competitive environment. However, such a determination may be based, for example, on unique situations where there are no significant discriminating technical or cost features between two or more offerors. Notification of such determination shall be provided to OUSD(R&E)(ADUSD(A)) through Departmental procedures.

(f) *Step Four - Final Negotiations and Contract Award.* Final negotiations leading to bilateral execution of a single definitive contract will be conducted only with the selected offeror except when multiple negotiations are authorized by the HPA. Final negotiations shall include the disclosure and resolution of all technical deficiencies and all unsubstantiated areas of cost. Negotiations shall not involve changes in the Government's requirements or the contractor's proposal which would affect the basis for source selection. In the event that such changes are necessary, the procedures in 3-805.4 shall be followed. The final negotiated contract must represent a reasonable probability that the Government's requirements will be satisfied at a fair and reasonable cost/fee or price.

(g) *Debriefings.* Formal debriefings shall be conducted after contract award, in accordance with 3-508.4.

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 Federal Management Circular, FMC 73-3: "Cost Sharing on Federal Research," in the procurement of basic and applied

Part 10—Research Contract Procedures

4-1000 Scope of Part. This Part prescribes procedures for contracting for research on a cost-reimbursement basis with educational institutions or nonprofit organizations within the United States whose primary purpose is the conduct of scientific research, when the basis for award is an unsolicited proposal.

4-1001 Definitions.

(a) *Research* includes all effort described in 4-101(a)(1) and that part of 4-101(a)(2) applicable to applied research.

(b) *Educational institution* means an institution of higher learning providing facilities for teaching and research and authorized to grant academic degrees.

(c) *Nonprofit organization* - organizations of the type described in Section 501(c)(3) and (d) of the Internal Revenue Code of 1954 (26 U.S.C. 501) or any nonprofit scientific organization qualified under a state nonprofit organization statute.

4-1002 Applicability.

(a) The procedures contained in this Part may be used for contracting:

(i) whenever the principal purpose is the acquisition of research from an educational institution or a nonprofit organization whose primary purpose is the conduct of scientific research;

(ii) when the work is to be accomplished on a cost-reimbursement basis and the total estimated cost, including fee (if any), is $10,000 or more;

(iii) when the basis for award is an unsolicited proposal; and

(iv) when the contract requires the delivery of designs, drawings or reports as end items.

(b) When the circumstances in (a) above are present, the Short Form Research Contract (SFRC) may be used. The SFRC shall not be used for any purpose other than as described herein.

4-1003 Content of Unsolicited Proposals. Unsolicited proposals submitted for award in accordance with these procedures shall contain all the information in 4-906. A contract may be awarded on the basis of the unsolicited proposal exactly as submitted or as subsequently amended by the offeror, if the proposal contains the information listed in (a) through (f) below:

(a) In addition to the information identified in 4-906(b), a statement of work in accordance with 4-105 and a breakdown of the time, identifying man-days, man-months or man-years to be devoted to the contract by the principal

investigator and any associates (see 4-118.2). A separate work statement which can be incorporated by reference in the SFRC is preferred.

(b) In addition to information identified in 4-906(c), the following executed representations and certifications on DD Form 2222:

(i) Contingent Fee - 7-2002.1;

(ii) Certification of Nonsegregated Facilities - 7-2003.14(b)(1)(A);

(iii) Previous Contracts and Compliance Reports - 7-2003.14(b)(1)(B);

(iv) Organizational Conflicts of Interest - 4-906(c)(vi);

(v) Affirmative Action Compliance - 7-2003.14(b)(2);

(vi) Clean Air and Water (if proposal exceeds $100,000) - 7-2003.71;

(vii) Tort Liability - Partial Immunity - 7-402.26(a) and 7-203.22.

Offerors may elect to submit the representations and certifications on a one-time basis to each contracting office. Such representations and certifications would be valid for all SFRC contract awards, *Provided*, for each proposal submitted, the offeror references the submission and confirms in writing its validity for the research proposal.

(c) A statement that the Government may award a contract in accordance with the procedures of this Part 10, as applicable.

(d) A list of property, as defined in 7-2203.7(b)(1) showing, when possible, the description or title and estimated or known unit cost of each item. The offeror must include a statement as to why it is necessary to acquire these items with contract funds and express in writing his unwillingness or financial inability to acquire the items with his own resources. The description or title of the items should be in sufficient detail to enable the contracting officer to:

(1) determine whether or not the Government will furnish such property, pursuant to 13-301 and 4-116.3; and,

(2) for property which may be contractor-acquired:

(i) accept it as advance notification required by the Subcontracts clause (7-2203.35 and 7-2204.36); and

(ii) authorize acquisition at the time of award pursuant to 7-2203.6 and 7-2204.6.

(e) A Contract Pricing Proposal (DD Form 633) or acceptable substitute. Information for subcontracts listed in 7-402.8(a), subparagraph (b), shall be as prescribed by that subparagraph.

(f) Any applicable advance payment pool provision.

4-1004 Contracting Procedures.

(a) The contracting officer may award an SFRC resulting from an unsolicited proposal when the requirements of 4-906 and 4-1003 are satisfied, and noncompetitive award is appropriate under 4-910.

(b) Contracts resulting from unsolicited proposals may be effected by using the procedures in either (c) or (d) below, as appropriate.

(c) When the unsolicited proposal, either as submitted initially, or as amended in writing by the offeror, is satisfactory to the Government, the proposal should be accepted by the contracting officer and a contract formed by incorporating the entire proposal by reference, or by incorporating the statement of work by reference and executing the SFRC.

(d) When acceptance of the entire proposal is not considered advantageous to the Government, the contracting officer should use such parts of the unsolicited proposal as are considered appropriate, either by actual attachment or incorporation by reference, to develop a contract for execution by both parties. In this event, the SFRC shall be executed by the contractor prior to signature by the Government.

(e) Modifications shall be effected by use of the DD Form 2222.

(f) The offeror may offer options to the Government or the parties may agree to options to conduct research effort beyond the initial research program proposed. The initial dollar amount and period of performance specified at the time of award shall not include the cost and period of the options. The cost and period of such options shall be separately identified. The option may be exercised by the Government by unilateral modification of the contract.

(g) The policy and background regarding vesting of title in equipment to nonprofit institutions of higher education, or nonprofit organizations whose primary purpose is the conduct of scientific research, are set forth in 4-116.3, 4-116.4, and 4-118.4. Title to property which is not vested in the contractor shall be listed on the SFRC.

(h) By submission of his proposal pursuant to this Part 10, the offeror agrees to be bound by all terms and conditions of the resulting contract.

4-1005 SFRC Clauses.

(a) The contractor agrees to be bound by the contract clauses incorporated by reference or separately stated in the SFRC.

(b) The clauses in Section VII, Part 22 are applicable to all SFRC awards as of the date of the offeror's proposal, unless such date is modified by mutual agreement. Such modification may be included in the offeror's proposal or may be specifically identified in the contract document. Inclusion of the change in the contract document will necessitate execution of the contract by the signature of both contracting parties.

(c) The offeror's proposal shall include one of the following statements:

(1) *Proposals from educational institutions:*
"This proposal incorporates by reference, and makes as part thereof, all clauses in DAR 7-2203 in effect on the date of this proposal or such other date as may be mutually agreed upon."

(2) *Proposals from nonprofit organizations:*
"This proposal incorporates by reference, and makes as part thereof, all clauses in DAR 7-2204 in effect on the date of this proposal or such other date as may be mutually agreed upon."

(d) The parties may also incorporate, by mutual consent, any other DAR clauses which are determined to be applicable because of the nature of the particular acquisition.

4-1006 Advance Payments. SFRCs awarded to institutions and organizations authorized to receive advance payments in accordance with Appendix E, Part 4, shall be clearly marked to read "ADVANCE PAYMENT POOL CONTRACT PURSUANT TO ATTACHED PAYMENT PROVISION."

4-1007 Methods of Funding. SFRCs may be fully or incrementally funded in accordance with Departmental procedures. If incrementally funded, the SFRC shall specify the total estimated cost for the full period of the research program, both funded or unfunded, and the amount of funds currently obligated. For the purpose of establishing the period covered by the incremental funds available, the funds available will be prorated by dividing the number of months into the dollars available. If this method is not acceptable, the offeror shall specify an alternate method of establishing the time period.

4-1008 Proposal Format. Contractors are encouraged to use DD Form 2222 in the submission of research proposals for SFRC awards. Use of this format will promote consistency in award procedures among DoD funding agencies and expedite the award of the SFRC.

[Reproduced copies of DD Form 2222 are shown on pages 4:49-E through 4:49-K.]

[The next page is 4:49-E.]

SHORT FORM RESEARCH CONTRACT (SFRC) MODIFICATION — PAGE 1 OF

1. SFRC NO. — MODIFICATION NO. — 2. REQUISITION/PURCHASE REQUEST/PROJECT NO. — 3. PERIOD COVERED BY SFRC (including modification) (if applicable) From: Through:

4. EFFECTIVE DATE (MODIFICATION ONLY)

5. NEGOTIATED PURSUANT TO 10 U.S.C. 2304 (a)

6. SUBMIT INVOICES TO ADDRESS ☐ IN BLOCK ☐ ON CONTINUATION SHEET ☐ CONGIZANT AUDIT OFFICE

7. ISSUED BY — CODE

8. ADMINISTERED BY — CODE

☐ SPECIAL INSTRUCTIONS INCLUDED ON CONTINUATION SHEET

9. CONTRACTOR (Name and address) — CODE

10. PAYMENTS WILL BE MADE BY — CODE

11. SCIENTIFIC PROGRAM OFFICER — CODE

12. PRINCIPAL INVESTIGATOR(S)

13. ACCOUNTING AND APPROPRIATION DATA

14. BASIS FOR AWARD OR MODIFICATION

☐ UNSOLICITED PROPOSAL INCORPORATED BY REFERENCE
DATE
TITLE

☐ ATTACHMENTS (Specify)

☐ OTHER (Specify)

CONTRACTING OFFICER WILL COMPLETE BLOCK 15 OR 16 AS APPLICABLE

15. ☐ CONTRACTOR'S AGREEMENT (CONTRACTOR IS REQUIRED TO SIGN THIS DOCUMENT AND RETURN COPIES TO ISSUING OFFICE). CONTRACTOR AGREES TO FURNISH AND DELIVER ALL ITEMS OR PERFORM ALL SERVICES SET FORTH IN THE UNSOLICITED PROPOSAL IDENTIFIED IN BLOCK 14 ABOVE

16. ☐ AWARD (CONTRACTOR IS NOT REQUIRED TO SIGN THIS DOCUMENT). YOUR UNSOLICITED PROPOSAL IDENTIFIED IN BLOCK 14 ABOVE, INCLUDING THE ADDITIONS OR CHANGES MADE BY YOU WHICH ARE SET FORTH IN FULL ABOVE IS HEREBY ACCEPTED. THIS AWARD CONSUMMATES THE CONTRACT WHICH CONSISTS OF YOUR PROPOSAL AND THIS AWARD. NO FURTHER CONTRACTUAL DOCUMENT IS NECESSARY.

17. NAME OF CONTRACTOR
BY
Signature of person authorized to sign

20. UNITED STATES OF AMERICA
BY
Signature of Contracting Officer

18. NAME AND TITLE OF SIGNER (Type or print) — 19. DATE SIGNED — 21. NAME OF CONTRACTING OFFICER (Type or print) — 22. DATE SIGNED

☐ ADVANCE PAYMENT POOL CONTRACT PURSUANT TO ATTACHED PAYMENT PROVISION.
☐ NOT AN ADVANCE PAYMENT POOL CONTRACT.

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SHORT FORM RESEARCH CONTRACT (SFRC) MODIFICATION	PAGE 2

23. AMOUNT OF THIS ACTION (Initial amount or modification) $ _____

24. CUMULATIVE COST DATA (Initial award and all modifications)
(A) ESTIMATED COST $ _____
FEE (If any) $ _____
TOTAL AMOUNT $ _____ ___%
(B) CONTRACTOR COST SHARING $ _____ ___%
(C) TOTAL RESEARCH PROJECT COST $ _____ 100%

25. CUMULATIVE FUNDING DATA (Initial award and all modifications)
(A) TOTAL FUNDS OBLIGATED $ _____
(B) PERIOD COVERED BY OBLIGATED FUNDS _____
FROM _____ THROUGH _____

26. OPTIONS

OPTION NO.	AMOUNT	PERIOD

☐ SEE CONTINUATION SHEET

27. PROPERTY MATTERS
☐ PRIOR APPROVAL REQUIRED FOR PROPERTY LISTED ON CONTINUATION SHEET
☐ PROPERTY NOT VESTED IN CONTRACTOR LISTED ON CONTINUATION SHEET

28. REQUIRED REPORTS

NUMBER	DATE REQUIRED
_____ FINAL TECHNICAL	_____
_____ ANNUAL LETTER	_____
_____ SEMI-ANNUAL	_____
_____ SEE CONTINUATION SHEET	(Per Cont. Sheet)

29. (A) PRE SFRC COST (See DAR 15-309.25 or 15-205.30) $ _____
(B) PERIOD OF PRE SFRC COSTS (YYMMDD)
FROM _____ TO _____

30. GENERAL PROVISIONS
THE CLAUSES SET FORTH IN THE FOLLOWING PART OF DAR IN EFFECT ON _____ ARE INCORPORATED BY REFERENCE AS PART OF THIS CONTRACT
☐ DAR 7-2303 (EDUCATIONAL INSTITUTIONS)
☐ DAR 7-2304 (NONEDUCATIONAL, NONPROFIT ORGANIZATIONS)

31. OTHER TERMS AND CONDITIONS

DD Form 2222 (Rev. 1 Feb. 83)

INSTRUCTIONS FOR COMPLETING SFRC DOCUMENT

(Refer to DoD 4000.25-D, "DoD Activity Address Directory (DoDAAD)" for codes used in items 7 through 11)

Block 1: Government's identification number for the initial award (and modification as appropriate) of the SFRC. (See DAR Section XX, Part 2, and Appendix N.)

Block 2: Identify the requisition, purchase request or project number.

Block 3: State the total length of time the SFRC is effective (including incremental funding of additional year research efforts). Enter the date in the sequence of year, month, day. For Modifications, enter only revised ending date, if applicable.

Block 4: Effective date of the modification.

Block 5: Identify the applicable negotiation authority for this contract.

Block 6: Identify address to which contractor shall submit invoices by identifying block in which address is contained or signifying that address is on continuation sheet. Address includes name, street address, city, state and zip code.

Block 7: Name and address of the Government organization issuing the SFRC. Enter the name, street address, city, state and zip code.

Block 8: Name and address of the cognizant Government Administrative Office responsible for administering the SFRC. Address includes name, street address, city, state and zip code.

Block 9: Name and address of contractor. Address includes name, street address, city, state and zip code.

Block 10: Name and address of Government finance office. Address includes name, street address, city, state and zip code.

Block 11: Name and address of Government Scientific Program Officer. Address includes name, street address, city, state and zip code.

Block 12: Name and telephone number of Principal Investigator(s).

Block 13: Set forth the Government accounting and financial data, including the funds added or subtracted by this action.

Block 14: Identify the basis for award or modification. If the Statement of Work and/or other parts of the unsolicited proposal are attached to the SFRC form, specify the attachments. Other subsequent actions, such as time extensions, changing principal investigators, adding equipment, exercising options, etc., will be identified by checking the "other" block and briefly explaining the transaction. Enter date as year, month, day.

Block 15: If the form is being used as a bilateral contract, this box shall be checked and contractor is required to sign the SFRC and return the prescribed number of copies to the issuing office.

Block 16: If this form is being used as an acceptance (award) of contractor's firm proposal, this box shall be checked and contractor will not be required to sign this document.

Block 17: Enter the signature of contractor representative.

Block 18: Enter the name and title of person authorized to sign.

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INSTRUCTIONS FOR COMPLETING SFRC DOCUMENT – CONTINUED

Block 19: Enter the date signed in the sequence of year, month and day.

Block 20: Enter the signature of the contracting officer.

Block 21: Enter the name and title of person authorized to sign.

Block 22: Enter the date signed in the sequence of year, month and day.

Block 23: Insert the dollar amount of this action.

Block 24: Summary of cost data for total research effort. Include additional year efforts which are incrementally funded but not including options:

(A) Total estimated cost to the Government of the research effort. Total fee (if any) for the research effort. Total estimated price – cost plus fee in dollar amount and as a percentage of total project amount.

(B) Contractor cost share in dollars and as a percentage of total project costs.

(C) Total project amount (A + B).

Block 25: (A) Enter the total funds currently obligated to the research project including funds added by modifications.

(B) Enter date of initial SFRC through date the Government incurs no further obligations under the SFRC in the order of year, month, day.

Block 26: Identification of options to conduct research effort beyond the initial research program proposed. Enter the option number, period of time and dollar amount of the options.

Block 27: The Government will identify all property not vested in the contractor. Indicate if approval is required prior to acquisition of property and if property is identified on a continuation sheet.

Block 28: The Government may identify the number of required reports and due dates. The parties may agree to indentify other type reports on a continuation sheet. The required dates are to be entered in the sequence of the year, month, day.

Block 29: (A) Identification of costs incurred prior to effective date of the SFRC which are specifically under the agreement pursuant to the authority in DAR 15-308.25 or 15-205.30.

(B) Period of time covered by the allowable presearch costs set forth above. Enter the date in the sequence year, month, day.

Block 30: Insert date of DAR clauses applicable in accordance with 4-1305. Check which DAR clauses in 7-2200 apply.

Block 31: This space may be used as continuance sheet or to identify other terms and conditions.

REPRESENTATIONS AND CERTIFICATIONS

1. Contingent Fee (DAR 7-2002.1) (1974 APR)

On behalf of the Offeror, the undersigned represents and certifies that: (a) the Offeror ( ) 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) the Offeror ( ) has ( ) has not paid or agreed to pay any company or person any fee, commission, percentage, or brokerage fee contingent upon or resulting from the award of this contract.

2. Certification of Nonsegregated Facilities (1970 AUG)

The Offeror ( ) does ( ) does not maintain or provide for its employees any segregated facilities, and ( ) will ( ) will not permit any of its employees to perform their service at any location under its control where segregated facilities are maintained. It is agreed that a breach of this certification is a violation of the Equal Opportunity clause in this contract. It is further agreed that identical certificates will be obtained from proposed subcontractors prior to the award of subcontractors exceeding $10,000 which are not exempt from the provision of the Equal Opportunity clause; that such certifications will be maintained in the Offeror's files; and that the notice required by DAR 7-2003.14 (b) (1) (A) will be forwarded to such proposed subcontractors.

3. Previous Contracts and Compliances Reports (DAR 7-2003.14 (b) (1) (B)) (1973 APR)

The Offeror ( ) has ( ) has not participated in previous contracts subject to the Equal Employment Opportunity Clauses listed in DAR 7-2003.14 (b) (1) (B) and ( ) has ( ) has not filed all required compliance reports. Representations indicating submission of required compliance reports, signed by proposed subcontractors will be obtained prior to subcontract awards.

4. Affirmative Action Compliance (DAR 7-2003.14 (b) (2)) (1979 SEP)

The Offeror ( ) has ( ) has not developed and ( ) has ( ) does not have on file affirmative action programs required by the rules and regulations of the Secretary of Labor (41 CFR 60-1 and 60-2).

5. Organizational Conflicts of Interest (DAR 4-906 (c) (vi)) (1977 AUG)

( ) There are no known organizational conflicts of interest.
( ) Information is provided as an appendix concerning a potential or real organizational conflict of interest.

6. Clean Air and Water (DAR 7-2003.71) (1977 JUN)

The Offeror certifies as follows:

(i) any facility to be utilized in the performance of this proposed contract ( ) is ( ) is not, listed on the Environmental Protection Agency List of Violating Facilities;

(ii) he will promptly notify the Contracting Officer, prior to award, of the receipt of any communication from the Director, Office of Federal Activities, U.S. 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; and

(iii) he will include substantially this solicitation certification, including this paragraph (iii), in every nonexempt subcontract.

7. Partial Immunity to Tort Liability (DAR 7-402.25 (a)) (1962 SEP)

The Offeror ( ) does ( ) does not claim partial immunity to tort liability as a state or charity institution.

Name of Offeror: _____

Signature: _____

Typed Name: _____

Title: _____

Date Signed: _____

DD Form 2222 2

SHORT FORM RESEARCH CONTRACT
RESEARCH PROPOSAL
COVER PAGE

DATE: DO NOT USE THIS BLOCK

1. TO: (Submit ____ copies of proposal to:)

2. SCIENTIFIC FIELD

3. FROM: NAME AND ADDRESS OF OFFEROR

IDENTIFICATION NO.

4. TYPE OF ORGANIZATION
( ) Educational Institution
( ) Other nonprofit

5. TITLE:

6. REQUESTED DURATION:

7. PROPOSED AMOUNT
$ _____

8. PROPOSAL ALSO BEING SUBMITTED TO:

9. REQUESTED START DATE:

10. TYPE OF CONTRACT:
( ) Cost Plus Fixed Fee
( ) Cost, No Fee
( ) Cost Sharing

11. PROPOSAL VALID UNTIL: (minimum 6 months)

12. PRINCIPAL INVESTIGATOR(S):

Name and Department	Telephone No.

13. ADMINISTRATIVE REPRESENTATIVE AUTHORIZED TO CONDUCT NEGOTIATIONS:

Name	Telephone No.

14. OFFEROR'S STATEMENTS:
See Page 2

ENCLOSURES or Page Numbers (If page numbers, precede item(s) by "pg")

Technical:
____Title and abstract of proposed effort
____Statement of Work
____Discussion of background, objectives, approaches, and available facilities
____Names and brief biographical information of key personnel

Financial:
____Cost estimate detailed by cost elements on DD Form 633 or equivalent
____Type of support other than financial, if any, required of the Government, e.g., facilities, equipment, materials or personnel resources

Administrative:
____Statements, if applicable, regarding cost sharing, organizational conflicts of interest, status of security clearances, environmental impact, and previous organizational experience in the field covered by the proposal.
____Statement as to why it is necessary to acquire property, if any, with contract funds (see DAR 13-301 (a)).

15. AUTHORIZED REPRESENTATIVE:

Typed Name: _____ Signature: _____

Title: _____ Date Signed: _____

DD Form 2233 3

SHORT FORM RESEARCH CONTRACT
RESEARCH PROPOSAL
Page 2

OFFEROR'S STATEMENTS:

A. DISCLOSURE PREFERENCE. The proposal shall not be duplicated, used, or disclosed in whole or in part for any purpose other than to evaluate the proposal without the written permission of the offeror (except that if a contract is awarded on the basis of this proposal, the terms of the contract shall control disclosure and use). This restriction does not limit the Government's right to use information contained in the proposal if it is obtainable from another source without restriction. All data contained in this proposal is subject to this restriction.

( ) Permission is hereby granted to evaluate this proposal in accordance with your normal procedures which may include evaluation by evaluators both within and outside the Government with the understanding that written agreement not to disclose this information shall not be required of or obtained from any such evaluators.

( ) Restrict the evaluation of the above proposal to Government Personnel only. The offeror shall mark the proposal in accordance with DAR 4-813.

B. LIMITED RIGHTS DATA. Limited rights data, if any, contained in this proposal are identified in Enclosure _____ or page(s) No. _____.

C. CONTRACT CLAUSES. By signature on Page 1 of this Proposal the offeror authorizes award of a contract in accordance with the provisions of DAR Section IV, Part 13 and agrees to be bound by the contract clauses contained in DAR 7-2203 or 7-2204, as appropriate, in effect on the date of this proposal or such other date as may be mutually agreed upon.

D. REPRESENTATIONS AND CERTIFICATIONS.

( ) Representations and Certifications pertaining to Contingent Fee, Certification of Nonsegregated Facilities, Previous Contract Compliance Reports, Affirmative Action Compliance and Clean Air and Water and Environmental Impact Statement were furnished your office on _____. These representations and certifications remain valid and are appropriate for the subject proposal. No facility to be used for the proposed research has been the subject of a conviction under the Clean Air Act or the Federal Water Pollution Control Act.

( ) The comprehensive Representations and Certifications as cited above have not been submitted. The attached Representations and Certifications have been developed in connection with the subject proposal and:

( ) should be used only in connection with the subject proposal.

( ) may be used not only for the subject proposal but as a comprehensive submission for possible use with prospective unsolicited proposals.

E. ADVANCE PAYMENTS (APPLICABLE ONLY TO OFFERORS WITH EXISTING PAYMENT AGREEMENTS WITH DoD):
Advance payments will be made for performance of this SFRC pursuant to the terms and conditions of the Advance Payment Pool Agreement dated _____ between the Department of _____ and the contractor. _____ The provisions of that Agreement are hereby incorporated by reference in this SFRC with the same force and effect as though fully set forth herein. If this SFRC is awarded by the Department that entered into the Advance Payment Pool Agreement with the Contractor, this SFRC shall be paid by _____ * and deemed a "designated pool contract" for the purpose of said Agreement. If this SFRC contract is awarded by one of the other military departments or the Defense Logistics Agency, it will be deemed a "pool contract" for the purpose of said Agreement and, notwithstanding other provisions of this SFRC, all payments hereunder will be by check drawn payable to the dual payee, "Department of the _____ or _____ (Contractor)" and forwarded to _____ * for appropriate disposition.

*Insert name and address of paying office designated by the Agreement.

Part 11— Automatic Data Processing (ADP) Contracting

4-1100 Scope of Part. This Part sets forth policies and procedures for the contracting by the Department of Defense of automatic data processing equipment, software, maintenance services, and certain other contractual ADP support services, and supplies, when procurement authority is vested in the General Services Administration (GSA) (but see 4-1104.16). It may also be used as a guide for other ADP acquisition.

4-1101 Policy.

(a) Public Law 89-306, 40 USC 759, authorizes and directs the Administrator of General Services to provide for the economic and efficient purchase, lease, and maintenance of automatic data processing equipment (ADPE) by Federal agencies subject to fiscal and policy control of the Office of Management and Budget (OMB). The statute specifically provides that the authority conferred upon the Administrator of General Services shall not be construed as to impair or interfere with the determination by agencies of their individual requirements or the use made of ADPE or components thereof by any agency. Under this authority, the GSA has promulgated regulations pertaining to the availability of Federal sharing and reutilization of ADP resources, and for the contracting for Government-wide automatic data processing equipment, software, maintenance services, and supplies.

(b) The OSD and Departments, in turn, have issued regulations regarding the selection, acquisition, and reutilization of requirements for ADP equipment, software, maintenance services, certain other contractual ADP support services, and supplies. These regulations establish the selection and acquisition approvals that are required before contracting actions can be initiated.

(c) The authority set forth in (a) above does not extend to—

(1) ADP equipment, systems, and components, including commercially available ADP items modified to Government specifications at the time of production, which are specially designed (not configured) to the extent that:

(i) they no longer have a commercial market; or

(ii) they cannot be used to process a variety of problems or applications; or

(iii) they can only be used as an integral part of a non-ADP system.

(2) ADP equipment, systems, components, and services where the function, operation or use:

(i) involves intelligence activities; or

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 ten 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) Unless otherwise provided for in this contract, or by applicable statute, the Contractor shall—from the effective date of termination until the expiration of three years after final settlement under this contract—preserve and make available to the Government at all reasonable times at the office of the Contractor but without direct charge to the Government, all his books, records, documents and other evidence bearing on the costs and expenses of the Contractor under this contract and relating to the work terminated hereunder, or, to the extent approved by the Contracting Officer, photographs, microphotographs, or other authentic reproductions thereof.

(End of clause)

7-103.22 *Authorization and Consent.* In accordance with 9-102.1, insert the following clause.

AUTHORIZATION AND CONSENT (1964 MAR)

The Government hereby gives its authorization and consent (without prejudice to any rights of indemnification) for all use and manufacture, in the performance of this contract or any part hereof or any amendment hereto or any subcontract hereunder (including any lower-tier subcontract), of any invention described in and covered by a patent of the United States (i) embodied in the structure or composition of any article the delivery of which is accepted by the Government under this contract, or (ii) utilized in the machinery, tools, or methods the use of which necessarily results from compliance by the Contractor or the using subcontractor with (a) specifications or written provisions now or hereafter forming a part of this contract, or (b) specific written instructions given by the Contracting Officer directing the manner of performance. The entire liability to the Government for infringement of a patent of the United States shall be determined solely by the provisions of the indemnity clauses, if any, included in this contract or any subcontract hereunder (including any lower-tier subcontract), and the Government assumes liability for all other infringement to the extent of the authorization and consent hereinabove granted.

(End of clause)

7-103.23 *Notice and Assistance Regarding Patent* and Copyright Infringement. In accordance with 9-104, insert the following clause:

NOTICE AND ASSISTANCE REGARDING PATENT AND COPYRIGHT INFRINGEMENT (1965 JAN)

The provisions of this clause shall be applicable only if the amount of this contract exceeds $10,000.

(a) The Contractor shall report to the Contracting Officer, promptly and in reasonable written detail, each notice or claim of patent or copyright infringement based on the performance of this contract of which the Contractor has knowledge.

(b) In the event of any claim or suit against the Government on account of any alleged patent or copyright infringement arising out of the performance of this contract or out of the use of any supplies furnished or work or services performed hereunder, the Contractor shall furnish to the Government, when requested by the Contracting Officer, all evidence and information in possession of the Contractor pertaining to such suit or claim. Such evidence and information shall be furnished at the expense of the Government except where the Contractor has agreed to indemnify the Government.

(c) This clause shall be included in all subcontracts.

(End of clause)

7-103.24 *Responsibility for Inspection.* In accordance with 14-101.1, insert the following clause.

RESPONSIBILITY FOR INSPECTION (1968 SEP)

Notwithstanding the requirements for any Government inspection and test contained in specifications applicable to this contract, except where specialized inspections or tests are specified for performance solely by the Government, the Contractor shall perform or have performed the inspections and tests required to substantiate that the supplies and services provided under the contract conform to the drawings, specifications and contract requirements listed herein, including if applicable the technical requirements for the manufacturers' part number specified herein.

(End of clause)

7-103.25 *Commercial Bills of Lading Covering Shipments Under FOB Origin Contracts.* In accordance with 19-217.1(a), insert the following clause.

COMMERCIAL BILLS OF LADING COVERING F.O.B. ORIGIN SHIPMENTS (1969 DEC)

Prior to releasing any shipments for the Government, the Contractor shall insure that the commercial shipping documents are annotated with the legend:

"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 assignable to, and are to be reimbursed by, the Government."

(End of clause)

7-103.26 *Pricing of Adjustments.*

PRICING OF ADJUSTMENTS (1970 JUL)

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 Section XV of the Armed Services Procurement Regulation as in effect on the date of this contract.

(End of clause)

7-103.27 *Affirmative Action for Disabled Veterans and Veterans of the Vietnam Era.* In accordance with 12-1402, insert the following clause:

AFFIRMATIVE ACTION FOR DISABLED VETERANS AND VETERANS OF THE VIETNAM ERA (1983 AUG)

(a) The Contractor will not discriminate against any employee or applicant for employment because he or she is a disabled veteran or veteran of the Vietnam era in regard to any position for which the employee or applicant for employment is qualified. The Contractor agrees to take affirmative action to employ, advance in employment and otherwise treat qualified disabled veterans and veterans of the Vietnam era without discrimination based upon their disability or veterans' status in all employment practices such as the following: employment upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

(b) The Contractor agrees that all suitable employment openings of the Contractor which exist at the time of the execution of this contract and those which occur during the performance of this contract, including those not generated by this contract and including those occurring at an establishment of the Contractor other than the one wherein the contract is being performed but excluding those of independently operated corporate affiliates, shall be listed at an appropriate local office of the State employment service system wherein the opening occurs. The Contractor

further agrees to provide such reports to such local office regarding employment openings and hires as may be required. State and local government agencies holding Federal contracts of $10,000 or more shall also list all their suitable openings with the appropriate office of the State employment service, but are not required to provide those reports set forth in paragraphs (d) and (e).

(c) Listing of employment openings with the employment service system pursuant to this clause shall be made at least concurrently with the use of any other recruitment source or effort and shall involve the normal obligations which attach to the placing of a bona fide job order, including the acceptance of referrals of veterans and nonveterans. The listing of employment openings does not require the hiring of any particular job applicant or from any particular group of job applicants, and nothing herein is intended to relieve the Contractor from any requirements in Executive Orders or regulations regarding nondiscrimination in employment.

(d) Whenever the Contractor becomes contractually bound to the listing provisions of this clause, it shall advise the employment service system in each State where it has establishments of the name and location of each hiring location in the State. As long as the Contractor is contractually bound to these provisions and has so advised the State system, there is no need to advise the State system of subsequent contracts. The Contractor may advise the State system when it is no longer bound by this contract clause.

(e) This clause does not apply to the listing of employment openings which occur and are filled outside of the 50 States, the District of Columbia, Puerto Rico, Guam, and the Virgin Islands.

(f) The provisions of paragraphs (b), (c), (d) and (e) of this clause do not apply to openings which the Contractor proposes to fill from within his own organization or to fill pursuant to a customary and traditional employer-union hiring arrangement. This exclusion does not apply to a particular opening once an employer decides to consider applicants outside of his own organization or employer-union arrangement for that opening.

(g) As used in this clause:

(i) ("All suitable employment openings" includes, but is not limited to, openings which occur in the following job categories: production and nonproduction; plant and office; laborers and mechanics; supervisory and nonsupervisory; technical; and executive, administrative, and professional openings as are compensated on a salary basis of less than $25,000 per year. This term includes full-time employment, temporary employment of more than three (3) days duration, and part-time employment. It does not include openings which the Contractor proposes to fill from within his own organization or to fill pursuant to a customary and traditional employer-union hiring arrangement nor openings in an educational institution which are restricted to students of that institution. Under the most compelling circumstances an employment opening may not be suitable for listing, including such situations where the needs of the Government cannot reasonably be otherwise supplied, where listing would be contrary to national security, or where the requirement of listing would otherwise not be for the best interest of the Government.

(ii) "Appropriate office of the State employment service system" means the local office of the Federal-State national system of public employment offices with assigned

responsibility for serving the area where the employment opening is to be filled, including the District of Columbia, Guam, Puerto Rico, and the Virgin Islands.

(iii) "Openings which the Contractor proposes to fill from within his own organization" means employment openings for which no consideration will be given to persons outside the Contractor's organization (including any affiliates, subsidiaries, and the parent companies) and includes any openings which the Contractor proposes to fill from regularly established "recall" lists.

(iv) "Openings which the Contractor proposes to fill pursuant to a customary and traditional employer-union hiring arrangement" means employment openings which the Contractor proposes to fill from union halls, which is part of the customary and traditional hiring relationship which exists between the Contractor and representatives of his employees.

(h) The Contractor agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Vietnam Era Veterans' Readjustment Assistance Act, hereinafter referred to as the "Act" (38 U.S.C. 2012).

(i) In the event of the Contractor's noncompliance with the requirements of this clause, actions for noncompliance may be taken in accordance with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.

(j) The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the Director, Office of Federal Contract Compliance Programs, provided by or through the Contracting Officer. Such notice shall state the Contractor's obligation under the law to take affirmative action to employ and advance in employment qualified disabled veterans and veterans of the Vietnam era for employment, and the rights of applicants and employees.

(k) The Contractor will notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the Contractor is bound by the terms of the Act, and is committed to take affirmative action to employ and advance in employment qualified disabled veterans and veterans of the Vietnam era.

(l) The Contractor will include the provisions of this clause in every subcontract or purchase order of $10,000 or more unless exempted by rules, regulations, or orders of the Secretary issued pursuant to the Act, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the Director of the Office of Federal Contract Compliance Programs may direct to enforce such provisions, including action for noncompliance.

(End of clause)

7-103.28 *Affirmative Action for Handicapped Workers.* In accordance with 12-1302, insert the following clause:

AFFIRMATIVE ACTION FOR HANDICAPPED WORKERS (1976 MAY)

(a) The Contractor will not discriminate against any employee or applicant for employment because of physical or mental handicap in regard to any position for which the employee or applicant for employment is qualified. The Contractor agrees to take affirmative action to employ, advance in employment and otherwise treat qualified handicapped individuals without discrimination based upon their physical or mental handicap in all employment practices such as the following: employment, upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation and selection for training, including apprenticeship.

(b) The Contractor agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.

(c) In the event of the Contractor's noncompliance with the requirements of this clause, action for noncompliance may be taken in accordance with the rules, regulations and relevant orders of the Secretary of Labor issued pursuant to the Act.

(d) The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the Director, provided by or through the Contracting Officer. Such notices shall state the Contractor's obligation under the law to take af-

(g) This clause shall not apply to purchases of qualifying country supplies in connection with this contract if (i) such qualifying country supplies are identical in nature with supplies purchased by the Contractor or any subcontractor hereunder in connection with his commercial business; and (ii) it is not economical or feasible to account for such supplies so as to assure that the amount of such supplies for which duty-free entry is claimed pursuant to this clause does not exceed the amount thereof purchased in connection with this contract.

(h) The Contractor agrees to insert the substance of this clause, including this paragraph (h), in all subcontracts for supplies hereunder that exceed $2,500. Each such subcontract shall require the subcontractor to identify this contract by its contract number on any shipping documents submitted to Customs covering supplies for which duty-free entry is to be claimed pursuant to this clause.

(End of clause)

7-104.33 *Inspection System.* When it is desired to require contractors to maintain an inspection system in accordance with Military Specification MIL-I-45208 (see 14-303), insert the following clause:

INSPECTION SYSTEM (1983 AUG)

The inspection system which the Contractor is required to maintain, as provided in paragraph (a) of the "Inspection" clause of this contract, shall be in accordance with the edition of Military Specification MIL-I-45208 in effect on the date of this contract.

(End of clause)

7-104.34 *Advance Payments.* When advance payments are to be made in accordance with Appendix E, Part 4, insert the following clause.

Any change, addition, or deletion to this clause is subject to the prior approval requirements outlined in Appendix E, Part 2.

ADVANCE PAYMENT (1980 DEC)

(1) *Amount of Advance.* At the request of the Contractor, and subject to the conditions hereinafter set forth, the Government shall make an advance payment, or advance payments from time to time, to the Contractor. No advance payment shall be made (i) without the approval of the office administering advance payments (hereinafter called the "Administering Office" and designated in paragraph (14)(d) below) as to the financial necessity therefor; (ii) in an amount which together with all advance payments theretofore made, shall exceed the amount stated in paragraph (14)(a) below; and (iii) without a properly certified invoice or invoices.

(2) *Special Bank Account.* Until all advance payments made hereunder, and interest charges, are liquidated and the Administering Office approves in writing the release of any funds due and payable to the Contractor, all advance payments and all other payments under the contract shall be made by check payable to the Contractor and be marked for deposit only in a Special Bank Account with the bank designated in paragraph (14)(b) below. No part of the funds in the Special Bank Account shall be mingled with other funds of the Contractor prior to withdrawal thereof from the Special Bank Account as hereinafter provided. Except as hereinafter provided,

NOTICE OF RADIOACTIVE MATERIALS (1974 APR)

(a) The Contractor shall notify the Contracting Officer or his designee, in writing (—*—) days prior to the delivery of, or prior to completion of any servicing required by this contract of, items containing either (i) radioactive material requiring specific licensing under the regulations issued pursuant to the Atomic Energy Act of 1954, as amended, and set forth in Title 10 CFR, in effect on the date of this contract, or (ii) other radioactive material not requiring specific licensing in which the radioactivity per gram is greater than 0.002 microcuries. Such notice shall specify the part or parts of the items which contain such radioactive materials, a description of the materials, the name and activity of the isotope, the manufacturer of the materials, and any other information known to the Contractor which will put users of the items on notice as to the hazards involved (BOB No. 38–R027).

(b) All items, parts or subassemblies which contain radioactive materials in which the radioactivity per gram is greater than 0.002 microcuries and all containers in which such items, parts or subassemblies are delivered to the Government shall be clearly marked and labeled as required by the latest revision of MIL-STD-1458 in effect on the date of the contract.

(End of clause)

* The Contracting Officer shall insert the number of days required in advance of delivery of the item or completion of the servicing to assure that appropriate licenses are obtained or safeguards are taken when licenses are not required.

7-104.81 *Aircraft, Missile, and Space Vehicle Accident Reporting and Investigation.* The following clause may be inserted in contracts which involve or are in connection with the manufacture, modification, overhaul or repair of aircraft, missiles, or space launch vehicles.

ACCIDENT REPORTING AND INVESTIGATION INVOLVING AIRCRAFT, MISSILES, AND SPACE LAUNCH VEHICLES (1969 JAN)

(a) The Contractor shall report promptly to the Administrative Contracting Officer all pertinent facts relating to each accident involving an aircraft, missile, or space launch vehicle being manufactured, modified, repaired, or overhauled under or in connection with this contract.

(b) If the Government elects to conduct an investigation of the accident, the Contractor will cooperate fully and assist the Government's personnel until the investigation is completed.

(c) The Contractor will include a clause in each of his applicable subcontracts to require subcontractor cooperation and assistance in accident investigation under this clause.

(End of clause)

7-104.82 *Reserved.*

7-104.83 *Cost Accounting Standards.*

(a)(1) Insert the following clause in all solicitations which are likely to result in a negotiated contract exceeding $100,000, and in all negotiated contracts exceeding $100,000, unless exempt in accordance with 3-1204.1(a).

COST ACCOUNTING STANDARDS (1983 AUG)

(a) Unless the Cost Accounting Standards Board has prescribed rules or regulations exempting the Contractor or this contract from standards, rules, and regulations promulgated pursuant to 50 U.S.C. App. 2168 (Public Law 91-379, August 15, 1970), the Contractor, in connection with this contract shall:

(1) By submission of a Disclosure Statement, disclose in writing his cost accounting practices as required by regulations of the Cost Accounting Standards Board. The practices disclosed for this contract shall be the same as the practices currently disclosed and applied on all other contracts and subcontracts being performed by the Contractor and which contain a cost accounting standards clause. If the Contractor has notified the Contracting Officer that the Disclosure Statement contains trade secrets and commercial or financial information which is privileged and confidential, the Disclosure Statement will be protected and will not be released outside of the Government.

(2) Follow consistently his cost accounting practices in accumulating and reporting contract performance cost data concerning this contract. If any changes in cost accounting practices is made for purposes of any contract or subcontract subject to Cost Accounting Standards Board requirements, the change must be applied prospectively to this contract, and the Disclosure Statement must be amended accordingly. If the contract price or cost allowance of this contract is affected by such changes, adjustment shall be made in accordance with subparagraph (a)(4) or (a)(5) below, as appropriate.

(3) Comply with all Cost Accounting Standards in effect on the date of award of this contract or if the Contractor has submitted cost or pricing data, on the date of final agreement on price as shown on the Contractor's signed certificate of current cost or pricing data. The Contractor shall also comply with any Cost Accounting Standard which hereafter becomes applicable to a contract or subcontract of the Contractor. Such compliance shall be required prospectively from the date of applicability to such contract or subcontract.

(4)(A) Agree to an equitable adjustment as provided in the changes clause of this contract if the contract cost is affected by a change which, pursuant to (3) above, the Contractor is required to make to his cost accounting practices.

(B) Negotiate with the Contracting Officer to determine the terms and conditions under which a change may be made to a cost accounting practice, other than a change made under other provisions of this subparagraph (4); *Provided*, That no agreement may be made under this provision that will increase costs paid by the United States.

(C) When the parties agree to a change to a cost accounting practice, other than a change under (4)(A) above, negotiate an equitable adjustment as provided in the changes clause of this contract.

(5) Agree to an adjustment of the contract price or cost allowance, as appropriate, if he or a subcontractor fails to comply with an applicable cost accounting standard or to follow any cost accounting practice consistently and such failure results in any increased costs paid by the United States. Such adjustment shall provide for the recovery of the increased costs 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 seven percent (7%) per annum, whichever is less, from the time the payment by the United States was made to the time the adjustment is effected.

(b) If the parties fail to agree whether the Contractor or a subcontractor 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 which he enters into the substance of this clause except paragraph (b), and shall require such inclusion in all other subcontracts of any tier, including the obligation to comply with all cost accounting standards in effect on the date of award of the subcontract, or if the subcontractor has submitted cost or pricing data, on the date of final agreement on price as shown on the subcontractor's signed certificate of current cost or pricing data. This requirement shall apply only to negotiated subcontracts in excess of $100,000 where the price negotiated is not 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 and except that the requirement shall not apply to negotiated subcontracts otherwise exempt from the requirement to accept the Cost Accounting Standards clause by reason of Section 331.30(b) of Title 4 Code of Federal Regulations (4 CFR 331.30(b)).

NOTE: (1) Subcontractors shall be required to submit their Disclosure Statements to the Contractor. However, if a subcontractor has previously submitted his Disclosure Statement to a Government Administrative Contracting Officer (ACO) he may satisfy that requirement by certifying to the Contractor the date of such Statement and the address of the ACO.

NOTE: (2) In any case where a subcontractor determines that the Disclosure Statement information is privileged and confidential and declines to provide it to his Contractor or higher tier subcontractor, the Contractor may authorize direct submission of that subcontractor's Disclosure Statement to the same Government offices to which the Contractor was required to make submission of his Disclosure Statement. Such authorization shall in no way relieve the Contractor of liability as provided in paragraph (a)(5) of this clause. In view of the foregoing and since the contract may be subject to adjustment under this clause by reason of any failure to comply with rules, regulations, and Standards of the Cost Accounting Standards Board in connection with covered subcontracts, it is expected that the Contractor may wish to include a clause in each such subcontract requiring the subcontractor to appropriately indemnify the Contractor. However, the inclusion of such a clause and the terms thereof are matters for negotiation and agreement between the Contractor and the subcontractor, provided that they do not conflict with the duties of the Contractor under its contract with the Government. It is also expected that any subcontractor subject to such indemnification will generally require substantially similar indemnification to be submitted by his subcontractors.

NOTE: (3) If the subcontractor is a business unit which, pursuant to 4 CFR 332 is entitled to elect modified contract coverage and to follow Standards 401 and 402 only, the clause entitled "Disclosure and Consistency of Cost Accounting Practices" set forth in DAR 7-104.83(a)(2) shall be inserted in lieu of this clause.

NOTE: (4) 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 meanings 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 persons not associated with each other or with such Contractor or subcontractor, providing (1) the solicitation to all competitors is identical, (2) price is the only consideration in selecting the subcontractor from among the competitors solicited, and (3) the lowest offer received in compliance with the solicitation from among those solicited is accepted."

(End of clause)

(2) In accordance with 3-1204.1(b), the following clause shall be inserted in all solicitations which are likely to result in a negotiated contract exceeding $100,000. If the contractor is eligible under the conditions of 4 CFR Part 332 to use the following clause and elects to do so pursuant to the instructions in the solicitation notice (7-2003.67(c)), or if the contractor is a foreign concern, the clause below shall be inserted in any resulting contract in lieu of the clause set forth in (a)(1) above.

DISCLOSURE AND CONSISTENCY OF COST ACCOUNTING PRACTICES

(1983 AUG)

(a) The Contractor, in connection with this contract, shall:

(1) Comply with the requirements of 4 CFR Parts 401, Consistency in Estimating, Accumulating and Reporting Costs, and 402, Consistency in Allocating Costs Incurred for the Same Purpose, in effect on the date of award of this contract.

(2) If it is a business unit of a company required to submit a Disclosure Statement, disclose in writing its cost accounting practices as required by regulations of the Cost Accounting Standards Board. If the Contractor has notified the Contracting Officer that the Disclosure Statement contains trade secrets and commercial or financial information which is privileged and confidential, the Disclosure Statement will be protected and will not be released outside of the Government.

NOTE: (1) Subcontractors shall be required to submit their Disclosure Statements to the Contractor. However, if a subcontractor has previously submitted his Disclosure Statement to a Government Administrative Contracting Officer (ACO), he may satisfy that requirement by certifying to the Contractor the date of such Statement and the address of the ACO.

NOTE: (2) In any case where a subcontractor determines that the Disclosure Statement information is privileged and confidential and declines to provide it to his Contractor or higher tier subcontractor, the Contractor may authorize direct submission of that subcontractor's Disclosure Statement to the same Government offices to which the Contractor was required to make submission of his Disclosure Statement. Such authorization shall in no way relieve the Contractor of liability if he or a subcontractor fails to comply with an applicable cost accounting standard or to follow any practice disclosed pursuant to this paragraph and such failure results in any increased costs paid by the United States. In view of the foregoing and since the contract may be subject to adjustment under this clause by reason of any failure to comply with rules, regulations, and Standards of the Cost Accounting Standards Board in connection with covered subcontracts, it is expected that the Contractor may wish to include a clause in each such subcontract requiring the subcontractor to appropriately indemnify the Contractor. However, the inclusion of such a clause and the terms thereof are matters for negotiation and agreement between the Contractor and the subcontractor, provided that they do not conflict with the duties of the Contractor under its contract with the Government. It is also expected that any subcontractor subject to such indemnification will generally require substantially similar indemnifica- to be submitted by his subcontractors.

(3) Follow consistently his cost accounting practices. 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. The Contractor shall, when the parties agree to a change to a cost accounting practice and the Contracting Officer has made the finding required in paragraph 332.51 of the Cost Accounting Standards Board's Regulations, negotiate an equitable adjustment as provided in the changes clause of this contract. In the absence of the required finding, no agreement may be made under this contract clause that will increase costs paid by the United States.

(4) Agree to an adjustment of the contract price or cost allowance, as appropriate, if he or a subcontractor fails to comply with the applicable cost accounting standards or to follow any cost accounting practice and such failure results in any increased costs paid by the United States. Such

adjustment shall provide for recovery of the increased costs 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 seven percent (7%) per annum, whichever is less, from the time the payment by the United States was made to the time the adjustment is effected.

(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) 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 apply only to negotiated subcontracts in excess of $100,000 where the price negotiated is not 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; or

(3) The requirement shall not apply to negotiated subcontracts otherwise exempt from the requirement to include a cost accounting standards clause by reason of Section 331.30(b) of the Cost Accounting Standards Board Regulations.

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 meanings 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 persons not associated with each other or with such Contractor or subcontractor, providing (1) the solicitation to all competitors is identical, (2) price is the only consideration in selecting the subcontractor from among the competitors 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 (1983 AUG)

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, the potential impact of the change on contracts containing a cost accounting standards clause, and, if not obviously immaterial, a general dollar magnitude cost impact analysis of the change which displays the potential shift of costs between CAS-covered contracts by contract type (i.e., FFP, FPIF, CPFF, etc.) and other Contractor business activity. As related to CAS-covered contracts, the analysis should display the potential impact of funds of the various Agencies/Departments (i.e., DOE, NASA, Army, Navy, Air Force, other DoD, other Government):

(i) for any change in cost accounting practices required to comply with a new cost accounting standard in accordance with paragraphs (a)(3) and (a)(4)(A) of the clause of this contract 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;

(ii) for any change to cost accounting practices proposed in accordance with paragraph (a)(4)(B) or (a)(4)(C) of the clause entitled "Cost Accounting Standards" or with paragraph (a)(3) of the clause entitled "Disclosure and Consistency of Cost Accounting Practices" not less than sixty (60) days (or such other date as may be mutually agreed to) prior to the effective date of the proposed change; or

(iii) for any failure to comply with an applicable cost accounting standard or to follow a disclosed practice as contemplated by paragraph (a)(5) of the clause of this contract entitled "Cost Accounting Standards" or with paragraph (a)(4) of the clause entitled "Disclosure and Consistency of Cost Accounting Practices" within sixty (60) days (or such other date as may be mutually agreed to) after the date of agreement of such noncompliance by the Contractor

(b) If deemed necessary by the cognizant Contracting Officer, submit a cost impact proposal in the form and manner specified within sixty (60) days (or such other date as may be mutually agreed to) after the date of determination of the adequacy and compliance of a change submitted pursuant to (a)(i), (ii), or (iii) above. If the proposal is not submitted within the specified time, or any extension thereto granted by the cognizant Contracting Officer, an amount not to exceed ten percent (10%) of each payment made after that date may be withheld until such time as a proposal has been provided in the form and manner specified by the cognizant Contracting Officer.

(c) Agree to appropriate contract and subcontract amendments to reflect adjustments established in accordance with paragraphs (a)(4) and (a)(5) of the clause entitled "Cost Accounting Standards" or with paragraphs (a)(3) and (a)(4) of the clause entitled "Disclosure and Consistency of Cost Accounting Practices."

(d) When the subcontract is subject to either the clause entitled "Cost Accounting Standards" or the clause entitled "Disclosure and Consistency of Cost Accounting Practices" so state in the body of the subcontract and/or in the letter of award. Self-deleting clauses shall not be used.

(e) Include the substance of this clause in all negotiated subcontracts containing either the clause entitled "Cost Accounting Standards" or the clause entitled "Disclosure and Consistency of Cost Accounting Practices." In addition, within thirty (30) days after award of such subcontract, submit the following information to the Contract Administration Office cognizant of the Contractor's facility for transmittal to the Contract Administration Office cognizant of the subcontractor's facility.

(1) Subcontractor's name and subcontract number.

(2) Dollar amount and date of award.

(3) Name of Contractor making the award.

(4) A statement as to whether the subcontractor has made or proposes to make any changes to accounting practices that affect prime contracts or subcontracts containing the Cost Accounting Standards clause or Disclosure and Consistency of Cost Accounting Practices clause because of the award of this subcontract unless such changes have already been reported. If award of the subcontract results in making a cost accounting standard(s) effective for the first time, this shall also be reported.

(f) For negotiated subcontracts containing the clause entitled "Cost Accounting Standards," require the subcontractor to comply with all 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.

(g) In the event an adjustment is required to be made to any subcontract hereunder, notify the Contracting Officer in writing of such adjustment and agree to an adjustment in the price or estimated cost and fee of this contract, as appropriate, based upon the adjustment established under the subcontract. Such notice shall be given within thirty (30) days after receipt of the proposed subcontract adjustment, or such other data as may be mutually agreed to, and shall include a proposal for adjustment to such higher tier subcontract or prime contract as appropriate.

(h) When either the Cost Accounting Standards clause or the Disclosure and Consistency of Cost Accounting Practices clause and this clause are included in subcontracts, the term "Contracting Officer" shall be suitably altered to identify the purchaser.

(End of clause)

7-104.84 *Fast Payment Procedure.*

(a) In accordance with 3-606.3, the following clause shall be used in small purchases:

FAST PAYMENT PROCEDURE (1981 MAY)

(a) *General.* This is a fast payment order. Invoices will be paid on the basis of the Contractor's delivery to a post office, common carrier, or, in shipment by other means, to the point of first receipt by the Government.

(b) *Responsibility for Supplies.* Title to the supplies shall vest in the Government upon delivery to a post office or common carrier for shipment to the specific destination. If shipment is by means other than post office or common carrier, title to the supplies shall vest in the Government

will equal the lesser of (i) the total wage or salary (computed at the rate being paid at the time of capture) due from the Contractor to the captured person for the period of detention, or (ii) that amount which would have been payable to such person if the detention had occurred under circumstances wherein the benefit provisions of the War Risk Hazards Compensation Act would have been applicable.

(c) The period of detention shall not be considered as time spent in the performance of this contract, and the Government shall not be obligated to make payment under this contract on account of such person for the period of the detention except as provided in this clause.

(d) The obligation of the Government to make payments provided for by this clause shall be applicable to the entire period of detention except that it is expressly conditioned upon and subject to the availability of funds from which payment can be made. The rights and obligations of the parties under this clause shall survive the earlier expiration, completion or termination of this contract.

(e) The Contractor shall not be reimbursed under the provisions of this clause for payments made to employees for a period of detention during which the employees were entitled to compensation for capture and detention under the War Risk Hazards Compensation Act, as amended.

(End of clause)

7-104.95 *Preference for United States Flag Air Carriers.* In accordance with 1-336.1(b), insert the following clause.

PREFERENCE FOR UNITED STATES FLAG AIR CARRIERS (1983 AUG)

(a) Public Law 93-623, as amended, requires that all Federal agencies and Government Contractors and subcontractors will use U.S. flag air carriers for international air transportation of personnel (and their personal effects) or property to the extent service by such carriers is available. It further provides that the Comptroller General of the United States shall disallow any expenditure from appropriated funds for international air transportation on other than a U.S. flag air carrier in the absence of satisfactory proof of the necessity therefor.

(b) The Contractor agrees to utilize U.S. flag air carriers for international air transportation of personnel (and their personal effects) or property to the extent service by such carriers is available.

(c) In the event that the Contractor selects a carrier other than a U.S. flag air carrier for international air transportation, he will include a certification on vouchers involving such transportation which is essentially as follows:

CERTIFICATION OF UNAVAILABILITY OF U.S. FLAG AIR CARRIERS

I hereby certify that transportation service for personnel (and their personal effects) or property by certificated air carrier was unavailable for the following reasons:* (*state reasons*)

(end of certification)

(d) The terms used in this clause have the following meanings:

(i) "*International air transportation*" means transportation of persons (and their personal effects) or property by air between a place in the United States and a place outside thereof or between two places both of which are outside the United States.

(ii) "*U.S. flag air carrier*" means one of a class of air carriers holding a certificate of public convenience and necessity issued by the Civil Aeronautics Board, approved by the President, authorizing operations between the United States and/or its territories and one or more foreign countries.

(iii) The term "*United States*" includes the fifty states, Commonwealth of Puerto Rico, possessions of the United States and the District of Columbia.

(e) The Contractor shall include the substance of this clause, including this paragraph (e) in each subcontract or purchase hereunder which may involve international air transportation.

*(*See Armed Services Procurement Regulation 1-336.2 and Federal Procurement Regulation 41 CFR 1-1.323-3.*)

(End of clause)

7-104.96 *Privacy Act.* In accordance with 1-327, the following clause shall be included in every solicitation and resulting contract, and in every contract awarded without a solicitation, when the statement of work requires the design, development, or operation of a system of records on individuals for an agency function.

PRIVACY ACT (1975 NOV)

(a) The Contractor agrees:

(1) to comply with the Privacy Act of 1974 and the rules and regulations issued pursuant to the Act in the design, development, and/or operation of any system of records on individuals in order to accomplish an agency function, when the contract specifically identifies (i) the system or systems of records and (ii) the work to be performed by the Contractor in terms of any one or combination of the following: (A) design, (B) development, or (C) operation;

(2) to include the solicitation notification contained in this contract in every solicitation and resulting subcontract and in every subcontract awarded without a solicitation, when the statement of work in the proposed subcontract requires the design, development, or operation of a system of records on individuals to accomplish an agency function.

(3) to include this clause, including this paragraph (3), in all subcontracts awarded pursuant to this contract which require the design development, or operation of such a system of records.

(b) In the event of violations of the Act, a civil action may be brought against the agency involved when the violation concerns the design, development, or operation of a system of records on individuals to accomplish an agency function and criminal penalties may be imposed upon the officers or employees of the agency when the violation concerns the operation of a system of records on individuals to accomplish an agency function. For purposes of the Act, when the contract is for the operation of a system of records on individuals to accomplish an agency function, the contractor and any employee of the contractor is considered to be an employee of the agency.

(c) The terms used in this clause have the following meanings:

(1) "*Operation of a system of records*" means performance of any of the activities associated with maintaining the system of records including the collection, use, and dissemination of records.

(2) "*Record*" means any item, collection, or grouping of information about an individual that is maintained by an agency, including, but not limited to, his education, financial transactions, medical history, and criminal or employment history and that contains his name, or the identifying number, symbol, or other identifying particular assigned to the individual, such as a finger or voice print or a photograph.

(3) "*System of records*" on individuals means a group of any records under the control of any agency from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual.

(End of clause)

7-104.97 *Exclusionary Policies and Practices of Foreign Governments.* In accordance with 6-1312, insert the following clause.

EXCLUSIONARY POLICIES AND PRACTICES OF FOREIGN GOVERNMENTS (1977 JAN)

No person, partnership, corporation, or other entity performing functions pursuant to this contract, shall, in employing or assigning personnel to participate in the performance of any such function, whether in the United States or abroad, take into account the exclusionary policies or practices of any foreign government where such policies or practices are based on race, religion, national origin, or sex.

(End of clause)

7-104.98 *Hazardous Material Identification and Material Safety Data.* In accordance with 1-323.2, insert the following clause in all contracts requiring the delivery of hazardous materials, or under which the performance of work, use,

7-203.22 *Insurance—Liability to Third Persons.*

INSURANCE—LIABILITY TO THIRD PERSONS (1966 DEC)

(a) The Contractor shall procure and thereafter maintain workmen's compensation, employer's liability, comprehensive general liability (bodily injury) and comprehensive automobile liability (bodily injury and property damage) insurance, with respect to performance under this contract, and such other insurance as _____* may from time to time require with respect to performance under this contract; *provided*, that the Contractor may with the approval of _____* maintain a self-insurance program, and *provided further*, that with respect to workmen's compensation the Contractor is qualified pursuant to statutory authority. All insurance required pursuant to the provisions of this paragraph shall be in such form, in such amounts, and for such periods of time, as _____* may from time to time require or approve, and with insurers approved by _____*. (*See text at end of clause.*)

(b) The Contractor agrees, to the extent and in the manner required by _____*, to submit for the approval of _____* any other insurance maintained by the Contractor in connection with the performance of this contract and for which the Contractor seeks reimbursement hereunder. (*See text at end of clause.*)

(c) The Contractor shall be reimbursed: (i) for the portion allocable to this contract of the reasonable cost of insurance as required or approved pursuant to the provisions of this clause, and (ii) without regard to and as an exception to the "Limitation of Cost" or the "Limitation of Funds" clause of this contract, for liabilities to third persons for loss of or damage to property (other than property (A) owned, occupied or used by the Contractor or rented to the Contractor, or (B) in the care, custody, or control of the Contractor), or for death or bodily injury, not compensated by insurance or otherwise, arising out of the performance of this contract, whether or not caused by the negligence of the Contractor, his agents, servants or employees, *provided* such liabilities are represented by final judgments or settlements approved in writing by the Government, and expenses incidental to such liabilities, except liabilities (I) for which the Contractor is otherwise responsible under the express terms of the clause or clauses, if any, specified in the Schedule, or (II) with respect to which the Contractor has failed to insure as required or maintain insurance as approved by _____* (*See text at end of clause.*) or (III) which results 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 has supervision or direction of (1) all or substantially all of the Contractor's business, or (2) all or substantially all of the Contractor's operations at any one plant or separate location in which this contract is being performed, or (3) a separate and complete major industrial operation in connection with the performance of this contract. The foregoing shall not restrict the right of the Contractor to be reimbursed for the cost of insurance maintained by the Contractor in connection with the performance of this contract, other than insurance required to be submitted for approval or required to be procured and maintained pursuant to the provisions of this clause, *provided* such cost would constitute Allowable Cost under the clause of this contract entitled "Allowable Cost, Fixed Fee and Payment"

(d) The Contractor shall give the Government or its representatives immediate notice of any suit or action filed, or prompt notice of any claim made, against the Contractor arising out of the performance of this contract, the cost and expense of which may be reimbursable to the Contractor under the provisions of this contract and the risk of which is then uninsured or in which the amount claimed exceeds the amount of coverage. The Contractor shall furnish immediately to the Government copies of all pertinent papers received by the Contractor. If the amount of the liability claimed exceeds the amount of coverage, the Contractor shall authorize representatives of the Government to collaborate with counsel for the insurance carrier, if any, in settling or defending such claim. If the liability is not insured or covered by bond, the Contractor shall, if required by the Government, authorize representatives of the Government to settle or defend any such claim and to represent the Contractor in or take charge of any litigation in connection therewith; *provided*, however, that the Contractor may, at his own expense, be associated with the representatives of the Government in the settlement or defense of any such claim or litigation.

(End of clause)

In the foregoing clause, insert, in contracts of the Department of the Army, the Department of the Air Force, and the Department of the Navy, the words "the Contracting Officer," and insert, in contracts of the other Departments, the words "the Department," in the space designated by an asterisk (*).

7-203.23 *Authorization and Consent.* In accordance with 9-102.1, insert the clause in 7-103.22.

7-203.24 *Notice and Assistance Regarding Patent Infringement.* In accordance with 9-104, insert the clause in 7-103.23.

7-203.25 *Communist Areas.* In accordance with 6-403, insert the clause in 7-103.15.

7-203.26 *Utilization of Concerns in Labor Surplus Areas.* In accordance with 1-805.3, insert one or both of the clauses in 7-104.20.

7-203.27 *Payment for Overtime Premiums.* In accordance with 12-102.6, insert the following clause.

PAYMENT FOR OVERTIME PREMIUMS (1967 JUN)

(a) Allowable cost shall not include any amount on account of overtime premiums except when (i) specified in (d) below or (ii) paid for work—

(A) necessary to cope with emergencies such as those resulting from accidents, natural disasters, breakdowns of production equipment, or occasional production bottlenecks of a sporadic nature;

(B) by indirect labor employees such as those performing duties in connection with administration, protection, transportation, maintenance, standby plant protection, operation of utilities, or accounting;

(C) in the performance of tests, industrial processes, laboratory procedures, loading or unloading of transportation media, and operations in flight or afloat, which are continuous in nature and cannot reasonably be interrupted or otherwise completed; or

(D) which will result in lower overall cost to the Government.

(b) The cost of overtime premiums otherwise allowable under (a) above shall be allowed only to the extent the amount thereof is reasonable and properly allocable to the work under this contract.

(c) Any request for overtime, in addition to any amount specified in (d) below, will be for all overtime which can be estimated with reasonable certainty, shall be used for the remainder of the contract, and shall contain the following:

(i) identification of the work unit, such as the department or section in which the requested overtime will be used, together with present workload, manning and other data of the affected unit, sufficient to permit an evaluation by the Contracting Officer of the necessity for the overtime;

(ii) the effect that denial of the request will have on the delivery or performance schedule of the contract;

(iii) reasons why the required work cannot be performed on the basis of utilizing multi-shift operations or by the employment of additional personnel; and

(iv) the extent to which approval of overtime would affect the performance or payments in connection with any other Government contracts, together with any identification of such affected contracts.

(d) The Contractor is authorized to perform overtime, in addition to that performed under (a)(ii), to the extent that the overtime premium does not exceed *_____

(End of clause)

*Insert the amount, in dollars, agreed to during negotiations as representing the overtime premiums applicable to overtime not reimbursable under the exceptions contained in (a)(ii) of the clause. If it was agreed that the contract could be performed without the use of additional overtime, insert "Zero."

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)(3)Sec.K(xii), 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 (1983 AUG)

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 regulation; (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 monetary exemption for disclosure as established by the Cost Accounting Standards Board (see (II) below); (ii) the offeror exceeded the monetary exemption in the cost accounting period

immediately preceding the cost accounting period in which this proposal was submitted but, in accordance with the regulations of the Cost Accounting Standards Board, is not yet required to submit a Disclosure Statement (see (III) below); or (iii) the offeror has already submitted a Disclosure Statement disclosing the practices used in connection with the pricing of this proposal (see (IV) below).

CAUTION: A practice disclosed in a Disclosure Statement 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.

Check the appropriate box below.

( ) **I. CERTIFICATE OF CONCURRENT SUBMISSION OF DISCLOSURE STATEMENT(S)**

The offeror hereby certifies that he has submitted, as a part of his proposal under this solicitation, copies of the Disclosure Statement(s) as follows: (i) original and one copy to the cognizant Administrative Contracting Officer (ACO) (see DoD Directory of Contract Administration Components (DoD 4105.59H)); and (ii) one copy to the cognizant contract auditor.

Date of Disclosure Statement(s): _____

Name(s) and Address(es) of Cognizant ACO(s) where filed: _____

The offeror further certifies that practices used in estimating costs in pricing this proposal are consistent with the cost accounting practices disclosed in the Disclosure Statement(s).

( ) **II. CERTIFICATE OF MONETARY EXEMPTION**

The offeror hereby certifies that he, together with all divisions, subsidiaries, and affiliates under common control, did not receive net awards of negotiated national defense prime contracts and subcontracts subject to Cost Accounting Standards totaling more than $10 million in his cost accounting period immediately preceding the period in which this proposal was submitted. 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 who submitted a Disclosure Statement under the filing requirements previously established by the Cost Accounting Standards Board may claim this exemption only if the dollar volume of CAS-covered national defense prime contract and subcontract awards in their preceding cost accounting period did not exceed the $10 million threshold and the amount of this award will be less than $10 million. Such offerors will continue to be responsible for maintaining the Disclosure Statement and following the disclosed practices on CAS-covered prime contracts and subcontracts awarded during the period in which a Disclosure Statement was required.

( ) **III. CERTIFICATE OF INTERIM EXEMPTION**

The offeror hereby certifies that (i) he first exceeded the monetary exemption for disclosure, as defined in (II) above, in his cost accounting period immediately preceding the cost accounting period in which this proposal was submitted, and (ii) in accordance with the regulations of the Cost Accounting Standards Board (4 CFR 351.40(b)), he is not yet required to

submit a Disclosure Statement. The offeror further certifies that if an award resulting from this proposal has not been made within 90 days after the end of that period he will immediately submit a revised certificate to the Contracting Officer, in the form specified under (I) above or (IV) below, as appropriate, to verify his submission of a completed Disclosure Statement.

CAUTION: Offerors may not claim this exemption if they are currently required to disclose because they were awarded a CAS-covered national defense prime contract or subcontract of $10 million or more in the current cost accounting period. Further, the exemption applies only in connection with proposals submitted prior to expiration of the 90-day period following the cost accounting period in which the monetary exemption was exceeded.

( ) IV. CERTIFICATE OF PREVIOUSLY SUBMITTED DISCLOSURE STATEMENT(S)
The offeror hereby certifies that the Disclosure Statement(s) were filed as follows:
Date of Disclosure Statement(s): _____
Name(s) and Address(es) of Cognizant ACO(s) where filed: _____.
The offeror further certifies that practices used in estimating costs in pricing this proposal are consistent with the cost accounting practices disclosed in the Disclosure Statement(s).
(End of provision)

(b) *Cost Accounting Standards - Exemption for Contracts of $500,000 or Less.* In accordance with 3-1204.1(a)(viii)(A), insert the following provision.

COST ACCOUNTING STANDARDS - EXEMPTION FOR CONTRACTS OF $500,000 OR LESS (1983 AUG)

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 a cost accounting standards clause under the provisions of 4 CFR 331.30(b)(7) is claimed. Failure to check the box below shall mean that the resultant contract is not exempt under 4 CFR 331.30(b)(7) or that the offeror elects to comply with the clause in DAR 7-104.83(a)(1) unless the offeror certifies eligibility for use of the clause in DAR 7-104.83(a)(2).

( ) The offeror hereby claims an exemption under the provisions of 4 CFR 331.30(b)(7) and certifies that he has received notification of final acceptance of all work to be delivered under all CAS-covered prime or subcontracts. 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 a clause set forth in DAR 7-104.83(a) 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)(3)Sec.L(xxxii), 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.L(xxiv), insert the following provision:

Part 22—Short Form Research Contracts

7-2200 Scope of Part. This Part sets forth uniform contract clauses to be used in Short Form Research Contracts (SFRCs) with educational institutions and other nonprofit organizations in accordance with Section IV, Part 10. The contract clauses listed in this Part 22 shall be incorporated in all Short Form Research Contracts in accordance with 4-1005 and as specified in this Part 22.

7-2201 Definitions.

(a) For purposes of this Part, *contract action* is defined as the amount of the initial contract or the amount of a modification for new procurement to the contract. It does not include the amount of any unexercised options.

(b) For purposes of this Part, *a nonprofit organization* is of the type described in Section 501(c)(3) and (d) of the Internal Revenue Code of 1954 (26 U.S.C. 501), or any nonprofit scientific organization qualified under a state nonprofit organization statute.

7-2202 Required Clauses.

7-2202.1 *Self-Deleting General Provisions.* Clauses specified in 7-2203 and 7-2204 are considered part of the General Provisions of an SFRC unless inapplicable in accordance with the conditions set forth at the clause citation.

7-2202.2 *Educational Institutions.* Except as provided in 7-2202.1, clauses in 7-2203 apply to all SFRCs with educational institutions.

7-2202.3 *Nonprofit Organizations.* Except as provided in 7-2202.1, clauses in 7-2204 apply to all SFRCs with nonprofit organizations.

7-2203 Clauses for Contracts With Educational Institutions.

7-2203.1 *Work to be Performed.*

WORK TO BE PERFORMED (1983 AUG)

The Contractor shall perform research as specified in the unsolicited proposal and identified in the Short Form Research Contract (SFRC) document.

(End of clause)

7-2203.2 *Acknowledgement of Sponsorship.*

ACKNOWLEDGEMENT OF SPONSORSHIP (1983 AUG)

(a) The Contractor agrees that in the release of information relating to an SFRC, such release shall include a statement to the effect that the project or effort depicted was or is sponsored by the agency set forth in the SFRC, and that the content of the information does not necessarily reflect the position or the policy of the Government, and no official endorsement should be inferred.

(b) For the purpose of this clause, *information* includes news releases, articles, manuscripts,

brochures, advertisements, still and motion pictures, speeches, trade association proceedings, symposia, etc.

(c) Nothing in the foregoing shall affect compliance with the requirements of the clause entitled "Military Security Requirements," if such clause is a part of the contract.

(d) The Contractor further agrees to include this provision in any subcontract awarded as a result of an SFRC.

(End of clause)

7-2203.3 *Publications.*

PUBLICATIONS (1983 AUG)

Publications of results of the research project in appropriate professional journals is encouraged as an important method of recording and reporting scientific information. One copy of each paper planned for publication will be submitted to the Scientific Program Officer simultaneously with its submission for publication. Following publication, copies of published papers shall be submitted to the Scientific Program Officer, or to the other addresses in quantities as may be directed by the Contracting Officer.

(End of clause)

7-2203.4 *Reporting Requirements.*

REPORTING REQUIREMENTS (1983 AUG)

(a) Reporting shall be as specified in the SFRC. Unless specified otherwise, reporting requirements will include annual letter reports for multiyear research programs and a final technical report due within sixty (60) days after the expiration date of the SFRC.

(b) The Contracting Officer, after coordination with the Scientific Program Officer, will specify the form and content of the required reports. These requirements may be furnished the Contractor as may be mutually agreed.

(c) Technical data and computer software, as defined in DAR 7-104.9(a), shall be delivered to the Scientific Program Officer. Unless otherwise specified in the SFRC, these items shall be delivered as part of the final technical report.

(End of clause)

7-2203.5 *Option to Extend the Term of the SFRC.*

OPTION TO EXTEND THE TERM OF THE SFRC (1983 AUG)

(a) If the Contractor's proposal covers an additional period(s) which could be treated as an optional period(s), such additional period(s) of research may be added to the contract, at the option of the Government, by the Contracting Officer's giving written notice exercising such option(s) at anytime during the performance period specified in the contract or any extensions thereof.

(b) If the Government exercises an option, the Contractor agrees to the following:

(i) to comply with the applicable clauses listed in the SFRC; and

(ii) to comply with the policies and regulations for the SFRC as set forth in Section IV, Part 10.

(End of clause)

7-2203.6 *Contractor-Acquired Property.*

CONTRACTOR-ACQUIRED PROPERTY (1983 AUG)

(a) As used in this clause, *property* is as defined in DAR 7-2203.7(b)(1) which has been specifically identified in the Contractor's proposal which is the basis for award or modification.

(b) The identification and description in the Contractor's proposal of property to be Contractor-acquired may be accepted by the Contracting Officer as advance notification required by subparagraphs (a) and (b) of the Subcontracts clause of this contract.

(c) Award of this contract, and modifications thereto, shall constitute the written consent of of the Contracting Officer, required by subparagraph (c) of the Subcontracts clause, to acquire property identified in the Contractor's proposal, except for those items identified in Block 27 of the DD Form 2222.

(d) The decision to approve subcontracts for acquisition of items listed in Block 27 of the contract will be made subsequent to award of the contract or modification pursuant to the Subcontracts clause.

(End of clause)

7-2203.7 *Title to Contractor-Acquired Property.*

TITLE TO CONTRACTOR-ACQUIRED PROPERTY (1983 AUG)

(a) This paragraph implements subparagraph (c)(3) of the clause of this contract entitled "Government Property (Cost-Reimbursement, Nonprofit)" (DAR 7-402.25).

(b) For purposes of this paragraph, *property* is all nonexpendable tangible personal property:

(1) as described in DAR 1-201.29 (ADPE), DAR Appendix C-102.5 (Special Tooling), DAR Appendix C-102.6 (Special Test Equipment), DAR Appendix C-102.7 (Facilities), DAR Appendix C-102.10 (Plant Equipment), DAR Appendix C-102.11 (Industrial Plant Equipment), and DAR Appendix C-102.12 (Other Plant Equipment); and

(2) which is acquired with funds available for the conduct of research; and

(3) for which the Contracting Officer has authorized acquisition by the Contractor: (i) at the time of award of the contract or modification as provided in the clause of this contract entitled "Contractor-Acquired Property," or (ii) subsequent to award pursuant to the Subcontracts clause of this contract.

(c) Title to all property having an acquisition cost of less than $5,000 shall vest in the Contractor without further obligation to the Government.

(d) Title to all property having an acquisition cost of $5,000 or more which is specifically identified in the Contractor's proposal shall vest in the Contractor without further obligation to the Government, unless the determination regarding vesting of title is deferred until after acquisition. Property for which the determination regarding title is deferred shall be identified in Block 27 of DD Form 2222, and title to such property shall vest in accordance with the provisions of (e) below.

(e) Title to all property having an acquisition cost of $5,000 or more which was not specifically identified in the Contractor's proposal, or for which the determination regarding title is deferred pursuant to (d) above, shall vest as follows:

(1) in the Government pursuant to DAR 4-116.4; or

(2) in the Contractor without further obligation to the Government, unless the Contractor is informed by the Contracting Officer within sixty (60) days of receipt of the list of the property, pursuant to (h) below, that the provisions of (3) below apply; or

(3) in the Contractor subject to the right of the Government to direct transfer of

the title back to the Government or third parties. This right may be exercised at anytime up to and including the twelfth (12th) month after completion or termination of the contract. The Government's decision to transfer title shall be made in accordance with DAR 4-116.4. The Government may at anytime remove an item of property from this category and transfer title to the Contractor without further obligation to the Government.

(f) Transfer of title back to the Government or third parties shall not be the basis for any claim by the institution. The provisions of the clause of this contract entitled "Government Property (Cost-Reimbursement, Nonprofit)" apply to any changes in property.

(g) Until title to property acquired with funds made available under this contract has been vested in the Contractor without further obligation to the Government, pursuant to (e)(2) or (3) above, it shall be considered *Government Property* and subject to the general provision of this contract entitled "Government Property (Cost-Reimbursement, Nonprofit)."

(h) The Contractor shall furnish the Contracting Officer a list of all property having an acquisition cost of $5,000 or more acquired under this contract, to which title has not been vested in the Contractor, within forty-five (45) days following the end of the calendar year or the Contractor's fiscal year during which such property was acquired.

(End of clause)

7-2203.8 *Research Responsibility.*

RESEARCH RESPONSIBILITY (1983 AUG)

(a) The Contractor shall bear responsibility for the conduct of the research specified in the Contractor's unsolicited proposal identified in the SFRC. The Contractor will exercise judgment in attaining the stated research objectives within the limits of the terms and conditions of the SFRC; *Provided*, however, that the Contractor will obtain the Contracting Officer's approval to change the Statement of Work. Consistent with the foregoing, the Contractor shall conduct the work as set forth in his proposal and accepted by the contract award.

(b) When the decision to enter into the SFRC is based upon the principal investigator's knowledge of the field of study, and his capabilities to manage the research project in an effective and productive manner, the principal investigator identified in the unsolicited

proposal shall be continuously responsible for the conduct of the research project, and shall be closely involved with the research efforts.

(c) The Contractor shall advise the Contracting Officer if the principal investigator(s) identified in the SFRC plans to devote substantially less effort to the work than set forth in the proposal.

(d) The Contractor shall obtain the Contracting Officer's approval prior to changing the principal investigator(s) identified in the proposal.

(End of clause)

7-2203.9 *Restriction on Printing.*

RESTRICTION ON PRINTING (1983 AUG)

The Government authorizes the reproduction of reports, data, or other written materials, if required, *Provided* the material produced does not exceed 5,000 production units of any page, and items consisting of multiple pages do not exceed 25,000 production units in the aggregate. The Contractor shall obtain the express prior written authorization of the Contracting Officer to reproduce material in excess of the quantities cited above.

(End of clause)

7-2203.10 *Order of Precedence.*

ORDER OF PRECEDENCE (1983 AUG)

In the event of an inconsistency between provisions of this contract, the inconsistency shall be resolved by giving precedence in the following order:

(i) the SFRC document, DD Form 2222;
(ii) General Provisions; and
(iii) other provisions of the contract incorporated by reference or attached.

(End of clause)

7-2203.11 *Contract Items Requiring Experimental, Developmental or Research Work.*

CONTRACT ITEMS REQUIRING EXPERIMENTAL, DEVELOPMENTAL OR RESEARCH WORK (1983 AUG)

For purposes of defining the nature of the work and the scope of rights in data granted to the Government pursuant to the Rights in Technical Data and Computer Software clause of this contract, it is understood and agreed that the work to be performed under this contract requires the performance of experimental, developmental, or research work. This clause does not constitute a

determination as to whether or not any data required to be delivered under this contract falls within the definition of limited rights data.

(End of clause)

7-2203.12 *Advance Payments.*

ADVANCE PAYMENTS (1983 AUG)

Advance payments shall be made under this contract pursuant to the advance payment pool agreement between the Contractor and one or more Military Departments applicable to this contract, in effect as of the date of award of this contract. If such an agreement is not in effect as of the date of award of this contract, the Contractor will be paid in accordance with the clause of this contract entitled "Allowable Cost and Payment."

(End of clause)

7-2203.13 *Definitions.* Insert the clause in 7-103.1.

7-2203.14 *Assignment of Claims.* Insert the clause in 7-103.8.

7-2203.15 *Disputes.* Insert the clause in 7-103.12(a).

7-2203.16 *Equal Opportunity.* Insert the clause in 7-103.18(a).

7-2203.17 *Officials Not to Benefit.* Insert the clause in 7-103.19.

7-2203.18 *Covenant Against Contingent Fees.* Insert the clause in 7-103.20.

7-2203.19 *Notice and Assistance Regarding Patent and Copyright Infringement.* Insert the clause in 7-103.23.

7-2203.20 *Affirmative Action for Disabled Veterans and Veterans of the Vietnam Era.* Insert the clause in 7-103.27.

7-2203.21 *Utilization of Small Business and Small Disadvantaged Business Concerns.* Insert the clause in 7-104.14(a).

7-2203.22 *Examination of Records by Comptroller General.* Insert the clause in 7-104.15.

7-2203.23 *Convict Labor.* Insert the clause in 7-104.17.

7-2203.24 *Utilization of Labor Surplus Area Concerns.* Insert the clause in 7-104.20(a) (applicable only if contract action exceeds the dollar amount set forth in 1-805.3(a)).

7-2203.25 *Equal Opportunity Pre-Award Clearance of Subcontracts.* Insert the clause in 7-104.22.

7-2203.26 *Audit by Department of Defense.* Insert the clause in 7-104.41(a).

7-2203.27 *Excusable Delays.* Insert the clause in 7-203.11.

7-2203.28 *Termination for the Convenience of the Government.* Insert the clause in 7-302.10(b).

7-2203.29 *Authorization and Consent.* Insert the clause in 7-302.21.

7-2203.30 *Standards of Work.* Insert the clause in 7-402.4.

7-2203.31 *Inspection.* Insert the clause in 7-402.5(b).

7-2203.32 *Government Property (Cost-Reimbursement, Non-profit).* Insert the clause in 7-402.25.

7-2203.33 *Affirmative Action for Handicapped Workers.* Insert the clause in 7-103.28.

7-2203.34 *Reports of Work.* Insert the clause in 7-404.6.

7-2203.35 *Subcontracts.* Insert the clause in 7-402.8(a) and (c).

7-2203.36 *Allowable Cost and Payment.* Insert the clause in 7-203.4(a) and 7-402.3.

7-2203.37 *Rights in Technical Data and Computer Software.* Insert the clause in 7-104.9(a).

7-2203.38 *Identification of Technical Data.* Insert the clause in 7-104.9(1).

7-2203.39 *Restrictive Markings on Technical Data.* Insert the clause in 7-104.9(p).

7-2203.40 *Insurance - Liability to Third Persons.* Insert the clause in 7-203.22. (Note: The words "The Contracting Officer" are inserted in the blank spaces indicated by an asterisk.)

7-2203.41 *General Services Administration Supply Sources.* Insert the clause in 7-204.28.

7-2203.42 *Preference for United States Flag Air Carriers.* Insert the clause in 7-104.95.

7-2203.43 *Patent Rights - Small Business Firm or Nonprofit Organization.* Insert the clause in 7-302.23(h).

7-2203.44 *Competition in Subcontracting.* Insert the clause in 7-104.40.

7-2203.45 *Utilization of Women-Owned Business Concerns.* Insert the clause in 7-104.52 (applicable only if contract action exceeds the dollar amount set forth in 1-708(b)).

7-2203.46 *Payment for Overtime Premiums.* Insert the clause in 7-203.27. (Note: The word "zero" is inserted in the blank space indicated by an asterisk.)

7-2203.47 *Care of Laboratory Animals.* Insert the clause in 7-303.44.

7-2203.48 *Limitation of Cost.* Insert the clause in 7-402.2(a) (applicable only when contract action is fully funded).

7-2203.49 *Limitation of Cost (Cost Sharing).* Insert the clause in 7-402.2(b) (applicable only when contract action is fully funded and provides for cost sharing).

7-2203.50 *Limitation of Funds.* Insert the clause in 7-402.2(c) (applicable only when contract action is incrementally funded).

7-2203.51 *Limitation of Funds (Cost Sharing).* Insert the clause in 7-402.2(d) (applicable only when contract action is incrementally funded and provides for cost sharing).

7-2203.52 *Clean Air and Water.* Insert the clause in 7-103.29 (applicable only if contract action exceeds the dollar amount set forth in the preamble to the clause).

7-2203.53 *Subcontractor Cost or Pricing Data.* Insert the clause in 7-104.42(a) (applicable only if contract action exceeds the dollar amount set forth in 7-104.42(a)).

7-2203.54 *Price Reduction for Defective Cost or Pricing Data.* Insert the clause in 7-104.29(a) (applicable only if contract action exceeds the dollar amount set forth in 7-104.29(a)).

7-2203.55 *Negotiated Overhead Rates (Predetermined).* Insert the clause in 7-403.9(a) (applicable only when the contractor has an executed negotiation agreement with the cognizant contract administration office).

7-2203.56 *Insurance - Liability to Third Persons.* Insert the clause in 7-402.26(a). Insert the additional paragraph (e) to the clause in 7-203.22 (applicable when the contractor claims partial immunity to tort liability as a state or charitable institution. The contractor shall certify in his proposal to the contracting officer that he qualifies for this clause.).

7-2204 Clauses for Contracts With Nonprofit Organizations.

7-2204.1 *Work to be Performed.*

WORK TO BE PERFORMED **(1983 AUG)**

The Contractor shall perform research as specified in the unsolicited proposal and identified in the Short Form Research Contract (SFRC) document.

(End of clause)

7-2204.2 *Acknowledgement of Sponsorship.*

ACKNOWLEDGEMENT OF SPONSORSHIP **(1983 AUG)**

(a) The Contractor agrees that in the release of information relating to an SFRC, such release shall include a statement to the effect that the project or effort depicted was or is sponsored by the agency set forth in the SFRC, and that the content of the information does not necessarily reflect the position or the policy of the Government, and no official endorsement should be inferred.

(b) For the purpose of this clause, *information* includes news releases, articles, manuscripts, brochures, advertisements, still and motion pictures, speeches, trade association proceedings, symposia, etc.

(c) Nothing in the foregoing shall affect compliance with the requirements of the clause entitled "Military Security Requirements," if such clause is a part of the contract.

(d) The Contractor further agrees to include this provision in any subcontract awarded as a result of an SFRC.

(End of clause)

7-2204.3 *Publications.*

PUBLICATIONS (1983 AUG)

Publication of results of the research project in appropriate professional journals is encouraged as an important method of recording and reporting scientific information. One copy of each paper planned for publication will be submitted to the Scientifc Program Officer simultaneously with its submission for publication. Following publication, copies of published papers shall be submitted to the Scientific Program Officer, or to the other addresses in quantities as may be directed by the Contracting Officer.

(End of clause)

7-2204.4 *Reporting Requirements.*

REPORTING REQUIREMENTS (1983 AUG)

(a) Reporting shall be as specified in the SFRC. Unless specified otherwise, reporting requirements will include annual letter reports for multiyear research programs and a final technical report due within sixty (60) days after the expiration date of the SFRC.

(b) The Contracting Officer, after coordination with the Scientific Program Officer, will specify the form and content of the required reports. These requirements may be furnished the Contractor as may be mutually agreed.

(c) Technical data and computer software, as defined in DAR 7-104.9(a), shall be delivered to the Scientific Program Officer. Unless otherwise specified in the SFRC, these items shall be delivered as part of the final technical report.

(End of clause)

7-2204.5 *Options to Extend the Term of the SFRC.*

OPTIONS TO EXTEND THE TERM OF THE SFRC (1983 AUG)

(a) If the Contractor's proposal covers an additional period(s) which could be treated as an optional period(s), such additional period(s) of research may be added to the contract, at the option of the Government, by the Contracting Officer's giving written notice exercising such option(s) at anytime during the performance period specified in the contract or any extensions thereof.

(b) If the Government exercises an option, the Contractor agrees to the following:

(i) to comply with the applicable clauses listed in the SFRC; and

(ii) to comply with the policies and regulations for the SFRC as set forth in Section IV, Part 10.

(End of clause)

7-2204.6 *Contractor-Acquired Property.*

CONTRACTOR-ACQUIRED PROPERTY (1983 AUG)

(a) As used in this clause, *property* is as defined in DAR 7-2203.7(b)(1) which has been specifically identified in the Contractor's proposal which is the basis for award or modification.

(b) The identification and description in the Contractor's proposal of property to be Contractor-acquired may be accepted by the Contracting Officer as advance notification required by subparagraphs (a) and (b) of the Subcontracts clause of this contract.

(c) Award of this contract, and modifications thereto, shall constitute the written consent of the Contracting Officer, required by subparagraph (c) of the Subcontracts clause, to acquire property identified in the Contractor's proposal, except for those items identified in Block 27 of the DD Form 2222.

(d) The decision to approve subcontracts for acquisition of items listed in Block 27 of the contract will be made subsequent to award of the contract or modification pursuant to the Subcontracts clause.

(End of clause)

7-2204.7 *Title to Contractor-Acquired Property.*

TITLE TO CONTRACTOR-ACQUIRED PROPERTY (1983 AUG)

(a) This paragraph implements subparagraph (c)(3) of the clause of this contract entitled "Government Property (Cost-Reimbursement, Nonprofit)" (DAR 7-402.25).

(b) For purposes of this paragraph, *property* is all nonexpendable tangible personal property:

(1) as described in DAR 1-201.29 (ADPE), DAR Appendix C-102.5 (Special Tooling), DAR Appendix C-102.6 (Special Test Equipment), DAR Appendix C-102.7 (Facilities), DAR Appendix C-102.10 (Plant Equipment), DAR Appendix C-102.11 (Industrial Plant Equipment), and DAR Appendix C-102.12 (Other Plant Equipment); and

(2) which is acquired with funds available for the conduct of research; and

(3) for which the Contracting Officer has authorized acquisition by the Contractor: (i) at the time of award of the contract or modification as provided in the clause of this contract entitled "Contractor-Acquired Property;" or (ii) subsequent to award pursuant to the Subcontracts clause of this contract.

(c) Title to all property having an acquisition cost of less than $5,000 shall vest in the Contractor without further obligation to the Government.

(d) Title to all property having an acquisition cost over $5,000 or more which is specifically identified in the Contractor's proposal shall vest in the Contractor without further obligation to the Government, unless determination regarding vesting of title is deferred until after acquisition. Property for which the determination regarding title is deferred shall be identified in Block 27 of the DD Form 2222 (TEST), and title to such property shall vest in accordance with the provisions of subparagraph (e) below.

(e) Title to all property having an acquisition cost over $5,000 which was not specifically identified in the Contractor's proposal, or for which the determination regarding title is deferred pursuant to subparagraph (d) above, shall vest as follows:

(1) in the Government pursuant to DAR 4-116.4; or

(2) in the Contractor without further obligation to the Government, unless the Contractor is informed by the Contracting Officer within sixty (60) days of receipt of the list of the property, pursuant to subparagraph (h) below, that the provisions of subparagraph (3) below apply; or

(3) in the Contractor subject to the right of the Government to direct transfer of the title back to the Government or third parties. This right may be exercised at anytime up to and including the twelfth (12th) month after completion or termination of the contract. The Government's decision to transfer title shall be made in accordance with DAR 4-116.4. The Government may at anytime remove an item of property from this category and transfer title to the Contractor without further obligation to the Government.

(f) Transfer of title back to the Government or third parties shall not be the basis for any claim by the institution. The provisions of the clause of this contract entitled "Government Property (Cost-Reimbursement, Nonprofit)" apply to any changes in property.

(g) Until title to property acquired with funds made available under this contract has been vested in the Contractor without further obligation to the Government, pursuant to (e)(2) or (3) above, it shall be considered *Government Property* and subject to the general provision of this contract entitled "Government Property (Cost-Reimbursement, Nonprofit)."

(h) The Contractor shall furnish the Contracting Officer a list of all property having an acquisition cost of $5,000 or more acquired under this contract, to which title has not been vested in the Contractor, within forty-five (45) days following the end of the calendar year or the Contractor's fiscal year during which such property was acquired.

(End of clause)

7-2204.8 *Research Responsibility.*

RESEARCH RESPONSIBILITY (1983 AUG)

(a) The Contractor shall bear responsibility for the conduct of the research specified in the Contractor's unsolicited proposal identified in the SFRC. The Contractor will exercise judgment in attaining the stated research objectives within the limits of the terms and conditions of the SFRC; *Provided*, however, that the Contractor will obtain the Contracting Officer's approval to change the Statement of Work. Consistent with the foregoing, the Contractor shall conduct the work as set forth in his proposal and accepted by the contract award.

(b) When the decision to enter into the SFRC is based upon the principal investigator's knowledge of the field of study, and his capabilities to manage the research project in an effective and productive manner, the principal investigator identified in the unsolicited proposal shall be continuously responsible for the conduct of the research project, and shall be closely involved with the research efforts.

(c) The Contractor shall advise the Contracting Officer if the principal investigator(s) identified in the SFRC plan to devote substantially less effort to the work than set forth in the proposal.

(d) The Contractor shall obtain the Contracting Officer's approval prior to changing the principal investigator(s) identified in the proposal.

(End of clause)

7-2204.9 *Restriction on Printing.*

RESTRICTION ON PRINTING (1983 AUG)

The Government authorizes the reproduction of reports, data or other written materials, if required, *Provided*, the material produced does not exceed 5,000 production units of any page, and items consisting of multiple pages do not exceed 25,000 production units in the aggregate. The Contractor shall obtain the express prior written authorization of the Contracting Officer to reproduce material in excess of the quantities cited above.

(End of clause)

7-2204.10 *Order of Precedence.*

ORDER OF PRECEDENCE (1983 AUG)

In the event of an inconsistency between provisions of this contract, the inconsistency shall be resolved by giving precedence in the following order:

(i) the SFRC document, DD Form 2222;
(ii) General Provisions; and
(iii) other provisions of the contract incorporated by reference or attached.

(End of clause)

7-2204.11 *Contract Items Requiring Experimental, Developmental or Research Work.*

CONTRACT ITEMS REQUIRING EXPERIMENTAL, DEVELOPMENTAL OR RESEARCH WORK (1983 AUG)

For purposes of defining the nature of the work and the scope of rights in data granted to the Government pursuant to the "Rights in Technical Data and Computer Software" clause of this contract, it is understood and agreed that the work to be performed under this contract requires the performance of experimental, developmental, or research work. This clause does not constitute a determination as to whether or not any data required to be delivered under this contract falls within the definition of limited rights data.

(End of clause)

7-2204.12 *Advance Payments.*

ADVANCE PAYMENTS (1983 AUG)

Advance payments shall be made under this contract pursuant to the advance payment pool agreement, between the Contractor and one or more Military Departments applicable to this contract, in effect as of the date of award of this contract. If such an agreement is not in effect as of the

date of award of this contract, the Contractor will be paid in accordance with the clause of this contract entitled "Allowable Cost and Payment."

(End of clause)

7-2204.13 *Definitions.* Insert the clause in 7-103.1.

7-2204.14 *Assignment of Claims.* Insert the clause in 7-103.8.

7-2204.15 *Disputes.* Insert the clause in 7-103.12(a).

7-2204.16 *Equal Opportunity.* Insert the clause in 7-103.18(a).

7-2204.17 *Officials Not to Benefit.* Insert the clause in 7-103.19.

7-2204.18 *Covenant Against Contingent Fees.* Insert the clause in 7-103.20.

7-2204.19 *Notice and Assistance Regarding Patent and Copyright Infringement.* Insert the clause in 7-103.23.

7-2204.20 *Affirmative Action for Disabled Veterans and Veterans of the Vietnam Era.* Insert the clause in 7-103.27.

7-2204.21 *Utilization of Small Business and Small Disadvantaged Business Concerns.* Insert the clause in 7-104.14(a).

7-2204.22 *Examination of Records by Comptroller General.* Insert the clause in 7-104.15.

7-2204.23 *Convict Labor.* Insert the clause in 7-104.17.

7-2204.24 *Utilization of Labor Surplus Area Concerns.* Insert the clause in 7-104.20(a)(applicable only if contract action exceeds the dollar amount set forth in 1-805.3(a)).

7-2204.25 *Equal Opportunity Pre-Award Clearance of Subcontracts.* Insert the clause in 7-104.22.

7-2204.26 *Audit by Department of Defense.* Insert the clause in 7-104.41(a).

7-2204.27 *Excuseable Delays.* Insert the clause in 7-203.11.

7-2204.28 *Termination for Convenience of the Government - Alternate.* Insert the clause in 7-302.10(c).

7-2204.29 *Authorization and Consent.* Insert the clause in 7-302.21.

7-2204.30 *Standards of Work.* Insert the clause in 7-402.4.

7-2204.31 *Inspection.* Insert the clause in 7-402.5(b).

7-2204.32 *Government Property (Cost-Reimbursement, Nonprofit).* Insert the clause in 7-402.25.

7-2204.33 *Limitation on Withholding of Payments.* Insert the clause in 7-403.12(a).

7-2204.34 *Affirmative Action for Handicapped Workers.* Insert the clause in 7-103.28.

7-2204.35 *Reports of Work.* Insert the clause in 7-404.6.

7-2204.36 *Subcontracts.* Insert the clause in 7-402.8(a) and (c).

7-2204.37 *Allowable Cost and Payment.* Insert the clause in 7-203.4(a) and 7-402.3.

7-2204.38 *Rights in Technical Data and Computer Software.* Insert the clause in 7-104.9(a).

7-2204.39 *Identification of Technical Data.* Insert the clause in 7-104.9(1).

7-2204.40 *Restrictive Markings on Technical Data.* Insert the clause in 7-104.9(p).

7-2204.41 *Insurance - Liability to Third Persons.* Insert the clause in 7-203.22. (Note: The words "The Contracting Officer are inserted in the blank spaces indicated by an asterisk.)

7-2204.42 *General Services Administration Supply Sources.* Insert the clause in 7-204.28.

7-2204.43 *Preference for United States Flag Air Carriers.* Insert the clause in 7-104.95.

7-2204.44 *Technical Data - Withholding of Payment.* Insert the clause in 7-104.9(h).

7-2204.45 *Notice of Intent to Disallow or Not Recognize Costs.* Insert the clause in 7-203.35.

7-2204.46 *Gratuities.* Insert the clause in 7-104.16.

7-2204.47 *Patent Rights - Small Business Firm or Nonprofit Organization.* Insert the clause in 7-302.23(h).

7-2204.48 *Competition in Subcontracting.* Insert the clause in 7-104.40.

7-2204.49 *Utilization of Women-Owned Business Concerns.* Insert the clause in 7-104.52 (applicable only if contract action exceeds the dollar amount set forth in 1-708(b)).

7-2204.50 *Payment for Overtime Premiums.* Insert the clause in 7-203.27. (Note: The word "zero" is inserted in the blank space indicated by an asterisk.)

7-2204.51 *Care of Laboratory Animals.* Insert the clause in 7-303.44.

7-2204.52 *Limitation of Cost.* Insert the clause in 7-402.2(a) (applicable only when contract action is fully funded.

7-2204.53 *Limitation of Funds.* Insert the clause in 7-402.2(c) (applicable only when contract action is incrementally funded).

7-2204.54 *Clean Air and Water.* Insert the clause in 7-103.29 (applicable only if contract action exceeds the dollar amount set forth in the preamble to the clause).

7-2204.55 *Subcontractor Cost or Pricing Data.* Insert the clause in 7-104.42(a) (applicable only if contract action exceeds the dollar amount set forth in 7-104.42(a)).

7-2204.56 *Certification of Requests for Adjustment or Relief Exceeding $100,000.* Insert the clause in 7-104.102 (applicable only if contract action exceeds the dollar amount set forth in 1-342(a)).

7-2204.57 *Limitation of Cost (Cost Sharing).* Insert the clause in 7-402.2(b) (applicable only when contract action is fully funded and provides for cost sharing).

7-2204.58 *Limitation of Funds (Cost Sharing).* Insert the clause in 7-402.2(d) (applicable only when contract action is incrementally funded and provides for cost sharing).

7-2204.59 *Cost Accounting Standards.* Insert the clause in 7-104.83(a)(1) (applicable only if contract action exceeds the dollar amount set forth in 7-104.83(a)(1)).

7-2204.60 *Disclosure and Consistency of Cost Accounting Practices.* Insert the clause in 7-104.83(a)(2) (applicable only if contract action exceeds the dollar amount set forth in 7-104.83(a)(2)).

7-2204.61 *Administration of Cost Accounting Standards.* Insert the clause in 7-104.83(b) (applicable only if contract action exceeds the dollar amount set forth in 3-1204.1(a) and (b)).

7-2204.62 *Price Reduction for Defective Cost or Pricing Data.* Insert the clause in 7-104.29(a) (applicable only if contract action exceeds the dollar amount set forth in 7-104.29(a)).

(g) Examples of cost on which advance agreements may be particularly important are:

(i) compensation for personal services including but not limited to allowances for off-site pay, incentive pay, location allowances, hardship pay and cost of living differential;
(ii) use charge for fully depreciated assets;
(iii) deferred maintenance costs;
(iv) precontract costs;
(v) independent research and development costs;
(vi) royalties;
(vii) selling and distribution costs;
(viii) travel costs and relocation costs related to special or mass personnel movements;
(ix) idle facilities and idle capacity;
(x) automatic data processing equipment;
(xi) bid and proposal costs; and
(xii) severance pay to employees on support service contracts.

15–108 Grants and Contracts With State and Local Governments. Part 7 of this Section provides principles and standards for determining costs applicable to grants and contracts with State and local governments. They are designed to provide the basis for a uniform approach to the problem of determining costs and to promote efficiency and better relationships between grantees and the Government. These cost principles apply to all programs that involve grants and contracts with State and local governments. They do not apply to grants and contracts with:

(i) publicly financed educational institutions subject to Part 3 of this Section; or
(ii) publicly owned hospitals and other providers of medical care subject to requirements promulgated by the sponsoring Government agencies. Any other exceptions will be approved by the Bureau of the Budget in particular cases when adequate justification is presented.

15–109 Definitions. As used in this Section XV (except for Part 3), the words and phrases defined in this paragraph shall have the meanings set forth below.

(a) *Profit Center* - The smallest organizationally independent segment of a company which has been charged by management with profit and loss responsibilities.

(b) *Accumulating Costs* - The collecting of cost data in an organized manner, such as through a system of accounts.

(c) *Actual Costs* - Amounts determined on the basis of costs incurred, as distinguished from forecasted costs. Includes standard costs properly adjusted for applicable variances.

(d) *Allocate* - To assign an item of cost, or a group of items of cost, to one or more cost objectives. This term includes both direct assignment of cost and the reassignment of a share from an indirect cost pool.

(e) *Cost Objective* - A function, organizational subdivision, contract, or other work unit for which cost data are desired and for which provision is made to accumulate and measure the cost of processes, products, jobs, capitalized projects, etc.

(f) *Direct Cost* - Any cost which is identified specifically with a particular final cost objective. Direct costs are not limited to items which are incorporated in the end product as material or labor. Costs identified specifically with a contract are direct costs of that contract. All costs identified specifically with other final cost objectives of the contractor are direct costs of those cost objectives.

(g) *Estimating Costs* - The process of forecasting a future result in terms of cost, based upon information available at the time.

(h) *Final Cost Objective* - A cost objective which has allocated to it both direct and indirect costs, and, in the contractor's accumulation system, is one of the final accumulation points.

(i) *Indirect Cost* - Any cost not directly identified with a single final cost objective, but identified with two or more final cost objectives or with at least one intermediate cost objective.

(j) *Indirect Cost Pools* - Groupings of incurred costs identified with two or more cost objectives but not identified specifically with any final cost objective.

(k) *Pricing* - The process of establishing the amount or amounts to be paid in return for goods or services.

(l) *Proposal* - Any offer or other submission used as a basis for pricing a contract, contract modification, or termination settlement, or for securing payments thereunder.

(m) *Reporting Costs* - Provision of cost information to others. The reporting of costs involves selecting relevant cost data and presenting it in an intelligible manner for use by the recipient.

cost for commercial work of the contractor or any division, subsidiary or affiliate of the contractor under a common control, allowance may be at a price when:

(i) it is or is based on an "established catalog or market price of commercial items sold in substantial quantities to the general public" in accordance with 3-807.7(b); or

(ii) it is the result of "adequate price competition" in accordance with 3-807.7, and is the price at which an award was made to the affiliated organization after obtaining quotations on an equal basis from such organization and one or more outside sources which normally produce the item or its equivalent in significant quantity;

provided that in either case:

(1) the price is not in excess of the transferor's current sales price to his most favored customer (including any division, subsidiary or affiliate of the contractor under a common control) for a like quantity under comparable conditions, and

(2) the price is not determined to be unreasonable by the contracting officer.

The price determined in accordance with (i) above should be adjusted, when appropriate, to reflect the quantities being procured and may be adjusted upward or downward to reflect the actual cost of any modifications necessary because of contract requirements.

15-205.23 *Organization Costs.*

(a) Except as provided in (b) below, expenditures in connection with (i) planning or executing the organization or reorganization of the corporate structure of a business, including mergers and acquisitions, or (ii) raising capital (net worth plus long-term liabilities), are unallowable. Such expenditures include but are not limited to incorporation fees and costs of attorneys, accountants, brokers, promoters and organizers, management consultants and investment counsellors, whether or not employees of the contractor. Unallowable "reorganization" costs include the cost of any change in the contractor's financial structure, excluding administrative costs of short-term borrowings for working capital, resulting in alterations in the rights and interests of security holders whether or not additional capital is raised.

(b) The cost of the activities primarily designed for the purposes of providing compensation will not be considered organizational costs subject to this Part, but will be governed by 15-205.6. These activities include the acquisition of stock for (i) executive bonuses, (ii) employee savings plans, and (iii) employee stock ownership plans.

15-205.24 *Other Business Expenses.* Included in this item are such recurring expenses as registry and transfer charges resulting from changes in ownership of securities issued by the contractor, cost of shareholders' meetings, normal proxy solicitations, preparation and publication of reports to shareholders, preparation and submission of required reports and forms to taxing and other regulatory bodies, and incidental costs of directors and committee meetings. The above and similar costs are allowable when allocated on an equitable basis.

15-205.25 *Relocation Costs.*

(a) Relocation costs are costs incident to the permanent change of duty assignment (for an indefinite period or for a stated

period of not less than 12 months) of an existing employee or upon recruitment of a new employee. The following types of costs are allowable as noted, subject to paragraphs (b), (c), (d), and (e) below.

(1) Costs of travel of the employee and members of his immediate family (see 15-205.46) and transportation of his household and personal effects to the new location.

(2) Costs of finding a new home, such as advance trips by employees and spouses to locate living quarters, and temporary lodging during the transition periods, not exceeding separate cumulative totals of 60 days for employees and 45 days for spouses and dependents, including advance trip time.

(3) Closing costs (i.e., brokerage fees, legal fees, appraisal fees, points, finance charges, etc.) incident to the disposition of actual residence owned by the employee when notified of transfer; *Provided* that closing costs when added to the continuing costs described in (a)(6) below shall not exceed 14% of the sales price of the property sold.

(4) Other necessary and reasonable miscellaneous expenses incident to relocation, such as disconnecting and connecting household appliances; automobile registration; drivers license and use taxes; cutting and fitting rugs, draperies, and curtains; forfeited utility fees and deposits; and purchase of insurance against damage to or loss of personal property while in transit.

(5) Costs incident to the acquisition of a home in a new location, except that these costs will not be allowable for existing employees or newly recruited employees who prior to the relocation were not homeowners and the total costs shall not exceed 5% of the purchase price of the new home.

(6) Continuing costs of ownership of the vacant former actual residence being sold, such as maintenance of building and grounds (exclusive of fixing up expenses), utilities, taxes, property insurance, mortgage interest, etc., after settlement date or lease date of new permanent residence; *Provided* that when added to the closing costs described in (a)(3) above, the costs shall not exceed 14% of the sales price of the property sold.

(7) Mortgage interest differential payments, except that these costs are not allowable for existing or newly recruited employees who prior to the relocation were not homeowners, and the total payments are limited to an amount determined as follows:

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(i) difference between the mortgage interest rates of the old and new residences times the current balance of the old mortgage times 3 years; and

(ii) when mortgage differential payments are made on a lump sum basis and the employee leaves or is transferred again in less than 3 years, the amount initially recognized shall be proportionately adjusted to reflect payments only for the actual time of the relocation.

(8) Rental differential payments covering situations where relocated employees retain ownership of a vacated home in the old location and rent at the new location. The rented quarters at the new location must be comparable to those vacated, and the allowable differential payments may not exceed the actual rental costs for the new home, less the fair market rent for the vacated home times 3 years.

(9) Cost of canceling an unexpired lease.

(b) The costs described in (a) above must also meet the following criteria to be considered allowable.

(1) The move is for the benefit of the employer.

(2) Reimbursement must be in accordance with an established policy or practice that is consistently followed by the employer, and is designed to motivate employees to relocate promptly and economically.

(3) The costs are not otherwise unallowable under any other paragraphs of Part 2.

(4) Amounts to be reimbursed shall not exceed the employee's actual expenses, except that for miscellaneous costs of the type discussed in (a)(4), a flat amount, not to exceed $1,000, may be allowed in lieu of actual costs.

(c) The following types of costs are not allowable:

(1) Loss on sale of a home.

(2) Continuing mortgage principal payments on residence being sold.

(3) Costs incident to the acquisition of a home in a new location as follows:

(i) real estate brokers fees and commissions;

(ii) costs of litigation;

(iii) real and personal property insurance against damage or loss of property;

(iv) mortgage life insurance;

(v) owner's title policy insurance when such insurance was not previously carried by the employee on the old residence (however, cost of a mortgage title policy is allowable); and

(vi) property taxes and operating or maintenance costs.

(4) Payments for employee's income taxes or FICA (social security taxes) incident to reimbursed relocation costs.

(5) Payments for job counseling and placement assistance to employee spouses and dependents who were not employees of the contractor at the old location.

(6) Costs incident to furnishing equity or nonequity loans to employees or making arrangements with lenders for employees to obtain lower-than-market rate mortgage loans.

(d) If relocation costs for an employee have been allowed either as an allocable indirect or direct cost, and the employee resigns within 12 months for reasons within the employee's control, the contractor shall refund or credit the relocation costs to the Government.

(e) Subject to the provisions of (a) through (d), the costs of family movements and of personnel movements of a special or mass nature are allowable. The cost, however, should be assigned on the basis of work (contracts) or time periods benefited as appropriate.

(ii) when a contractor, prior to the effective date of this revision has had an employee dependent education plan providing for the college education of employees' dependents, the costs incurred under such plans for students already attending college under these plans will be allowable until such students have completed the equivalent of four academic years of study under the plan.

15-205.45 *Transportation Costs.* Transportation costs include freight, express, cartage, and postage charges relating either to goods purchased, in process, or delivered. These costs are allowable. When such costs can readily be identified with the items involved, they may be directly costed as transportation costs or added to the cost of such items (see 15-205.22). Where identification with the materials received cannot readily be made, inbound transportation costs may be charged to the appropriate indirect cost accounts if the contractor follows a consistent, equitable procedure in this respect. Outbound freight, if reimbursable under the terms of the contract, shall be treated as a direct cost.

15-205.46 *Travel Costs.*

(a) Travel costs include costs of transportation, lodging, subsistence, and incidental expenses, incurred by contractor personnel in a travel status while on official company business.

(b) Travel costs may be based upon actual costs incurred, or on a per diem or mileage basis in lieu of actual costs, or on a combination of the two, *provided* the method used does not result in an unreasonable charge.

(c) Travel costs incurred in the normal course of overall administration of the business are allowable and shall be treated as indirect costs.

(d) Travel costs directly attributable to specific contract performance are allowable and may be charged to the contract in accordance with the principle of direct costing. (See 15-202.)

(e) *Air Travel.* 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,

(v) offer accommodations which are not reasonably adequate for the physical or medical needs of the traveler.

(f) *Travel Via Contractor-Owned, -Leased, and -Chartered Aircraft.*

(1) "Cost of contractor-owned, -leased, and -chartered aircraft," as that phrase is used herein, includes the cost of lease, charter, operation (including personnel), maintenance, depreciation, insurance, and other related costs. This cost is allowable, if reasonable, to the extent the contractor can demonstrate that the

use of such aircraft is necessary for the conduct of his business and that the increase in cost, if any, in comparison with alternative means of transportation, is commensurate with the advantages gained.

(2) Some of the factors to consider in determining the necessity for such aircraft are whether:

(i) scheduled commercial airlines or other suitable less costly travel facilities are available at reasonable times, with reasonable frequency and serving the required destinations conveniently;

(ii) it is likely that critical or emergency situations might arise which could not be accommodated as effectively by scheduled commercial airline or other suitable less costly travel facilities;

(iii) the increased flexibility in scheduling would result in time savings and more effective utilization of key personnel;

SECTION XXI

PROCUREMENT MANAGEMENT REPORTING SYSTEM

21-000 Scope of Section. This Section prescribes uniform reports which are required to be prepared by purchasing and contract administration offices in order to meet the requirements of the Federal Procurement Data System and provide management with necessary information to help formulate, change or measure the effectiveness of acquisition policy.

21-001 Definitions. As used in this section, the following terms have the meanings stated below.

(a) *Contracting Action* means any written action obligating or deobligating funds in connection with the purchasing, renting, leasing, or otherwise obtaining supplies, services or construction. The term includes: preliminary contractual instruments; letter contracts; definitive contracts, including notices of award; purchase orders; BPA calls; imprest fund purchases; SF 44 purchases; job orders; task orders; delivery orders; contingency orders; administrative notices; communication services authorizations (CSA's); production lists; priced exhibits; other orders against existing contracts; and contract modifications such as change orders or agreements, supplemental agreements, funding changes, option exercises, and notices of termination or cancellation.

(b) *Purchasing Office* means any office which awards or executes a contracting action when that action is accomplished by the PCO. Included in the term are activities which place orders under DoD contracts, under another agency contract, or under GSA Federal Supply Schedule, when such action is not taken in conjunction with an assigned contract administration responsibility.

(c) *Contract Administration Office* means the office which awards or executes a contracting action as defined above when such action is accomplished by an ACO on behalf of the PCO who assigned contract administration responsibility to that office, including actions taken by a TCO relating to the settlement of terminated contracts.

Part 1—Individual Procurement Action Report (DD Form 350)

21-100 Scope of Part. This Part prescribes the reporting on DD Form 350 (set forth in F-200.350) of individual contracting actions in excess of $25,000. *This reporting requirement has been assigned Report Control Symbol:* DD-DR&E(M) 1014.

21-101 Purpose. The DD Form 350 is used to collect data on contract placement statistics within DoD. The data gathered by means of the DD Form 350 are used for reporting the size and distribution of DoD procurement actions; types of contracts used; methods used in contracting; numbers and amount of contracts placed with categories of contractors such as small, small disadvantaged, and women-owned small business concerns; the negotiation authority used; the extent of competition achieved; and other essential facts about contract actions over $25,000 written by DoD. In many respects, the data summarized from the DD Form 350 are used to measure the efficiency and adequacy of the way in which the DoD procurement program is executed. The data serve as the basis for internal DoD reports as well as reports to other departments of the executive branch, Congress, GAO, etc. They frequently provide a basis for new or revised procurement policies. Therefore, it is most important that accurate and complete data be reported in a timely manner through the DD Form 350.

21-102 Applicability and Coverage.

(a) DD Form 350 consists of 6 parts. Part A identifies the report and the reporting activity. Part B identifies the transaction: contract number, contractor, dollars, product, etc. Part C gathers data concerning contracting procedures and methodology. Part D gathers data relating to the placement of the contract and to several statutory requirements relating to DoD procurements. Part E is set aside for departmental or higher authority use. Part F identifies the cognizant reporting official.

(b) DD Form 350 shall be prepared (typewritten or machine produced equivalent) for each contracting action obligating or deobligating more than $25,000 which is executed by a Component of the Department of Defense except as indicated in (d) below. At the option of the headquarters of the Departments, purchasing offices may submit an automated record in lieu of a DD Form 350, *Provided*, that the contract file reflects such information on a separate worksheet or print-out for each individual contracting action in excess of $25,000.

(c) Multiple reports are required for a single action when both the Foreign Military Sales Program and other programs are involved (see 21-105.12). Multiple reports may be required if more than one type of contract is involved (see 21-106.6(a)).

(d) DD Form 350 shall not be prepared for the following contracting actions:

(1) Transactions which cite nonappropriated funds, such as funds belonging to the Army and Air Force Exchange Service. Funds held in trust accounts for foreign governments shall be treated as appropriated funds.

(2) Transactions for leased communications placed by the Defense Communications Agency, Defense Commercial Communications Office (DECCO).

(3) Transactions for purchase of land, or rental or lease of real property.

(4) Orders from GSA Stock and the GSA Consolidated Purchase Program.

(5) Transactions which involve Government bills of lading or transportation requests.

(6) Grants for basic research with educational institutions and other nonprofit organizations.

(7) Orders placed against indefinite delivery type contracts entered into by the Defense Fuel Supply Center and the Military Sealift Command. The estimated value of the orders to be placed in each fiscal year against each contract shall be reported on a separate DD Form 350 and in the appropriate fiscal year by the Defense Fuel Supply Center and Military Sealift Command for their respective contracts.

(8) Orders placed against indefinite delivery type contracts entered into by the Military Traffic Management Command for stevedoring services. Orders under each such contract shall be consolidated quarterly and the cumulative dollar amount reported on a single DD Form 350.

(9) Awards to individuals in support of dependent schools, e.g., principals and teachers. These transactions shall be consolidated monthly and the cumulative dollar amount reported on a single DD Form 350.

(10) Military Airlift Command awards for international airlift services. These actions shall be reported at the end of each operating month by the issuance of one master DD Form 350 for each airlift contract.

(11) Orders placed for resale items in excess of $25,000 against brand name contracts entered into by the Defense Logistics Agency and published in Supply Bulletin Series 10-500. Orders under each such contract shall be consolidated monthly and cumulative dollar amounts reported on a single DD Form 350 in accordance with departmental regulations.

(12) Vouchers processed by the U.S. Army Contracting Agency, Europe (USACAE), for the purchase of utilities from municipalities, such as gas, electricity, water, sewage, steam, snow removal, and garbage collection. These transactions shall be consolidated monthly and the cumulative dollar amount reported on a separate DD Form 350 in accordance with departmental regulations.

21-103 Due Date and Distribution.

(a) The signed original of each DD Form 350 shall be forwarded by the purchasing office within 3 working days after the date on which the dollars were actually obligated or deobligated by the contracting office, with the following exceptions:

(1) For those Defense Fuel Supply Center major petroleum acquisitions which result in multiple awards, the signed original of the DD Form 350 shall be forwarded within 10 working days.

(2) For actions executed in the month of September only, prescribed due dates are extended 10 calendar days for the forwarding of reports in order to assure complete coverage of all contracting actions occurring in the fiscal year.

(b) Corrected reports shall be distributed in exactly the same manner as original reports.

(c) DD Forms 350 shall be submitted as unclassified documents. If necessary, the commodity description (Item B8D) may be omitted and the word "classified" inserted in lieu thereof. In addition, enter 9999 in Block B8A and zeros (000) in Blocks B8B and B8C. Should further modification of coding of items on DD Form 350 be deemed necessary for security classification purposes, the appropriate departmental offices identified in (d) below shall be contacted for special instructions

(d) Distribution of DD Form 350 shall be as follows:

(1) Army purchasing offices (except for Engineer Civil Functions purchasing offices) to HQDA(JDHQ-SV-W-P), Washington, DC 20310.

(2) Army Engineer Civil Functions purchasing offices to HQDA(DAEN-PRP), Washington, DC 20314.

(3) Navy purchasing offices as directed by COMNAVSUP(SUP-024).

(4) Air Force purchasing offices as directed by HQ USAF.

(5) Defense Logistics Agency purchasing offices to Executive Director, Contracting, Defense Logistics Agency, Cameron Station, Attn: DLA-PA, Alexandria, VA 22314.

(6) All other purchasing offices of the Department of Defense shall forward the signed originals to HQDA (JDHQ-SV-W-P), Washington, DC 20310.

(e) Purchasing offices shall prepare DD Form 350 for contracting actions in excess of $25,000 which are reportable in accordance with 21-102 and are accomplished by contract administration offices. To facilitate such reporting, the ACO or TCO, within one working day after the action date, shall transmit to the purchasing office on whose behalf the action was taken a copy of the contractual instrument clearly annotated in the heading in large block letters as the "DD FORM 350 REPORTING COPY." The purchasing office shall prepare and submit the DD Form 350 within 3 working days after the receipt of this "REPORTING COPY."

21-104 Part A, DD Form 350.

21-104.1 *Item A1, Type of Report.*

(a) If this is an original report, enter code zero in Item A1 and complete sections A through F as appropriate.

(b) If it is necessary to cancel a previously submitted report in its entirety, i.e., the report should not have been submitted, then enter code 1 in Item A1 and complete Items A2, A3, and B1 only.

(c) To change any data elements on a previously submitted report, enter code 2 in Item A1, enter in Items A2, A3, and B1 the same codes that were entered on the report

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being changed, and enter the corrected codes in each other item being corrected. Leave all other items blank. If it is necessary to change Items A2, A3, or B1 on a previously submitted report because a code was incorrect, that report must be cancelled and a new "original" report submitted.

21-104.2 *Item A2, Report Number.*

(a) Each purchasing office shall assign to DD Form 350 a unique 4-position number with alpha or numeric characters. If more than one activity within a purchasing office utilizes the same reporting office code, the purchasing office shall assign separate blocks of numbers to each such activity in order to prevent duplication of report numbers.

(b) If Item A1 is coded 1 or 2 (a cancelling or correcting action), then enter the report number assigned to the report being cancelled or corrected.

21-104.3 *Item A3, Purchasing Office Code.* Enter in Item A3 the code assigned to the purchasing office in accordance with DoD Procurement Coding Manual, Volume III.

21-104.4 *Item A4, Name of Purchasing Office.* Enter in the space provided sufficient detail to establish the identity of the purchasing office submitting the report.

21-105 Part B, DD Form 350.

21-105.1 *Item B1, Contract Number.* Enter either, left justified, the Department of Defense contract number or, for orders under contracts awarded by other Federal agencies, the contract number of that Federal agency.

(a) For DoD contracts, enter the basic (13 alpha-numeric character) procurement instrument identification number (PIIN) that was assigned in accordance with Section XX, Part 2. Contracts numbered under exceptions permitted by 20-201 shall include the identification of the purchasing office and the fiscal year in accordance with 20-203.1(i) and (ii) and Appendix N, plus 5 characters. Do not enter other supplementary procurement instrument numbers as part of the contract number; such numbers shall be entered in Item B2. Also, do not enter dashes, slants, or similar punctuation marks, and do not show spaces between numbers or letters in the PIIN.

(b) For other agency contracts, enter the contract number of the Federal agency as it appears in the contractual instrument, except that spaces between characters shall not be shown, and dashes, slants, and other punctuation marks shall not be entered (e.g., for GS-00S-27773, enter GS00S27773; for GP-16251 A, enter GP16251A, etc.).

21-105.2 *Item B2, Modification, Order or Other Supplementary Procurement Instrument Identification Number.* If applicable, enter the supplementary procurement instrument identification number (up to 13 characters) that was assigned in accordance with 20-204 or other identification permitted by 20-201.

21-105.3 *Item B3, Action Date.* Enter the year, month and day when a mutually binding agreement was reached. This shall be the effective date for fiscal obligation purposes. As a general rule, this occurs when a notice of award or fully executed document is manually delivered or placed in the mail to the contractor. Enter each segment as a 2-digit number using 01 through 12 for January through December. For example, enter 2 January 1984 as 840102. For contracts awarded in one fiscal year and not effective until a subsequent fiscal year because they are contingent on the availability of funds or for other reasons, the date shall be the date of the fund availability or the date when the contract becomes effective (see 21-105.13(c) and (h)).

21-105.4 *Item B4, Contractor Identification Information.*

(a) *Item B4A, DUNS Number.* Enter the 9-position number assigned by Dun and Bradstreet, Inc. (excluding dashes) that identifies the contractor establishment receiving the award. This DUNS Contractors Establishment Number should be for the division or plant identified. For contracts placed with the Canadian Commercial Corporation, enter "208891788" in Item B4A. For contracts placed with the Small Business Administration pursuant to the Small Business Act - Public Law 85-536, Section 8(a), enter the DUNS code for the small business firm which will be performing under the contract. The DUNS Contractor Establishment Number is available from one of the following sources:

(1) The offeror's response to the solicitation;

(2) If not provided with the offer, the successful offeror shall be contacted and requested to supply his applicable 9-digit number;

(3) If not provided by the successful offeror, the Federal Procurement Data Center (FPDC) DUNS Contractor Identification File, Alphabetical Listing shall be consulted.

(4) If this listing has no entry for the establishment, the applicable 9-digit number shall be obtained by contacting a Dun and Bradstreet, Inc. representative at the following commercial telephone numbers: 215-776-4388/4389/4390/4391. All requestors should provide the following information:

(i) Name of requesting purchasing office;
(ii) Purchasing location (city/town; state/country) and commercial telephone number (including area code);
(iii) Name of individual making the request;
(iv) The total number of requests, if more than one; and
(v) Contractor establishment name, street address (and/or P.O. Box), city/town, state/country, and zip code, if applicable, as displayed in Items B4B and B4C.

(b) *Item B4B, Contractor Name.* In the space provided, enter the name (including division name) of the contractor.

(c) *Item B4C, Contractor Address.* In the space provided, enter the address of the contractor. Include street address (and/or P.O. Box), city/town, state/country, and zip code, if applicable.

21-105.5 *Item B5, Principal Place of Performance.*

(a) Principal place of performance, in general, refers to the prime contractor's final assembly point of a manufactured article, construction site, place of mining, or place where a service is performed for the Government, including military installations. If more than one location is involved, show the location involving the largest dollar amount of procurement. Do not show more than one location in Item B5. Do not leave the "name" portion of Item B5 blank.

(1) For purchase from regular dealers (12-603.2), the place of performance shall be the dealer's location if shipment is made from stock, or the subcontractor's location if shipment is made from a subcontractor's plant.

(2) For construction contracts, report the actual site of construction.

(3) For architect-engineering contracts, report the planned site of the construction.

(4) In cases where the places of performance will be varied or unknown, enter the home office location of the contractor.

(5) Where labor surplus area set-aside preference is given, the principal place of performance shall be the city and state of the area which determined the preference.

(b) *Item B5A.* Enter the city or place code from Federal Information Processing Standard (FIPS) Publication 55, "Names of Populated Places and Related Entities of the States of The United States," of the principal place of performance. If the city or locality is not listed in FIPS Publication 55, find the nearest county in FIPS Publication 55, and enter the 3-digit numeric county code, preceded by 2 zeros. Leave this item blank for Washington, D.C., foreign countries, and United States possessions or territories other than Puerto Rico.

(c) *Item B5B.* Enter the state or country code from U.S. Department of Commerce, National Bureau of Standards (NBS) Letter Circular (LC) 1067, "Codes for Names of Countries and Outlying Areas of the United States," of the principal place of performance. For Washington, D.C., enter "11" and leave Item B5A blank.

(d) *Item P5C.* Enter the name of the principal place of performance. If the location is the same as for Item B4C, enter the word "same."

21-105.6 *Item B6, Type of Obligation.* This item is used to identify the nature of the amount to be entered in Item B7. Enter Code 1 to show an obligation; Code 2 to show a deobligation.

21-105.7 *Item B7, Total Dollars (Obligated/Deobligated).* Enter the net amount of funds obligated or deobligated by the contractual instrument being reported. Enter whole dollars only.

21-105.8 *Item B8, Principal Product or Service.*

(a) *Item B8A, FSC or Service Code.* Enter a Federal Supply Classification Code, a Research, Development, Test and Evaluation (RDT&E) Code, or a Service Code in accordance with Section I, Volume I of the Department of Defense Procurement Coding Manual (DoD 4105.61M). Each DD Form 350 must contain a 4-character entry for this item. If more than one classification is applicable to the procurement action, enter the one accounting for the largest dollar volume of procurement.

(1) *Research, Development, Test, and Evaluation. (RDT&E)* is defined in 4-101. Each DD Form 350 action for RDT&E shall be assigned a code beginning with the letter "A" in accordance with Section I, Part A of the referenced coding manual. Do not assign RDT&E codes for the procurement (including rental or lease) of equipment, supplies or services separately purchased in support of RDT&E work. Procurement of services or supplies that is incidental to the fulfillment of RDT&E work, but does not require contractor RDT&E performance, shall be coded in accordance with Parts B and C, Section I of the referenced coding manual, even though such purchases are in support of RDT&E work and RDT&E funds are cited. In no case shall RDT&E codes be assigned for orders under GSA Federal Supply Schedule contracts.

(2) *Services.* All services (except RDT&E actions) and lease or rental of equipment or facilities shall be coded in accordance with Part B, Section I of the referenced coding manual. Each category is assigned a series of 4-character codes for specific types of services and construction.

(3) *Supply.* Procurement of supply items shall be assigned a Federal Supply Classification (all numeric) Code from Part C, Section I of Volume I of the referenced coding manual. The Department of Defense Federal Supply Classification Cataloging Handbooks H2-1, H2-2 and H2-3 also may be used as a reference in identifying the correct 4-character code. Lease or rental of equipment/facilities should be coded as a service in accordance with Part B, Section I of the referenced coding manual.

(b) *Item B8B, DD Claimant Program Code.* Enter the appropriate DDCP code that identifies the commodity described in Item B8D. Claimant Program Codes are defined in Section III, Volume I of the referenced coding manual. If the description in Item B8D is for research and development, the objective of the research and development shall control the DDCP code to be entered; e.g., if the objective of the research and development is a guided missile, enter code A20. If the description in Item B8D is for research that

cannot be identified with a particular claimant program, enter Code S10. Contracts for ship repair, inspection, and repair as necessary (IRAN), modification of aircraft, overhaul of engines, and like maintenance, repair or modification services shall be identified with a particular claimant program where possible. Equipment rental (including rental of automated data processing equipment (a defined at 4-1102.2) and utility services shall be coded S10. If a particular claimant program cannot be identified, enter code S10 for services and code C9E for supplies or equipment.

(c) *Item B8C, System or Equipment Code.* Enter the appropriate weapons system or equipment code in accordance with Section II, Volume I of the referenced coding manual. If a weapon system or equipment code is not applicable, enter 3 zeros. This reporting requirement is not applicable to the Defense Logistics Agency.

(d) *Item B8D, Name or Description.* Enter the name or brief description of commodity or service. When the description of a commodity or service is classified, enter only the word "Classified;" however, do not specify "Classified" if a code name, such as Minuteman, Polaris, Trident, Pershing, etc., or an identifying program number; e.g., WS-107A, can be used without classifying the report.

21-105.9 *Item B9, Consulting Services Contract.* Enter Code 1 if the services being acquired are consulting services as defined in Section XXII, Part 11; otherwise enter code 2.

21-105.10 *Item B10, Multi-Year Contract.* Enter code 1 if this report concerns multiyear contracting for supplies or services pursuant to 1-322; otherwise, enter code 2.

21-105.11 *Item B11, Total Multi-Year Value.* Enter the estimated multiyear contract value if Item B10 is coded 1 and Item B13 is coded 1 or 3; otherwise, leave blank.

21-105.12 *Item B12, Foreign Military Sales.* Enter code 1 if the contracting action is under Foreign Military Sales arrangements, or under any other arrangements whereby a foreign country or international organization undertakes to bear the cost of the procurement. If not, enter code 2. If only part of a contracting action is for foreign military sales, that part (if in excess of $25,000) shall be reported on one DD Form 350, and the other part (if in excess of $25,000) shall be reported on a second DD Form 350. If this item is coded 1, do not complete Parts C and D.

21-105.13 *Item B13, Kind of Contracting Action.* Enter one of the available codes as appropriate. Do not complete Parts C and D of DD Form 350 if Item B13 is coded 6 or 7.

(a) *Code 1. Initial Letter Contract* — Enter this code when a new letter contract is executed. (For a letter contract which is designated as a modification of an existing contract, enter Code A.)

(b) *Code 2. Definitive Contract Superseding Letter Contract* — Enter this code when applicable. (For a definitive modification which supersedes a letter contract designated as a modification of an existing contract, enter Code A.)

(c) *Code 3. Definitive Contract (Including Notice of Award)* — Enter this code when the first binding document is the instrument containing all the terms and conditions of the agreement. Also enter code 3 for a modification which is the initial citation and obligation of funds for a contract awarded in one fiscal year but not effective until a subsequent fiscal year because it was contingent on the availability of funds or for other reasons. Use this code for definitive contract awards under the Small Business Administration 8(a) Program.

(d) *Code 4. Order Under DoD Basic Ordering Agreement* — Enter this code when reporting orders or modifications to orders under basic ordering agreements, priced exhibits and production lists entered into by a DoD Component.

(e) *Code 5. Order Under DoD Contract* — Enter this code when reporting orders or modifications to orders against indefinite delivery type contracts, DLA schedules, job orders, task orders, and the like where firm obligations are created by the issuance of such documents and where the basic contract was awarded by a DoD Component. Use this code for orders placed under DoD contracts with the Small Business Administration 8(a) Program. Also use this code for procurements from Workshops for the Blind or Other Severely Handicapped.

(f) *Code 6. Order Under GSA Federal Supply Schedule* — Enter this code for all procurements (including modifications) under GSA Federal Supply Schedule Contracts (see Section V, Part 1). Also enter this code for all contracting actions (including modifications) under GSA ADP Schedule Contracts and GSA Area Contracts for Utility Services.

(g) *Code 7. Action With Another Federal Agency* — Enter this code for all procurements (including definitive contracts, orders, and contract modifications) from or through other Federal agencies (except General Services Administration), such as the Government Printing Office, Federal Prison Industries, Veterans Administration, Tennessee Valley Authority, and the Departments of Treasury, Agriculture and Energy.

(h) *Code A. Additional Work, New Agreement* — Enter this code when additional work is acquired by means of a supplemental agreement as follows:

(1) Bilateral modifications which increase the scope of work of existing contracts, including letter contracts.

(2) Modifications which are the initial citation and obligation of funds for a supplemental agreement to increase quantities or extend performance that was awarded

in one fiscal year but not effective until a subsequent fiscal year because it was contingent on the availability of funds or for other reasons.

(i) *Code B. Additional Work, Other* — Enter this code when additional work is acquired by means of modification to the basic contract as follows:

(1) Exercise of options for increased quantities or extended performance.

(2) Incremental yearly buys under multiyear contracts.

(3) Amendments to letter contracts, supplemental agreements, and other modifying actions which add work and are made pursuant to the terms of existing contracts.

(j) *Code C. Funding Action* — Enter this code for amendments to letter contracts and other contract modifications which do not change the scope of work of the existing contract but obligate or deobligate funds. This includes, by way of illustration, incremental funding (other than incremental yearly buys under multiyear contracts), increasing the estimated cost on cost-reimbursement contracts, and repricing actions covering incentive price revision, and economic price adjustment. Do not use this code for a modification which is the initial citation and obligation of funds for a contract/modification awarded in one fiscal year but not effective until a subsequent fiscal year because it was contingent on the availability of funds or for other reasons (see (c) and (h)(2) above). For funding actions involving the kinds of contracting actions covered in (d), (e), (f) and (g) above, codes 4, 5, 6, and 7 shall be used as appropriate.

(k) *Code D. Change Order* — Enter this code when reporting change orders issued pursuant to the "Changes," "Differing Site Conditions," or similar provisions of existing contracts.

(l) *Code E* — Enter this code for termination for default.

(m) *Code F* — Enter this code for termination for convenience.

(n) *Code G* — Enter this code for cancellation.

21-106 Part C of DD Form 350. The following rules apply to each of the items listed in Part C of DD Form 350.

(a) If Item B12 is coded 1 or if Item B13 is coded 6 or 7, leave all items in this Part C blank.

(b) If Item B13 is coded 1 through 4, coding of all items in this Part C shall be accomplished in accordance with the coding instructions for that item.

(c) If Item B13 is coded 5, or B through G, enter the same code in each item in Part C that was reported on the DD Form 350 to the original contract governing this transaction. If a DD Form 350 to the original contract was not submitted because a DD Form 350 was not required, enter the code which is applicable to the original contract governing this transaction.

21-106.1 *Item C1, Synopsis in Commerce Business Daily.* Enter code 1 if a synopsis of the proposed action was prepared and transmitted in accordance with 1-1003. If not, enter code 2.

21-106.2 *Item C2, Reason Not Synopsized.* Enter the applicable code as follows (see 1-1003.1(c)(i) through (ix)):

Code	Reason
0	original estimate less than $10,000
1	information for synopsis would disclose classified information
2	procurement of perishable subsistence
3	procurement of electric power or energy, gas (natural or manufactured), water, or other utility services
4	procurement (whether advertised or negotiated) which is of such urgency that the Government would be seriously injured by the delay involved in permitting the date set for receipt of bids, proposals, or quotations to be more than 15 calendar days from the date of transmittal of the synopsis or the date of issuance of the solicitation, whichever is earlier
5	procurement to be made by an order placed under a Basic Ordering Agreement if the Basic Ordering Agreement was previously synopsized
6	procurement to be made from or through another Government department or agency, including procurements from the SBA using the authority of Section 8(a) of the Small Business Act, or a mandatory source of supply such as an agency for the blind-made products program; or orders placed against DLA schedules for proprietary brand name items
7	procurement of personal and professional services other than architect-engineer services (see 1-1003.4(b)(1))
8	procurement from educational institutions to be negotiated under 3-205
9	procurement in which only foreign sources are to be solicited

21-106.3 *Item C3, Method of Contracting.* Enter code 1 when accomplished by formal advertising; enter code 2 when accomplished by negotiation, including restricted advertising actions and modifications made pursuant to the provisions of Public Law 85-804. When code 1 is entered, no entries shall be made in Items C4 and C5.

21-106.4 *Item C4, Negotiation Authority.* This item shall be completed where Item C3 was coded 2. Enter the code below which corresponds to the negotiation exception of 10 U.S.C. 2304(a) (see 3-200 through 3-217) cited as the negotiation authority.

Code	Negotiation Authority
0101	Labor Surplus Area Set-aside (3-201.2(b)(i))
*0102	Unilateral Small Business Set-aside (3-201.2(b)(ii))
0200	Public Exigency (3-202)
0400	Personal or Professional Services (3-204)
0500	Services of Educational Institutions (3-205)
0600	Purchases Outside the United States (3-206)
0700	Medicines or Medical Supplies (3-207)
0800	Supplies Purchased for Authorized Resale (3-208)
0900	Perishable or Nonperishable Subsistence Supplies (3-209)
1001	Sole Source of Supply (3-210.2(i))
1002	Patent Rights or Copyrights (3-210.2(ii))
1003	No Responsive Bids Received (3-210.2(iii))
1004	Remaining Requirements (3-210.2(iv))
1005	Public Utility Services (3-210.2(v))
1006	Films, Motion Pictures, Manuscripts (3-210.2(vi))
1007	Technical Nonpersonal Services (2-210.2(vii))
1008	Studies or Surveys (3-210.2(viii))
1009	Nature or Amount of Work Unknown (3-210.2(ix))
1010	Rates Established by Law or Regulations (3-210.2(x))
1011	Commercial Transportation (3-210.2(xi))
1012	Services Relating to Perishable Subsistence (3-210.2(xii))
1013	Inadequate Specifications (3-210.2(xiii))
1014	Storage of Household Goods (3-210.2(xiv))
1015	Replacement Parts (3-210.2(xv))
1016	Sole Source Facilities Contract (3-210.2(xvi))

Code	Negotiation Authority
1017	Additional Construction Same Site (3-210.2(xvii))
1018	Foreign Military Sales (3-210.2(xviii))
1019	Reserved for Departmental Instructions
1020	Reserved for Departmental Instructions
1021	Reserved for Departmental Instructions
1022	Reserved for Departmental Instructions
1023	Reserved for Departmental Instructions
1024	Reserved for Departmental Instructions
1025	Reserved for Departmental Instructions
1026	Not otherwise applicable
1100	Experimental, Developmental or Research Work (3-211)
1200	Classified Purchases (3-212)
1300	Standardization and Interchangeability of Parts (3-213)
1400	Substantial Initial Investment or Extended Preparation (3-214)
1500	Negotiation After Advertising (3-215)
1600	In the Interest of National Defense (3-216)
1701	Joint Small Business Set-Aside (3-217)
1702	Otherwise Authorized by Law (3-217)
1703	Repurchase Following Default (3-217)

21-106.5 *Item C5, Extent of Competition in Negotiation.* This item shall be completed where Item C3 was coded 2. Enter the code below which corresponds to the extent of competition in the negotiated action:

Code	Extent of Competition
1	price competition
2	design or technical competition
3	follow-on after price competition
4	follow-on after design or technical competition
5	other noncompetition
6	noncompetition based on catalog or market price
7	competition not applicable

(a) Definition of the Extent of Competition Codes:

(1) *Price Competition, Code 1.*

(i) A contract shall be reported as "price competition" if offers were solicited and received from at least two responsible offerors capable of satisfying the

Government's requirements wholly or partially, and the award or awards were made to the offeror or offerors submitting the lowest evaluated prices (including catalog or market prices). In addition, a contract may also be reported as "price competition" even though only one offer is received, when offers are solicited from at least 2 responsible offerors who normally contend for contracts for the same or similar items. Where only one responsive offer was received and the solicitation was restricted to a prime contractor and his subcontractor for that item, use Code 5. Actions shall not be reported as "price competition" solely on the basis of the number of solicitations made. Contracting officers shall consider the content of the response of the solicitation, the contract history of the items purchased, and other relevant information, and shall exercise sound judgment in reporting actions as "price competition." In no case shall cost-reimbursement type contracts be coded 1. Even though catalog or market prices were offered, if the criteria for "price competition" as specified here have been met, then enter Code 1.

(ii) Multiple awards in such areas as subsistence, clothing and equipage, and other commodities where several awards normally result from one solicitation may be reported as "price competition," even though the total quantity of the solicitation is not awarded, if in the judgment of the contracting officer there are sufficient facts to support a valid finding of "price competition."

(2) *Design or Technical Competition, Code 2.* Design or technical competition is present when 2 or more qualified sources of supply are invited to submit design or technical proposals, with the subsequent contract award based primarily on this factor, rather than on a price basis. Many research and development contracts and many initial contracts for new military weapons fall into the category of design or technical competition.

(3) *Follow-on After Price Competition, Code 3, and Follow-on After Design/Technical Competition, Code 4.* A follow-on contract means a new procurement (whether placed by a separate new contract or by a supplemental agreement) placed with a particular contractor to continue or augment a specific military program in instances where such placement was necessitated by prior procurement decisions. An example of a follow-on contract is one which by force of circumstances had to be awarded to a contractor who was just completing a research and development contract in the same program. Other examples of follow-on contracts include those for support equipment, maintenance support, technical representatives or spare parts which have been awarded without competition to the contractor because he furnished the original equipment. Follow-on contracts in which the selection of the contractor at the inception of the program was on a competitive basis (i.e., price or design or technical) shall be reported as Code 3 or 4, as appropriate. Follow-on contracts in which the selection of the contractor at the inception of the program was on a noncompetitive basis shall be reported as Code 5.

(4) *Other Noncompetition, Code 5.* A contracting action shall be reported other noncompetition if there was no competition in the award, the work involved was not a follow-on procurement reportable as Code 3 or 4 above, and the reasonableness of price was not based on established catalog or market prices reportable as Code 6. Also, use this code to report actions where only one responsive offer was received and the solicitation was restricted to a prime contractor and his subcontractor for that item.

(5) *Noncompetition and Based on Catalog or Market Price, Code 6.* A contracting action shall be reported Code 6 if there was no competition in the award and the reasonableness of price was based on established catalog or market prices of commercial items sold in substantial quantities to the general public as defined in 3-807.7(b). If the award involves catalog or market prices and the criteria for "price competition" as specified in (a)(1) above have been met, enter Code 1 versus Code 6.

(6) *Not Applicable, Code 7.* The following actions shall be entered as Code 7:

(i) awards for brand name items for commissary resale;
(ii) awards to nonprofit institutions;
(iii) awards to regulated monopolies for utilities "where the price negotiated is based on prices set by law or regulation;" and
(iv) awards made pursuant to Section 8(a), Small Business Act (15 U.S.C. 637(a)).

21-106.6 *Item C8, Type of Contract.* Enter the code below which corresponds to the type of contract provided for in the provisions of the action reported.

Code	Type of Contract
A	Fixed Price Redetermination: Type A
B	Fixed Price Redetermination: Type B
J	Firm Fixed Price
K	Fixed Price economic price adjustment
L	Fixed Price incentive with performance incentive
M	Fixed Price incentive without performance incentive
R	Cost Plus Award Fee
S	Cost Contract
T	Cost Sharing
U	Cost Plus Fixed Fee
V	Cost Plus incentive fee - with performance incentive
W	Cost Plus incentive fee - without performance incentive
Y	Time and materials
Z	Labor Hour

(a) *Multiple Contract Types.* Where the action involves more than one type of contract, the predominant type based on dollars shall be entered. However, if any nonpredominant portion of a multi-type contract exceeds $500,000, a separate DD Form 350 shall be used to report each such portion of the action. The total of the DD Forms 350 so reported shall equal the total contract action.

(b) *Letter Contracts.* When reporting original letter contracts and amendments thereto, enter the code for the type of contract that will be used when the letter contract is converted to a definitive contract.

21-107 Part D of DD Form 350. The following rules apply to each of the items listed in Part D of DD Form 350.

(a) If Item B12 is coded 1 or if Item B13 is coded 6 or 7, leave all items in this Part blank.

(b) If Item B13 is coded 1 through 4, or A, (i) coding of all items in this Part D shall be accomplished in accordance with the coding instructions for that item, and (ii) the status of the concern, such as its size or ownership, shall be determined as of the date of the award.

(c) If Item B13 is coded 5, or B through G, enter the same code in each item in Part D that was reported on the DD Form 350 to the original contract governing this transaction. If a DD Form 350 to the original contract was not submitted because a DD Form 350 was not required, enter the code which is applicable to the original contract governing this transaction.

21-107.1 *Item D1, Type of Business.*

(a) Enter Code 1 if the award was made to a domestic large business concern, and the place of performance (Item B5C) is within the United States, its possessions, Puerto Rico, or the Trust Territory of the Pacific Islands.

(b) Enter Code 2 if the award was made to a small business concern as defined in 1-701.1 and the place of performance (Item B5C) is within the United States, its possessions, Puerto Rico, or the Trust Territory of the Pacific Islands.

(c) Enter Code 3 if the award is made to a foreign concern (6-001.7(b)).

(d) Enter Code 4 if the award is made to a domestic large or small business concern and the place of performance (Item B5C) is outside the United States, its possessions, Puerto Rico or the Trust Territory of the Pacific Islands.

(e) Enter Code A, B, C, D or E if the award was made to a nonprofit institution and the place of performance (Item B5C) was within the United States, its possessions, Puerto Rico, or the Trust Territory of the Pacific Islands. A nonprofit institution is defined as any corporation, foundation, trust, or institution not organized for profit, no part of the net earnings of which inure to the benefit of any private shareholder or individual. Included are educational and scientific institutions of a nonprofit nature, and state, local, and other non-Federal government agencies. Enter Code A if the contractor is an educational institution,

Code B if a hospital, Code C if a workshop for the blind or other severely handicapped and the action is an acquisition from the Procurement List (5-502), Code D if a workshop for the blind or other severely handicapped and the action is not an acquisition from the Procurement List (Optional Placement) (5-509), and Code E for all other nonprofit institutions.

21-107.2 *Item D2, Reason Not Awarded to Small Business Concern.* If the action was not awarded to a small business concern, enter an appropriate code from the available codes below. Otherwise, leave blank.

(a) Use Code 1 if there was no known small business source.

(b) Use Code 2 if there was a known small business source but it was not solicited for a bid or proposal.

(c) Use Code 3 if a small business concern was solicited, but no bid or proposal was received from such concern, or the concern did not offer sufficient quantity to cover the total requirement but received an award for the portion bid on.

(d) Use Code 4 if a small business concern was solicited but the low or most advantageous offer was not from small business. Enter Code 4 if a small business concern was not willing to accept award of a set-aside portion of an action at the price offered as determined by the price the Government would otherwise have had to pay.

(e) Use Code 5 if not awarded to small business for any other reason.

21-107.3 *Item D3, Small Disadvantaged Business.*

(a) Enter Code 1 if the contractor is not a small disadvantaged business concern in accordance with the representation required in 1-707.3(f).

(b) Enter Code 2 if the contract was awarded to the U.S. Small Business Administration (SBA) pursuant to Section 8(a) of the Small Business Act (1-705.5).

(c) Enter Code 3 if the award is not an SBA 8(a) award but is made to a firm determined to be a small disadvantaged business concern in accordance with the representation required in 1-807.3(f).

21-107.4 *Item D4, Reason Not Awarded to Small Disadvantaged Business Concern.* If the action was not awarded to a small disadvantaged business concern, enter an appropriate code from the available codes below. Otherwise, leave blank.

(a) Use Code 1 if there was no known small disadvantaged business source.

(b) Use Code 2 if there was a known small disadvantaged business source but it was not solicited for a bid or proposal.

(c) Use Code 3 if a small disadvantaged business concern was solicited, but no bid or proposal was received from such concern, or the concern did not offer sufficient quantity to cover the total requirement but received an award for the portion bid on.

(d) Use Code 4 if a small disadvantaged business concern was solicited but the low or most advantageous offer was not from a small disadvantaged business concern.

(e) Use Code 5 if not awarded to a small disadvantaged business for any other reason.

21-107.5 *Item D5, Women-Owned Small Business.*

(a) Enter Code 1 if the contractor's response to 7-2003.80 indicates the firm is not a women-owned small business.

(b) Enter Code 2 if the response to 7-2003.80 indicates in the affirmative that the contractor is a women-owned small business.

(c) Enter Code 3 if the information is not available because the contractor did not complete the certification under 7-2003.80.

21-107.6 *Item D6, Small Business Set-Aside Preference.*

(a) Enter Code 1 if the solicitation/award was not totally or partially set aside for small business pursuant to 1-706.5, 1-706.6 or 1-706.7.

(b) Enter Code 2 if the solicitation/award was totally set aside for small business pursuant to 1-706.5 or 1-706.7.

(c) Enter Code 3 if the solicitation/award was partially set aside for small business pursuant to 1-706.6.

21-107.7 *Item D7, Subcontracting Plan for Small and Small Disadvantaged Businesses, 1-707.* Enter the appropriate code as follows:

(a) Enter Code 1 if a subcontracting plan was not included in the contract because subcontracting possibilities do not exist (1-707.3(d)).

(b) Enter Code 2 if the subcontracting plan was not required for other reasons, e.g., the action was awarded to a small business firm or the dollar value of the award was less than the cited threshold (1-707.3(b) and (c)).

(c) Enter Code 3 if the subcontracting plan was required but the incentive provisions referenced in 1-707.3(e) were not included.

(d) Enter Code 4 if the subcontracting plan was required and incentive provisions specifically pertaining to subcontracting with small and small disadvantaged business referenced in 1-707.3(e) were included.

21-107.8 *Item D8, Small Business Innovation Research (SBIR) Program.* Enter the appropriate code as follows:

(a) Enter Code 1 if the action is not in support of the Small Business Innovation Research Program (P.L. 97-219).

(b) Enter Code 2 if the action is related to a Phase I contract in support of the Small Business Innovation Research Program (P.L. 97-219).

(c) Enter Code 3 if the action is related to a Phase II contract in support of the Small Business Innovation Research Program (P.L. 97-219).

21-107.9 *Item D9, Labor Surplus Area (LSA) Preference.* The Department of Labor publication "Listing of Eligible Labor Surplus Areas Under Defense Manpower Policy No. 4B and

Executive Orders 10582 and 12073" defines all areas classified as labor surplus areas. If Code 2, 3, 4, 5 or 6 is entered, the entry in Item B5C must be a location which on the date of the action is located within a labor surplus area.

(a) Enter Code 1 if no preference was given to labor surplus area concerns.

(b) Enter Code 2 when reporting the labor surplus portion of a combined set-aside (1-706.7).

(c) Enter Code 3 if the action was awarded to a concern in a labor surplus area wherein preference was given under partial labor surplus area set-aside procedures (1-804), except if set-aside preference resulted from a combined small business/labor surplus area set-aside as set forth in (b) above.

(d) Enter Code 4 if the action was awarded to a concern in a labor surplus area and tie bid preference (2-407.6) was given.

(e) Enter Code 5 when reporting an award that is totally set aside for labor surplus areas, but with no further preference as to whether it is a large or small business firm.

(f) Enter Code 6 when reporting an award that is totally set aside for labor surplus area concerns which are also small business concerns.

21-107.10 *Item D10, Subject to Labor Standards Statutes.* Enter the appropriate code as follows:

(a) Enter Code 1 if subject to the provisions of the Walsh-Healey Act, Manufacturer (see Section XII, Part 6).

(b) Enter Code 2 if subject to the provisions of the Walsh-Healey Act, Regular Dealer (see Section XII, Part 6).

(c) Enter Code 3 if subject to the provisions of the Service Contract Act, as amended (see Section XII, Part 6).

(d) Enter Code 4 if subject to the Davis-Bacon Act (see 8-702.1(a)).

(e) Enter Code 5 if not subject to any of the statutory requirements above.

21-107.11 *Item D11, Certificate of Current Cost or Pricing Data.* Enter Code 1 if a certificate of current cost or pricing data (see 3-807.6) was obtained, Code 2 if the certificate was not obtained, or Code 3 if the requirement was waived.

21-107.12 *Item D12, Trade Data Relating to Products or Components Not Manufactured in the United States or Services Performed by Foreign Concerns.*

(a) *Item D12A, Number of Offerors.* Enter the number of offerors of end-products not manufactured in the United States, its possessions, Puerto Rico, or the Trust Territory of the Pacific Islands. If zero, enter 0; if greater than 9, enter 9.

(b) *Item D12B, Buy American Act Percent Difference.* If the evaluation factor under the Buy American Act is used and results in an award to a firm offering a domestic product,

enter the percent difference between the award price and low firm offering a foreign end product, computed before application of the Buy American Act differential; i.e., the difference divided by the price of the low firm offering a foreign end product. Enter the percentage as a whole number (i.e., for 5%, enter 05; for 11%, enter 11). If the evaluation factor under the Buy American Act is not used, enter 2 zeros (00).

(c) *Item D18C, Country of Origin.* Enter appropriate country code shown as follows:

(i) If the product shown in Item B8D is manufactured in the U.S. and more than 50% of the cost of all its components is not manufactured in the U.S., enter the letter A and the 2-digit code of the country/area providing the greatest part of such components, as shown in NBS LC 1067, "Codes for Names of Countries and Outlying Areas of the United States."

(ii) If the product is manufactured, mined, or grown outside the U.S., enter the letter B and the 2-digit code of the country/area of origin, as shown in NBS LC 1067.

(iii) If a service shown in Item B8A is performed by a foreign concern (see 6-001.7), enter the letter B and the country/area code of the concern, as shown in NBS LC 1067.

(iv) In all other cases, leave this item blank.

21-107.13 *Item D13, Contract Financing (Progress Payments or Advance Payments).* Enter the appropriate code as follows if Item C6 is coded A, B, J, K, L, or M.

(a) Enter Code 1 if the action contains the clause at 7-104.35(a) or (b).

(b) Enter Code 2 if the action contains the clause at 7-104.35(c).

(c) Enter Code 3 if the action is for either shipbuilding or construction and Percentage of Completion Progress Payment financing is provided (see E-501).

(d) Enter Code 4 if the action provides Unusual Progress Payments or Advance Payments (see Appendix E, Part 4, and E-505).

(e) Enter Code 5 if none of the above apply.

21-108 Part E, DD Form 350. For departmental or higher authority use.

21-109 Part F, DD Form 350.

21-109.1 *Item F1, Name of Contracting Officer or Representative.* Enter name (Last, First, MI) of the contracting officer or representative.

21-109.2 *Item F2, Signature.* Contracting Officer or Representative.

21-109.3 *Item F3, Telephone Number.* Installations serviced by the Automatic Voice Network shall enter the AUTOVON number plus extension.

21-109.4 *Item F4, Date.* Enter date (Yr/Mo/Da) that DD Form 350 Report is submitted.

Part 2—Monthly Procurement Summary (DD Form 1057)

21-200 Scope and Purpose of Part. This Part prescribes the reporting on DD Form 1057 (set forth in F-200.1057) of contracting actions of $25,000 or less each. This form in conjunction with DD Form 350 is used to prepare recurring and special reports as indicated in 21-101.

This reporting requirement has been assigned Report Control Symbol: DD-DR&E(M) 1015.

21-201 Applicability and Coverage.

(a) A DD Form 1057 shall be prepared (typewritten or machine reproduced) by each purchasing office of the Department of Defense to which a reporting office code has been assigned in the DoD Procurement Coding Manual, Volume III. The DD Form 1057 shall cover all contracting actions of $25,000 or less. Separate codes may be assigned to an installation, base or activity by Volume III of the DoD Procurement Coding Manual in order to distinguish between various types of procurement, such as base and central procurement, or RDT&E and non-RDT&E procurement. Subject to the approval of the organizations listed in 21-202, a machine printout or other machine product containing the information on the DD Form 1057 may be submitted in lieu of the form.

(b) DD Form 1057 shall include all debit or credit contracting actions of $25,000 or less involving:

(i) appropriated funds;

(ii) contract authorizations;

(iii) stock or other revolving funds which are replenished or reimbursed from appropriated funds;

(iv) appropriated funds transferred to the Departments, such as Military Assistance Program funds; and

(v) appropriated funds obligated pursuant to provisions of Public Law 85-804.

(c) The report shall exclude actions of $25,000 or less which:

(i) involve nonappropriated funds;

(ii) are delivery orders against indefinite delivery type contracts entered into by the Defense Fuel Supply Center; Defense Fuel Supply Center shall report the estimated total cost of indefinite delivery type contracts;

(iii) are requisitions transferring supplies within and among the Departments and Agencies of the Department of Defense;

(iv) are placed by the Defense Communications Agency, Defense Commercial Communications Office (DECCO). These actions are covered by other reporting instructions;

(v) are orders on GSA stores depots;

(vi) involve Government bills of lading or transportation requests; and

(vii) are for purchase of land, or rental or lease of real property

21-202 Due Date and Distribution.

(a) In addition to instructions given in (b) through (f) below for purchasing offices of specified Departments and Agencies, the following instructions are applicable to all purchasing offices.

(1) Reports shall be submitted in time to reach the recipient within three (3) working days after the close of each month. To meet this due date, purchasing offices are authorized to cut off no earlier than the 25th calendar day of the month reported. For the month of September only, the due date is extended by 10 additional calendar days, but the cut-off date must be as of 30 September.

(2) Negative reports shall be submitted if a purchasing office has not transacted a reportable action during the month.

(3) Letter of transmittal is not required.

(b) *Army* purchasing offices shall distribute DD Form 1057 as follows:

(1) The original (except from Army Engineer Civil Functions purchasing offices) shall be forwarded to HQDA (JDHQ-SV-W-P), Washington, D.C. 20310.

(2) Army Engineer Civil Functions purchasing offices shall forward the original to HQDA (DAEN-PRP), Washington, D.C. 20314. A copy is not required for HQDA.

(c) Navy purchasing offices shall forward the original DD Form 1057 as directed by COMNAVSUP (SUP-024).

(d) Air Force contracting offices shall forward the original DD Form 1057 as directed by HQ USAF/RDC.

(e) *Defense Logistics Agency* purchasing offices shall forward the original DD Form 1057 to Executive Director, Contracting, Defense Logistics Agency, Cameron Station, Alexandria, VA, 22314, ATTN: DLA-PA.

(f) All other purchasing offices of the Department of Defense shall forward the original DD Form 1057 to HQDA (JDHQ-SV-W-P), Washington, D. C. 20310.

(g) Contracting actions of $25,000 or less which are reportable in accordance with 21-201 and are accomplished by contract administration offices shall be handled as follows:

(1) When the contractual instrument is being distributed, a copy shall be clearly annotated "DD Form 1057 Reporting Copy" and shall be forwarded to the appropriate purchasing office listed in Appendix N.

(2) Purchasing offices shall include data for such instruments in their reports on DD Form 1057.

21-203 Terms Used. The terms used on DD Form 1057 will, in all cases, have the same meaning as they do for the purpose of preparing DD Form 350. (See Section XXI, Part 1.)

21-204 Heading.

(a) *Month Ending*—Enter the year, month and day indicating the ending date of the month reported. Enter each segment as a 2-digit number using 01 through 12 for January through December. For example, for the month ending 30 April 1984, enter 840430.

(b) *Purchasing Office and Mailing Address*—Enter sufficient detail to establish the identity of the purchasing office submitting the report.

(c) *Reporting Office Code*—Enter the code assigned to the purchasing office pursuant to Volume III of the DoD Procurement Coding Manual. This is the same code that is used for Item A3 of DD Form 350.

21-204.1 *Number of Actions.*

(a) Only transactions that obligate or deobligate funds shall be counted. Except as provided in (b) below, each call or order under a blanket purchase agreement, imprest fund, requirements type contract, or indefinite delivery indefinite quantity contract shall be counted as an action. A definite quantity indefinite delivery contract shall be counted once at the time of award, and orders under such contracts shall not be counted. If it is not possible to determine the price of an order or call when it is placed, it may be counted when the voucher is paid, but care shall be exercised to avoid double counting of such actions.

(b) For the following transactions, each voucher paid during the report period shall be counted as one action, and no other count shall be reported (if the voucher is in excess of $25,000, the action shall be reported on DD Form 350 rather than DD Form 1057):

(i) meals and lodging,

(ii) automatic deliveries, such as, bread, milk, and ice cream,

(iii) utilities, such as, electricity, gas, and telephone

(Headquarters, Naval Facilities Engineering Command, will submit consolidated reports on utilities contracts for all Naval Shore Establishments)

21-204.2 *Dollar Value.* All dollar amounts shall be entered in whole dollars. Do not enter cents. For example, $2,510.10 or $2,510.90 shall be reported as $2,510. Do not enter $2,510.00 or $2,510.-. If the net amount is a decrease, enter the symbol "CR" immediately following the amount to signify a credit entry. Do not enter parentheses or dashes.

21-205 Section A, Contracting Actions.

(a) Enter under Lines 1 through 4, the number and value of actions of $25,000 or less according to type of contractor (i.e., small business, large business, educational and nonprofit institutions), and for work outside the U.S., in accordance with instructions in (b), (c), (d), (e), and (f) below.

(b) Enter on Lines 1.a., 2.a., 3.a., and 4.a, the number and dollar amount of those contracting actions accomplished by formal advertising.

(c) Enter on Lines 1.b., 2.b., and 4.b., the number and dollar amount of those negotiated contracting actions considered for competition where price competition or design or technical competition was present in accordance with the criteria set forth in 21-106.5(a)(1) and (2).

(d) Enter on Lines 1.c., 2.c., and 4.c., the number and dollar amount of those negotiated contracting actions accomplished where competition was not present as covered in 21-106.5(a)(3), (4), and (5).

(e) Enter on Lines 1.d., 2.d., and 4.d., the number and dollar amount of those negotiated contracting actions meeting the requirements of 21-106.5(a)(6) which are excluded from the competition base.

(f) Enter on Line 3.b., the number and dollar amount of contracting actions accomplished by negotiation.

(g) Enter under Line 5, and on Lines 6 and 7, the number and dollar amount of contracting actions as appropriate.

21-206 Section B, Negotiation Authority 10 U.S.C.

(a) Enter the number and dollar amount of negotiated contracting actions of $25,000 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., 1.c., 1.d., 2.b., 2.c., 2.d., 3.b., 4.b., 4.c., and 4.d. in Section A.

(b) Enter on line 3.a., the number and dollar value of actions of $10,000 or less which were negotiated under 10 U.S.C. 2304(a)(3) and are small business-small purchase set-asides in accordance with 1-702(c) and 3-603.1(g).

(c) Enter on Line 3.b., the number and dollar value of actions of $25,000 or less which were negotiated under 10 U.S.C. 2304(a)(3) and are not small business-small purchase set-asides in accordance with 1-702(c) and 3-603.1(g).

(d) 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 contracting actions of $25,000 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 RDT&E work but do not require contractor RDT&E performance.

21-208 Section D, Selected Other Actions.

(a) Enter on Line 1.a., the number and dollar amount of awards made to small disadvantaged business concerns that were made through the Small Business Administration pursuant to the Small Business Act - Public Law 85-536, Section 8(a). Entries on this line shall also be reflected on Line 17.b. of Section B.

(b) Enter on Line 1.b., the number and dollar amount of awards made directly to small disadvantaged business concerns.

(c) Enter on Line 2, the number and dollar amount of awards shown in Section A that were made to women-owned small businesses.

21-209 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

(iv) administration of the contract—

(A) to what extent the contractor employees are used interchangeably with Government personnel to perform the same functions;

(B) to what extent the contractor employees are integrated into the Government's organizational structure; and

(C) to what extent any of the elements in (ii) and (iii) above are present in the administration of the contract, regardless of whether they are provided for by the terms of the contract.

22-102.3 *Examples of Personal Versus Nonpersonal Services.* It is to be emphasized that the examples below are for illustrative purposes only and are not to be used as the basis for a determination in any specific case.

(a) *Personal.* The following are examples of personal services contracts:

(i) contract for the furnishing of ordinary, day-to-day stenographic and secretarial services in a Government office under Government supervision exercised either directly or through a contractor supervisor, even if only for a peak work period of two weeks;

(ii) contract for preparation of a staff type report on the operation of a particular Government office or installation, where no specialized skills are required and the report would ordinarily be prepared by the regular officers or employees of the office or installation even if there is to be no Government supervision and even if payment is to be for an "end product" report;

(iii) contract for the furnishing of persons to perform the various day-to-day functions of contract administration for a Government agency, even if there is no Government supervision; and

(iv) contract with an accounting firm to come in and perform day-to-day accounting functions for the Government.

(b) *Nonpersonal.* The following are examples of nonpersonal service contracts:

(i) contract for field engineering work requiring specialized equipment and trained personnel unavailable to the Government but not involving the exercise of discretion on behalf of the Government, where the contractor performs work adequately described in the contract free of Government supervision;

(ii) contract with an individual for delivery of lectures without Government supervision, at specific places, on specific dates, and on a specialized subject, even if payment is by the hour;

(iii) contract for janitorial services, where the contract provides for specific tasks to be performed in specific places, free of Government direction, supervision, and control over the contractor's employees, at a fixed price for the work to be performed; and

(iv) research and development contract, providing a fixed price for a level of effort, as long as the work is performed by the contractor independently of Government direction, supervision, and control.

22-102.4 *Determination by Contracting Officer; Documentation of Contract File.*

(a) At the time the contracting officer receives, through a purchase request or other document, any requirement for the procurement of services, he shall determine whether the procurement is proper in the light of the personal services policy in 22-102. He shall not proceed without documenting the contract file with:

(i) unless exempted by (b), a brief memorandum of his determination that the services are nonpersonal, together with his reasons and all the facts which bear on the personal-nonpersonal question, or a memorandum of his determination that procurement of the services is expressly authorized by statute, regardless of whether personal; and

(ii) an opinion of counsel obtained pursuant to 22-102.1 in any doubtful case and in any case where express statutory authorization is invoked; and

(iii) any further documentation which may be required by Departmental implementation.

(b) The following are exempted from the documentation requirements imposed by (a)(i):

(i) contracts for construction and contracts for architect-engineering services for preparation of designs, plans, drawings and specifications awarded pursuant to Section XVIII procedures; and

(ii) simplified small purchases issued pursuant to Section III, Part 6, procedures.

22-103 Competition in Service Contracting. The provisions of statute and of this Regulation requiring competition are fully applicable to service contracts. Therefore, unless otherwise provided by statute, contracts for services shall be awarded through formal advertising, whenever "feasible and practicable under the existing conditions and circumstances." When formal advertising is not feasible and practicable and negotiation is authorized, competition still must be obtained to the maximum practicable extent, except for procurements not in excess of $1,000. The method of obtaining competition will vary with the type of service being procured, and will not necessarily be limited to price comparison alone.

22-104 Conflict of Interest in Service Contracting. In procuring services by contract, the applicable provisions with respect to conflicts of interest shall be observed (see 1-113 and Appendix G) and when required by those provisions, an appropriate conflict of interest clause shall be incorporated into the contract.

22-105 Small Business Certificate of Competency. In those service contracts where the highest competence obtainable is a requirement of the Government, the small business certificate of competency procedures may not be applicable (see 1-705.4(b)).

22-106 Service Contract Act of 1965. Implementation of the Service Contract Act of 1965 (P.L. 89-286), which provides for minimum wages and fringe benefits as well as other conditions of work under certain service contracts, is contained in Section XII, Part 10.

22-107 Contract Term.

(a) The term of a service contract that is funded by annual appropriations shall not extend beyond the end of the fiscal year current at the beginning of the contract term, unless the contract falls into one of the following categories:

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E–211.3 *Unrealistic Cost Estimates.* Incompetence, carelessness, or overoptimism of management may cause or permit the making of bids or proposals for work involving techniques, processes or "know-how" on which the contractor has no sufficient experience. Such work may be for the end items under a Government contract or for end items under other contracts (whether existing or prospective). In either case, unforeseen difficulties of performance and unanticipated excess of costs over contract prices may prove ruinous. In such cases, the proposed price, or cost estimates, whether or not based on past performance and experience of qualified competent contractors for the same or similar kinds of end items, may be unrealistic for the inexperienced contractor and may make the company's financial projections completely unrealistic. Comparative bids or proposals by others are important and useful factors in evaluation of the adequacy or inadequacy of proposed prices. However, a proposed price that seems unduly low may in fact be founded solidly on superior efficiency or on the discovery of new and improved techniques or processes that will enable the contractor to perform at costs substantially less than those of other contractors.

E–211.4 *Technical and Engineering Evaluation.* While management and technical competence must be evaluated largely on the basis of past performance of management and technical personnel, in doubtful cases financial forecasts cannot be analyzed adequately without the benefit of technical and engineering judgments based upon detailed scrutiny of the contractor's production plans and contemplated processes in relation to the quantity and quality of available facilities and personnel. However, while inexperience of the contractor in production of a contemplated end item or similar kinds of end items is a danger signal requiring close collaboration of all personnel concerned with the various elements of contract awards and contract financing, close analysis of the facts may provide sound reasons for belief that the prospective contractor, with proper and prudent contract financing assistance, will be able to perform on terms and conditions, including price, beneficial to the Government.

E–211.5 *Importance of Type of Contract—Development.* The type of contract may constitute the dividing line for decision as to ability or inability to perform and the related question of the prudence or imprudence of providing contract financing. If the contemplated end items are essentially development items—whether or not the contract is labeled a development contract—a fixed-price type of contract, whether firm fixed-price, fixed-price with economic price adjustment or fixed-price subject to price revision with a ceiling, may prove impossible of performance within the contract price and may result in nondelivery of acceptable end items and in disaster to the contractor. Except for those contractors who are exceptionally strong financially, it is imperative in these cases that financial analysis and evaluation be based upon the closest possible scrutiny by, and stated judgments of, qualified engineering and technical personnel with regard to the details and difficulties of performance and their relation to projected costs of the work.

E–211.6 *Engineering, Production and Purchase Plans.* Company plans may contemplate engineering costs, tooling costs, direct labor costs, or prices of materials, parts or components that are unduly low. Financial forecasts cannot be made intelligently or usefully without the benefit of careful and competent analysis of all significant elements of the engineering, production and purchasing aspects—by qualified technical personnel. Such analysis would need to evaluate the company's estimated costs for each significant performance element against the probable costs to be encountered for all elements necessary for actual performance. It may, for example, be foreseeable upon analysis that the company has materially underestimated the amount of engineering and testing necessary for completion of a satisfactory preproduction model, or the quantity and quality of special tooling or other manufacturing aids that may be required for production of the end items, or the amount of direct labor that will be required, or the purchase price of necessary materials, parts or components. The company may also have been in error as to the probable technical ability of contemplated subcontractors to provide acceptable parts or components. The company may even—in some cases—be expecting to have significant portions of the work done by technically or financially irresponsible subcontractors, some of whom may be affiliated with the contractor or related financially to the contractor's ownership or management. All these elements, in appropriate cases, require analysis and evaluation by competent engineering and technical personnel and bear upon the soundness or lack of soundness of the evaluations of financial capability and of the risks of monetary losses that would be involved in contract financing.

E–212 Coordination Before Contract Award. For effective application of the principles stated in E–211, each purchasing office should be staffed with, or have available and use the services of persons qualified and competent to evaluate credit and financial problems. Among other things, the duties of such persons would be to arrange, prior to contract awards, and so far as practicable, prior to subcontract arrangements, that financing for performance of contemplated contracts and subcontracts is reasonably assured prior to or contemporaneously with the making of contracts. In those exceptional cases where there is substantial doubt that a prospective contractor has the financial capacity or credit resources essential to the performance of the contemplated contract, the interested procuring activity, after having determined that no satisfactory alternative sources of supply are readily available on terms equally as favorable to the Government, should, prior to placement of the contract, consult with the appropriate contract financing office of the interested Department, to determine whether financing can prudently be arranged. These contract financing offices are the Director of Contract Financing, Office of the Comptroller of the Army; the Director of Contract Financing, Office of the Comptroller of the Navy; the Chief, Banking and Contract Financing Division Air Force Accounting and Finance Center; and the Comptroller, Defense Logistics Agency. For other Departments (1–201.5), the contract financing office will be within the office of the Agency Comptroller. In such consultation it should be resolved, if placement of the contract is deemed beneficial to the interests of the Government, whether and by what means financing should be provided.

E–213 Financial Information and Analysis. The necessity for financial information and analysis, and the scope, depth and detail of analysis of the financial capability of contractors, for contract financing purposes, must vary reasonably with the circumstances of particular cases. The extent of accumulation of data, and the evaluation thereof, must necessarily be determined by the informed judgment of competent, responsible personnel. Essentially, this process must be

APPENDIX F

ILLUSTRATIONS OF STANDARD AND DEPARTMENT OF DEFENSE FORMS

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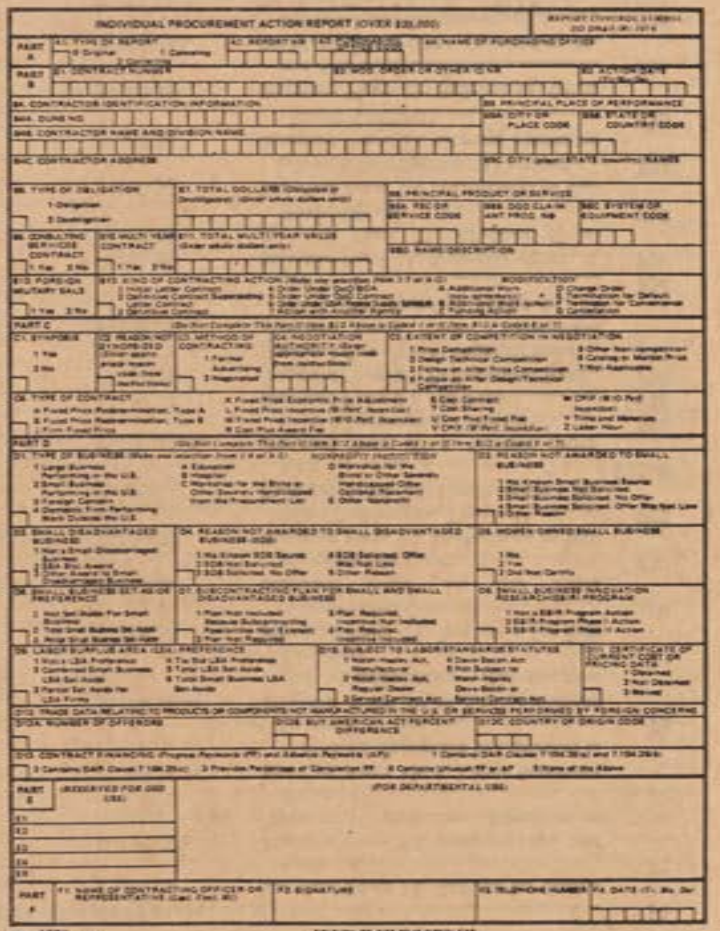
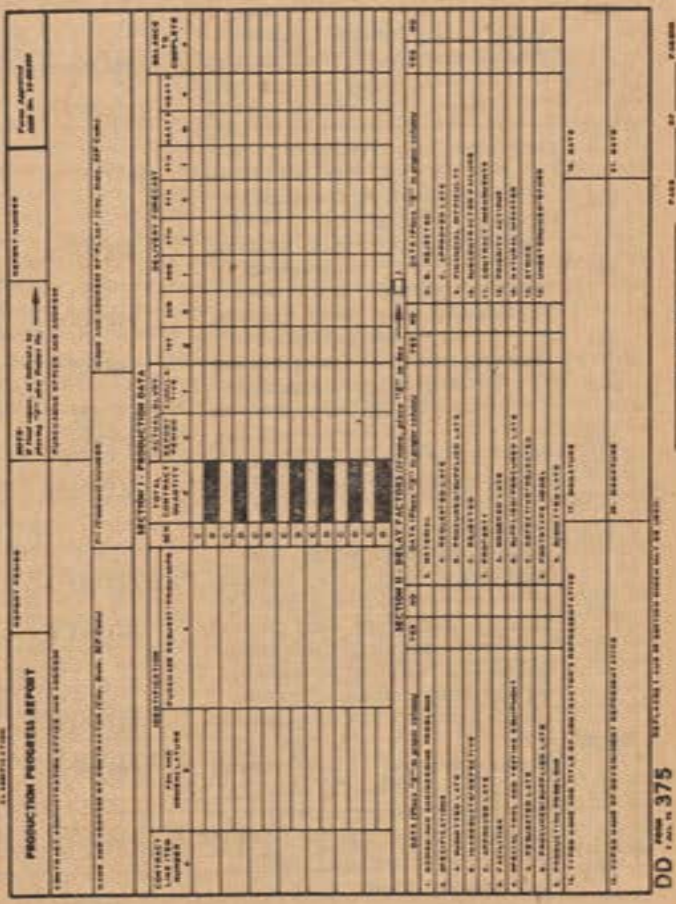
DEPARTMENT OF DEFENSE FORMS

F-200.350 *DD Form 350: Individual Procurement Action Report*



DEPARTMENT OF DEFENSE FORMS

F-200.375 *DD Form 375: Production Progress Report*



DEPARTMENT OF DEFENSE FORMS

F-200.882 *DD Form 882: Report of Inventions and Subcontracts (Pursuant to "Patent Rights" Contract Clause)*—Continued

INSTRUCTIONS TO CONTRACTOR

This form *(in triplicate)* is for use in submitting INTERIM and FINAL reports to the Contracting Officer.

An INTERIM report is due at least every 12 months from the date of the contract and shall include (a) a listing of Subject Inventions during the reporting period, (b) a certification of compliance with required invention identification and disclosure procedures, and (c) any required information on Subcontracts having a Patent Rights clause awarded during the reporting period which has not been previously reported.

A FINAL report is due within 3 months after completion of the contract work and shall include (a) a listing of all Subject Inventions required by the contract to be reported, and (b) any required information on Subcontracts awarded having a Patent Rights clause which has not been previously reported.

DD FORM 882, 1 OCT 75 Reverse side

[FR Doc. 83-31490 Filed 11-25-83; 8:45 am]
BILLING CODE 3810-01-C

DAC #76-46 24 AUGUST 1983

DEPARTMENT OF DEFENSE FORMS

F-200.1057 *DD Form 1057: Monthly Procurement Summary of Actions $25,000 or Less*

MONTHLY PROCUREMENT SUMMARY OF ACTIONS $25,000 OR LESS				AGENCY DD-DRAS-M0057	
PURCHASING OFFICE AND MAILING ADDRESS				REPORT NO. DATA CONTROL SYMBOL	
				REPORTING OFFICE CODE	
CATEGORY	NUMBER OF ACTIONS	DOLLAR VALUE	CATEGORY	NUMBER OF ACTIONS	DOLLAR VALUE
SECTION A – CONTRACTING ACTIONS			SECTION E – NEGOTIATION AUTHORITY 10 U.S.C.		
1. WITH LARGE BUSINESS FIRMS			1. SECTION 2304(a)(1)		
a. Advertised			a. Labor Surplus Area or Industry Set-Aside		
b. Negotiated-Competitive					
c. Negotiated-Noncompetitive			b. Small Business Set-Aside (Preferential)		
d. Negotiated-Not Considered For Competition					
2. WITH SMALL BUSINESS FIRMS			2. SECTION 2304(a)(2)		
a. Advertised			3. SECTION 2304(a)(3)		
b. Negotiated-Competitive			a. Set-Aside for Small Business		
c. Negotiated-Noncompetitive			b. Total Set-Aside for Small Business		
d. Negotiated-Not Considered For Competition			4. SECTION 2304(a)(4)		
			5. SECTION 2304(a)(5)		
3. WITH EDUCATIONAL AND NON-PROFIT INSTITUTIONS			6. SECTION 2304(a)(6)		
a. Advertised			7. SECTION 2304(a)(7)		
b. Negotiated			8. SECTION 2304(a)(8)		
			9. SECTION 2304(a)(9)		
4. FOR WORK OUTSIDE THE U.S.			10. SECTION 2304(a)(10)		
a. Advertised			11. SECTION 2304(a)(11)		
b. Negotiated-Competitive			12. SECTION 2304(a)(12)		
c. Negotiated-Noncompetitive			13. SECTION 2304(a)(13)		
d. Negotiated-Not Considered For Competition			14. SECTION 2304(a)(14)		
			15. SECTION 2304(a)(15)		
5. INTRAGOVERNMENTAL			16. SECTION 2304(a)(16)		
a. DOD Federal Supply Schedule			17. SECTION 2304(a)(17)		
b. Other Federal Contracts			a. Small Business Set-Aside (Total)		
6. FOREIGN MILITARY SALES			b. Other		
7. TOTAL			18. TOTAL		
SECTION C – RESEARCH, DEVELOPMENT, TEST AND EVALUATION ACTIONS			SECTION D – SELECTED OTHER ACTIONS		
1. LARGE BUSINESS FIRMS			1. WITH SMALL DISADVANTAGED BUSINESS		
2. SMALL BUSINESS FIRMS			a. Through Small Business Administration (Section 8(a))		
3. EDUCATIONAL AND NON-PROFIT INSTITUTIONS			b. Other Awards		
4. TOTAL			2. WITH WOMEN OWNED BUSINESS		
REMARKS (Continue on separate sheet)					
DATE SUBMITTED	TYPED NAME AND SIGNATURE			TELEPHONE NUMBER	

DD FORM 1057 EDITION OF OCT 80 IS OBSOLETE

32 CFR Parts 1-39

[DAC 76-45]

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 76-45. Some of the changes include: designation of AF Space Command as "Head of a Contracting Activity;" multiyear procurement; purchase of high-purity silicon; Standard Form 44 threshold change; instructions to contract auditor in revised DCAA Form 1; elimination of the Contractors Weighted Average Share (CWAS) in Cost Risk Program; noncompetitive unsolicited proposals; commodity assignments; exceptions to Balance of Payments Program; special country request with respect to sales commissions and fees; use and rental of Government property; contractor inventory redistribution system; contractual reports (A-E contracts); DAR Appendix I (Fuels); and miscellaneous editorial corrections.

EFFECTIVE DATE: Upon receipt, in accordance with DAR 1-106.2(d).

FOR FURTHER INFORMATION CONTACT: J. Brannan, Director, Defense Acquisition Regulatory Council, OUSDRE(AM)(DARS), OUSDRE(M&RS), Room 3D139, Pentagon, Washington, D.C. 20301, Telephone (202) 697-7266.

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 (CFR). The July 1, 1983 revision of the CFR is the most recent edition of that title. It reflects amendments to the 1976 edition of the DAR made by Defense Acquisition Circulars 76-1 through 76-44.

The Department of Defense announced the promulgation of the 1979 CFR edition in the **Federal Register** of December 31, 1979 (44 FR 77158), and also announced at that time that subsequent amendments to the DAR would be published in the **Federal Register.**

Defense Acquisition Circular 76-45

This document contains amendments to the Defense Acquisition Regulation in the form of replacement pages which were included in DAC 76-45, issued June 30, 1983. The following is a summary of the amendments:

Head of Contracting Activity. Effective 1 April 1983, Headquarters Space Command became "Head of a Contracting Activity" for the Air Force, and is added to the list in DAR 1-201.14. Also, an editorial change is made to reflect the correct title for the HQ US Air Force procuring activity directorate.

Multiyear Procurement. DAR 1-300 and 1-322 are revised to provide for the expanded use of multiyear procurment. The revision includes the changes required by Public Law 97-86 as previously implemented Departmentally.

Purchase of High-Purity Silicon. DAR 1-2207.5 has been added to restrict the purchase of high-purity silicon to domestic sources in accordance with DoD policy. The clauses set forth in 7-104.109 and elsewhere in Section VII shall be used as instructed.

Standard Form 44 Threshold Change. DAR 3-608.9(b)(i) is changed to reflect GSA's approval of DoD's request to utilize the Standard Form 44 for purchases both within the United States and outside the United States of aviation fuel and oil in amounts up to $10,000.

DCAA Form 1, "Notice of Contract Costs Suspended and/or Disapproved." DAR 3-809 is revised to provide instructions to the contract auditor as outlined in the revised DCAA Form 1.

Contractors Weighted Average Share (CWAS) in Cost Risk Program. A recent study of the Contractors Weighted Average Share (CWAS) in Cost Risk Program indicated that the program has not achieved the benefits expected and, in many instances, restricts the proper surveillance of contractors. Based on these findings, the Deputy Secretary of Defense has approved the study recommendation and eliminated the program. The DAR is revised accordingly.

Noncompetitive Unsolicited Proposals. DAC 76-28, dated July 15, 1981, published guidance with respect to implementation of a new general provision which was included in the 1981 Department of Defense Appropriation Act applicable to contracts entered into on the basis of unsolicited proposals using funds appropriated by the act. It was stated at that time that should this general provision become a continuing appropriation act provision, appropriate language would be incorporated in the DAR. DAR 4-910 is revised to accommodate the provision. Related changes to Section XXII will be issued at a later date.

Commodity Assignments—Exclusions for Local Purchase of Integrated Material Managed Items (Emergency Purchase). DAR 5-1201.2(d) is revised to delete the requirement to provide copies of contracts to the Office of Federal Supply and Services, GSA, when emergency purchases are made. It has been determined, in coordination with GSA, the requirement is no longer necessary.

Exceptions to Balance of Payments Program. DAR 6-803.2(b)(1) is revised to add Commander, Space Command, to the list of individuals who are authorized to make determinations with respect to exceptions to the Balance of Payments Program, as shown in 6-803.2(a). Also, an editorial change is made to reflect the correct title for Commander, Air Force Communications Command.

Special Country Requests with Respect to Sales Commissions and Fees. DAR 6-1305.6 is revised to include United Arab Emirates in the list of countries which have indicated they will not accept a Letter of Offer and Acceptance (LOA) which contains agent's fees or commissions without their prior approval.

Use and Rental of Government Property. DAR 13-401 and 13-404(a) have been revised to clarify coverage pertaining to use of Government property and Foreign Military Sales (FMS), i.e., (i) FMS use is usually on a rental basis; (ii) FMS use is Government use; and (iii) what the difference is between Government and non-Government use.

Contractor Inventory Redistribution System (CIRS) and Instructions for Preparing Inventory Schedules of Contractor Inventory. DAR 24-101.29 is revised to define serviceable/usable property in positive terms of new Federal Condition Codes. A new paragraph (h) is added to DAR 24-205.4, Screening Procedures, with respect to Contractor Inventory Redistribution System (CIRS). DD Form 1115, Instructions in Preparing Inventory Schedules of Contractor Inventory, is canceled. The instructions formerly contained in the form have been changed extensively and incorporated in a new paragraph 24-302.9. The definition of "scrap" has been changed to be consistent with condition codes defined in 24-302.9. DD Form 1348-1 is substituted for DD Form 1483 which is deleted from the DAR. Standard Form 125 is deleted from the DAR as a result of cancellation of the form by GSA. Related changes to Sections VIII and XVI, and to Appendices B and C are included in this document.

Contractual Reports (A–E Contracts). DAR 18–404.2 requires submission to the ASD (Manpower, Reserve Affairs and Logistics) of reports of architect-engineer contracts over $100,000. Coverage in DAR 18–404.2 is deleted since it has been determined these reports are no longer necessary.

DAR Appendix I (Fuels). DAR I–401 is revised to include in the Special Distribution Table (Table 2), provision for submission of DD Form 250 to the cognizant Defense Fuel Region for bulk petroleum shipments. Table 3 in DAR I–702 is revised to reflect current procedures for distribution of DD Form 250–1. Table 4 in DAR I–702 is revised to provide a current list of Defense Fuel Region locations and areas of responsibility.

Survey and Statistical Sampling. Annex II to DAR (ASPR) Supplement No. 3, is revised to extend the lot range from 10,000 to 100,000+.

Editorial Corrections. DAR 1–113.1 is revised to reflect the correct number and date of SECNAV INST for the Navy. DAR 16–303 is revised to reinstate reference to impending revision of DD Form 1155r, erroneously deleted from DAC 76–43. DAR 23–204 is revised to delete reference to "minority business enterprises," a term no longer used. DAR 24–204.4(e)(1) is revised to reflect a change of address for Defense Property Disposal Service from Colts Neck, New Jersey, to Battle Creek, Michigan. DAR Appendix E is revised to change the reference in E–500.3 from 1–201.5 to 1–201.4. Appendix F is revised to include the latest edition (82 JUN) of DD Form 1567, Labor Standards Interview, and to include the latest edition (82 SEP) of DD Form 1155, which was inadvertently omitted from DAC 76–43.

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. 533 (a) and (d). The amendments became effective on receipt, in accordance with DAR 1–106.2(d).

How to Use Replacement Pages

Reproduced at the end of this document are replacement pages from DAC 76–45. The number at the top of each page (for example, 1:11) 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.

List of Subjects in 32 CFR Parts 1–39

Government procurement.

Adoption of Amendments

Therefore, the Defense Acquisition Regulation contained in the July 1, 1983 edition of 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	
1–113.1	1:11.
1–201.14	1:17.
1–300.1 (added)	1:21, 1:21–A.
1–300.2–1–300.5 (formerly 1–300.1–1–300.4).	1:21.
1–322.1(a)–(d)	1:39 through 1:42.
1–322.1(f)–(h)	1:42, 1:43.
1–322.2	1:43.
1–322.2(a)–(c)	1:43 through 1:46.
1–322.2(f)	1:46.
1–322.2(g)–(i) (formerly (h)–(j))	1:47.
1–322.3(d)	1:47.
1–322.3(h)	1:48.
1–322.4(a)–(c)	1:48.
1–322.6(a)	1:49.
1–322.8 (a) and (b)	1:50, 1:51 through 1:53.
1–2207.5 (added)	1:228.
1–2207.5(a)–(c) (added)	1:228, 1:229.
3–608.9(b)	3:103.
3–809(c)	3:153 through 3:156.
Section III, Part 10 (reserved) (deleted).	3:165.
3–1000–3–1006 (deleted)	3:166 through 3:170 deleted.
4–910	4:46, 4:46–A.
5–1201.2(d)	5:61.
6–803.2(b)	6:37.
6–1305.6	6:56.
Volume II	
7–104.108 (reserved)	7:140–G.
7–104.109 (added)	7:140–G.
7–204.70 (added)	7:205.
7–303.71 (added)	7:241.
7–403.67 (added)	7:266.
8–101.17	8:3.
8–101.19	8:3.
8–805.1	8:53.
8–805.2	8:56.
8–805.3	8:58.
8–805.4	8:60.
13–401	13:21.
13–402(a)–(d)	13:21, 13:22.
13–403(a)–(d)	13:23.
13–404(a)–(e)	13:23–A.
13–405–13–408 (deleted)	
15–201.3(b) (deleted)	15:7.
Volume III	
16–303	16:16.
16–702.5	16:40.
16–818	16:52.
18–403.2	18:19.
18–404.2 (a) and (b) (deleted)	18:20, 18:21.
23–204	23:12.
Section XXIV, Table of Contents	1 through 4.
24–101.26	24:4.
24–101.29	24:4.
24–101.34 (added)	24:4.
24–102	24:4.
24–203	24:8.
24–203.1	24:8.
24–203.2	24:8, 24:9.
24–204.4(e)	24:12.
24–205.1(d)	24:13, 24:14.
24–205.2(b)	24:15, 24:16.
24–205.4(c)	24:18, 24:19.
24–205.4(d) (reserved)	24:19.
24–205.4(h) (added)	24:19, 24:20, 24:20–A.
24–206.1(h)	24:23.
24–206.1(j)	24:23, 24:24.
24–207(b)	24:29.
24–207(h)	24:31.
24–212.1(b)	24:33.
24–213(a)	24:34.
24–301.3 (reserved)	24:35.
24–301.5	24:35.
24–301.7	24:35.
24–301.13	24:35.
24–301.14 (formerly 24–301.15)	24:36.
24–301.15 (formerly 24–301.16)	24:36.
24–301.17 (deleted)	24:36.
24–302.9(a)–(l) (added)	24:51 through 24:57.
B–102.16	B:4.
C–102.16	C:4.
E–500.3	E:42.
Appendix F, Table of Contents	2, 6, 7 and 8.
F100.125 (deleted)	F54–A deleted.
F200.1115 (deleted)	F199 (F200 and F201 deleted).
F200.1155	F205.
F200.1483 (deleted)	F225 (F226 deleted).
F200.1567	F257.
I–401 (Table 2)	I:21.
I–702 (Table 3)	I:30.
I–702 (Table 4)	I:31, I:32.

Change to DAR Supplement No. 3—not in CFR: Annex II, page S3:29

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

November 18, 1983.

BILLING CODE 3810–01–M

implemented through the DAR system. The applicable DoD Directives covering the assignments of responsibility for the purchasing of specific supplies under Interagency Purchase Assignment will be incorporated by reference in this Regulation. For DoD implementation of Federal Supply Schedules, see Section V, Part 1.

1–113 Standards of Conduct.

1–113.1 *Government Personnel.* All governmental personnel engaged in procurement and related activities shall conduct business dealing with industry in a manner above reproach in every respect. Transactions relating to expenditure of public funds require the highest degree of public trust to protect the interests of the Government. While many Federal laws and regulations place restrictions on the actions of governmental personnel, the latter's official conduct must, in addition, be such that the individual would have no reticence about making a full public disclosure thereof. See AR600–50, for the Army; SECNAV Instr. 5370.2C of 4 August 1977, for the Navy; AFR 30–30, for the Air Force; DLAR 5500.1, for the Defense Logistics Agency; DCA Inst. 220–50–1, for the Defense Communications Agency; DNA Inst. 5500.7A, for the Defense Nuclear Agency; and DMA Inst. 5500.1, for the Defense Mapping Agency.

1–113.2 *Organizational Conflicts of Interest.*

(a) Appendix G—Rules for the Avoidance of Organizational Conflicts of Interest sets out some of the more essential policy considerations of the Department of Defense with respect to relationships with non-Federal institutions. Specifically, Appendix G describes examples of various organizational conflicts of interest which might come into being, and rules for avoidance of such conflicts; and it provides that action must be taken to avoid placing a contractor in a position where his judgment might be biased or where he would have an unfair competitive advantage within the scope and intent of the rules. However, the Appendix cannot of itself impose any obligations on the contractor; such obligations must be imposed by a contract clause designed to carry out the intent of the Appendix. Furthermore, potential contractors must be advised in the solicitation as to the extent of applicability of the rules, and must be given an opportunity to negotiate on the terms of the clause and its application.

(b)(1) The contracting officer is responsible for applying the rules in the Appendix to contracts under his cognizance and shall determine whether each proposed procurement is subject to the Appendix.

(2) If the contracting officer initially determines with respect to a particular procurement that a potential conflict of interest exists, he shall, before issuing the solicitation, prepare a written analysis justifying his recommendation to contract with either no restraint, partial restraint, or strict hardware exclusion provisions, including a statement as to which of the four rules (or other conflict of interest not stated in the rules) he considers applicable, and where appropriate a recommended solicitation notice and clause designed to avoid the organizational conflict of interest. This analysis and recommendation shall be reviewed by the Head of the Procuring Activity who shall examine the circumstances for benefits and detriments to both the Government and potential contractors, and who shall either approve, modify or reject the contracting officer's recommendation to contract with either no restraint, partial restraint or strict hardware exclusion provisions. In the event the Head of the Procuring Activity modifies, or rejects the contracting officer's recommendation, he shall document his decision. A standard form of solicitation notice or clause is not prescribed in this Regulation since such notices and clauses must be especially adapted to apply the principle of the rules to the specific facts of each contractual situation. The clause shall spell out the specific extent of any future restrictions on the contractor. The restrictions of the proposed clause shall also have a specific time period of effectiveness. As a general rule, the time effectiveness of any clause which excludes the contractor from participation in subsequent procurement shall have a fixed term of reasonable duration as appropriate, except that where Rule 1 of Appendix G is involved the exclusion shall be permanent. A fixed term of reasonable duration is measured by the time required to avoid the circumstance of unfair competitive advantage. This is variable; for example, it may run to the date of award of the first production contract or for a stated period of time. (See Rules 2 and 3 of Appendix G.) In no event shall an exclusion be stated in the clause without a specific date, or an event certain, terminating the effectiveness of the exclusion except where Rule 1 is involved.

(3) The contracting officer shall include his recommendations and the Head of the Procuring Activity's determination, together with the written analysis, in the negotiation file or record. The approved solicitation notice and proposed clause shall then be included in the solicitation, together with a clear statement that the proposed clause and the application of the Appendix are subject to negotiation.

(4) In no case shall the clause included in a solicitation or in a contract (including letter contracts) pursuant to this paragraph 1–113.2 defer the determination of the application of the Appendix to a time after the contract has been awarded.

(5) When a contract contemplates a Rule 4 situation, it is incumbent on the contracting officer to assure himself that the agreement called for by Rule 4 is in fact executed, and that copies thereof are made available to the Government.

(c) The contracting officer shall not impose restrictions under the Appendix in follow-on procurements on any prospective contractor in the absence of a specific contractual agreement with that contractor. If, during the effective period of any restriction, procurement responsibility for the system or item involved is transferred from the procuring activity which imposed the restriction that activity shall notify the transferee of the restriction and send it a copy of the contract under which it was imposed.

(d) The Departments shall maintain, in accordance with Departmental procedures, and for an appropriate period of time as determined by the circumstances, a record of all solicitation notices and of all clauses incorporated in contracts pursuant to this paragraph 1–113.2.

1–114 Reporting of Identical Bids.

(a) *General.* Executive Order 10936 dated 24 April 1961, as implemented by the Department of Justice, requires a report to be submitted to the Attorney General on each formally advertised procurement (including small business restricted advertising) over $10,000 which involves identical bids. Identical bids are two or more bids for the same line item which:

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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 Systems 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 Contracting and Manufacturing Policy;
Air Force Logistics Command;
Air Force Systems Command;
Strategic Air Command;
Tactical Air Command;
Air Force Communications Command;
Military Airlift Command;
Air Training Command;
Pacific Air Forces;
United States Air Forces in Europe;
Alaskan Air Command; and
Space 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.

FOR THE DEFENSE SUPPLY SERVICE--WASHINGTON:
Director, Defense Supply Service--Washington

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

Part 3—General Policies

1-300 Methods of Procurement.

1-300.1 *Economic Procurement.* It is the policy of the Department of Defense to acquire required property and services in the most timely, efficient, and economic manner, consistent with sound management. Property and services should, when practicable, be acquired at times and in quantities that will result in reduced costs to the Government and provide incentives to contractors to improve productivity through investment in capital facilities, equipment, and advanced technology. For quantity production, contracts should be structured and funded wherever possible to benefit from economies of scale where such economies can be attained at an acceptable level of risk to both the Government and the contractor.

1-300.2 *Competition.* All procurements, whether by formal advertising or by negotiation, shall be made on a competitive basis to the maximum practicable extent.

1-300.3 *Formal Advertising.* Purchases and contracts for supplies and services shall be made by formal advertising in all cases in which the use of such method is feasible and practicable under the existing conditions and circumstances. Procurement by formal advertising shall be in accordance with detailed requirements and procedures set forth in Section II.

1-300.4 *Negotiation.* If the use of formal advertising is not feasible and practicable, purchases and contracts for supplies and services may be negotiated in accordance with the detailed requirements and procedures set forth in Section III.

1-300.5 *Advance Procurement Planning.* See Part 21 of this Section I.

1-301 Interdepartmental and Coordinated Procurement. Supplies and services may be obtained in appropriate circumstances as provided in Section V by such means as interdepartmental and coordinated procurement.

1-302 Sources of Supplies and Services.

1-302.1 *Existing Government Assets.* To the extent possible, supplies shall be obtained from releasable assets of the Department of Defense or from surplus or excess stocks in the hands of any other Government agency. This shall specifically include purchase of excess strategic and critical materials available for transfer from the General Services Administration as listed in periodic GSA Bulletins which are distributed in accordance with Departmental procedures (see 5-705). Personnel responsible for issuing purchase requests shall insure compliance with policies pertaining to the utilization of existing Department of Defense material assets, as set forth in the Defense Utilization Manual (DoD 4140.34M). All purchase requests involving estimated expenditures of $50 or more for items centrally managed at inventory control points will be appropriately annotated with a statement to the effect that Department of Defense-wide review of assets has been initiated or completed, as appropriate, in compliance with the Defense Utilization Manual. This procedure is not applicable to automated procurements where procedures have been established under the automated system for a review

of assets in accordance with DoD 4140.34M. In addition, this procedure is not applicable to subsistence, bulk petroleum, and medical drugs, as presently provided or later modified in that manual, or to such other items as may be added thereto. Interdepartmental purchases shall be accomplished in accordance with the provisions of Section V.

1-302.2 *Sources Outside the Government.* Irrespective of whether the procurement of supplies or services from sources outside the Government is to be effected by formal advertising or by negotiation, competitive proposals ("bids" in the case of procurement by formal advertising, "proposals or quotations" in the case of procurement by negotiation) shall be solicited (see Part 10, this Section) from all such qualified sources of supplies or services as are deemed necessary by the contracting officer to assure such full and free competition as is consistent with the procurement of types of supplies and services necessary to meet the

requirements of the Department concerned, and thereby to obtain for the Government the most advantageous contract—prices, quality, and other factors considered. Offers shall not knowingly be solicited on the basis of race, creed, color, sex, age, or national origin of prospective sources.

1-302.3 *Production and Research and Development Pools.*

(a) *Description.* A production or research and development pool is a group of concerns (i) who have associated together for the purpose of obtaining and performing jointly or in conjunction with each other, contracts for supplies or services, or for research and development, for Defense use (ii) who have entered into a pool agreement governing their organization, relationship, and procedure, and (iii) whose agreement has been approved either in accordance with section 708 of the Defense Production Act of 1950, as amended (Defense Production Pool) or in accordance with sections 9(d) or 11 of the Small Business Act, Public Law 85-536 (Small Business Pools). Pool participants are exempt from the "manufacturer or regular dealer" requirement of the Walsh-Healey Public Contracts Act. (See Section XII, Part 6.) Information on types of small business production pools, their purpose, and procedures for establishing such pools and for securing their approval by the Small Business Administration (SBA) is contained in the SBA publication "Small Business Production Pools for Defense."

(b) *General Rule.* Except as provided in this paragraph 1-302.3, a pool shall be treated for purposes of Government procurement on exactly the same basis as any other prospective or actual contractor.

(c) *Ascertainment of Status.* The contracting officer is responsible for ascertaining whether a group of firms seeking to do business with the Government is a pool. In ascertaining the status of a group repeesenting that it is a pool, contracting officers may rely on a copy of the SBA or Office of Emergency Planning (OEP) notification of approval of the pool. If the contracting officer has any question as to whether a given pool has been approved, he shall consult the regional office of the SBA. Each Department will expeditiously disseminate to contracting officers information received from SBA or OEP concerning the approval of pools.

(d) *Contracting With Pools.*

(1) A bid or proposal of a pool is not eligible for award to the pool unless submitted either by the pool in its own name or by an individual member expressly disclosing that it is on behalf of the pool. Except as to contracts to be awarded to incorporated pools, the contracting officer shall prior to award to a pool require to be deposited with him a certified copy of a power of attorney from each member of the pool who is to participate in the performance of the contract authorizing an agent to execute the bid, proposal, or contract on behalf of such member. A copy of each such power of attorney shall be appended to each executed copy of the contract retained by the Government.

(2) Membership in a pool shall not of itself preclude individual members from submitting bids or proposals as individuals on appropriate procurements. Bids or proposals submitted by an individual member of a pool shall not be considered when the individual member has participated in the bid or proposal submitted by the pool.

(e) *Responsibility of Pool Member.* When a member of a production pool has submitted a bid or proposal in its own name and not on behalf of a pool, the pool

1-322 Multiyear Contracting.

1-322.1 *General.*

(a) *Description of Procedure.* Multiyear procurement consists of methods of acquiring 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 for the entire multiyear period 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).) Multiyear contracts may contain a contract provision allowing reimbursement of unrecovered nonrecurring costs included in prices for canceled items to protect the contractor against loss resulting from cancellation.

(b) *Policy.*

(1) 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 contractor 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;
(viii) implementation of the industrial preparedness program for planned items with planned producers; and
(ix) provide incentives to contractors to improve productivity through investment in capital facilities, equipment, and advanced technology (see 1-315).

(2) Contracts awarded under this multiyear procedure shall be firm fixed price, fixed price incentive or fixed price with provisions for economic price adjustment.

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(3) Given the longer performance period associated with a multiyear procurement, consideration in pricing contracts should be given to the use of economic price adjustment provisions, profit objectives comparable with risk, and financing arrangements which reflect contractor cash flow requirements.

(4) Before any multiyear contract that contains a clause setting forth a cancellation ceiling in excess of $100 million may be awarded, the Secretary shall give written notification of the proposed contract and of the proposed cancellation ceiling for that contract to the Committees on Armed Services and on Appropriations of the Senate and House of Representatives, and such contract may not then be awarded until the end of a period of 30 calendar days beginning on the date of such notification. Departments shall establish reporting procedures. Copies of the notification shall be submitted to Office of the Secretary of Defense, ODUSDRE(AM), and Deputy Assistant Secretary of Defense, OASD(C)(P/B). Departments shall also comply with any notification requirements or restrictions contained in annual authorization or appropriation acts.

(5) Multiyear contracting is a flexible contracting method applicable to a wide range of procurements. The provisions of this paragraph 1-322 and the clauses at 7-104.47(b) and 7-1903.33(b) and (d) may be modified in the following respects:

(i) *Level Unit Prices.* Multiyear contract procedures provide for the amortization of certain costs over the entire contract quantity resulting in identical (level) unit prices (except when economic price adjustment provisions apply) for all items or services under the multiyear contract. When level unit pricing is not in the best interest of the Government, the Head of a Contracting Activity or his designee may approve the use of variable unit pricing, provided that for competitive proposals, there is a valid method of evaluation.

(ii) *Cancellation Provisions.* Whether or to what extent cancellation provisions are used in multiyear procurements will depend on the unique circumstances of each procurement. The Head of a Contracting Activity or his designee may authorize the use of modified cancellation provisions or the exclusion of cancellation provisions from the contract.

(iii) *Recurring Costs in Cancellation Ceiling.* The inclusion of recurring costs in cancellation ceilings is an exception to normal contract financing arrangements and requires approval by the Secretary of Defense or his designee.

(iv) *Annual and Multiyear Proposals.* DAR 1-322.2 prescribes circumstances in which both annual and multiyear bids/proposals or only multiyear bids/proposals will be requested. Obtaining both provides reduced lead time for making an annual award in the event a multiyear award is not in the best interest of the Government. Obtaining both also provides a basis for the computation of savings and other benefits. However, the preparation and evaluation of dual

proposals may increase administrative costs and workloads for both offerors and the Government, especially for large or complex procurements. The Head of a Contracting Activity (HCA) or his designee may authorize the use of an IFB or RFP requesting only multiyear prices, provided it is found that such a solicitation is in the best interest of the Government and that dual proposals are not necessary to make the determinations required by 1-322.1(d)(3) or (4).

(c) *Use.* The multiyear procurement method may be used for the procurement of services and property (including but not limited to weapons systems and services associated with weapons systems or the logistic support thereof, systems, subsystems major equipment, components, parts, materials, supplies and the advance procurement thereof, and commercial and noncommercial items) to the extent that funds are otherwise available for obligation.

(d) *Limitations.* Multiyear contracts for property 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 for multiyear contracting of specified services, and 1-322.7 for multiyear contracting of supplies and services for the maintenance and operation of family housing.

(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 by the HCA or his designee 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 or 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 economies of operation.

(4) In the case of property, until a written determination has been made by the Secretary or his designee that:

(i) the use of such a contract will promote the national security of the United States and will result in reduced total costs under the contract;

(ii) the minimum need for the property to be purchased is expected to remain substantially unchanged during the contemplated contract period in terms of production rate, procurement rate, and total quantities;

(iii) there is a reasonable expectation that throughout the contemplated contract period the Department of Defense will request funding for the contract at the level required to avoid contract cancellation;

(iv) there is a stable design for the property to be acquired and that the technical risks associated with such property are not excessive; and

(v) the estimates of both the cost of the contract and the anticipated cost avoidance through the use of a multiyear contract are realistic.

(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 specifications;

(ii) the quantity required is reasonably firm and continuing;

(iii) effective competition may be enhanced; and

(iv) the use of multiyear subcontracts can reasonably be expected to result in reduced prices.

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(e).

(h) *Funding of Multiyear Contracts.*

(1) The planning and coordination of multiyear acquisition strategies should begin sufficiently early to permit required integration of the acquisition into the Planning Programming and Budgeting System (PPBS). The degree of integration and the extent of data required will vary with the type and size of the program. Guidelines shall be included, as required, in DoD and Service instructions for preparing program objective memoranda (POM) submissions and budget estimate submissions (BES).

(2) Policies and procedures for the funding of procurements within the procurement title of the DoD Appropriation Act are contained in DoD Directive (DoDD) 7200.4, Full Funding of DoD Procurement Programs. Those policies and procedures include the funding of advance procurements (long lead and economic order quantity). Cancellation ceilings containing only nonrecurring costs need not be funded.

1-322.2 *Procedures for Supply and Service Multiyear Contracts.* (See also 1-322.1(b)(5).)

(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 of award; and

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(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 then appropriate.

(4) A provision that the unit price of each item in the multiyear requirements shall be the same for all program years (level unit price) 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 or dollar basis) and dates applicable to each program year subject to a 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 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 (level unit price) included therein;

(3) A provision setting forth a separate cancellation ceiling 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 (see also 1-322.1(b)(5)). 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 be a not-to-exceed amount to apply alike to all bidders or offerors. The cancellation ceiling 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% of the total multiyear price and the total multiyear requirements for 5 years are 30% in the first year, 30% in the second, 20% in the third, 10% in the fourth, and 10% in the fifth.

Cancellation percentages would be 7, 4, 2, and 1% 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 or dollar 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, as amended, 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) 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.

(h) 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.

(i) 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 destination 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 competitive 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 for 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.

(4) The evaluation procedures contained in this paragraph (h) may be modified if necessary to meet the unique circumstances of a particular procurement.

(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) 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) 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(d)(3) or (4), and significant benefits or cost savings will result from multiyear acquisition.

(c) Prior to award of a multiyear contract, the contracting officer shall verify that findings made in accordance with 1-322.1(d)(3) or (4) remain valid and shall annotate the findings document accordingly.

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 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 consistent 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.* 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 contract is awarded for specified supplies and/or services up to a designated maximum quantity with orders placed 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) *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) Applicable solicitation schedule notes, essentially as follows:

(i) "NOTE 1: Offeror will submit 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).

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(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:

(Paragraph (b) of clause referenced above)

(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.

sion of a written request by the contractor if the contractor or subcontractor has on hand subassemblies or end items containing nondomestic ball bearings, and either:

(i) the production of such subassemblies or end items in the performance of all or a part of the contract using ball bearings of domestic manufacture would interfere with economical or normal production scheduling of the military product under contract or with production of another item (military or commercial); or

(ii) the delivery schedule under the contract or subcontract is such that use of other than domestic ball bearings or subassemblies or parts is necessary

The contracting officer should grant waivers only to the extent and for the period of time necessary to permit the contractor to acquire and use domestic bearings.

1-2207.4 *Precision Components for Mechanical Time Devices.*

(a) *Definitions* As used in this paragraph:

(1) *Precision components for mechanical time devices* are parts which closely relate so that precise control and selection of working production tolerances can be maintained to accomplish the desired function and reliability. In terms of accuracy, such precision components have total tolerances under 0.003 inches, eccentricities less than 0.0015 inches and surface finishes better than 64 rms. Examples of such precision components include: gears, pinions, posts, and plates. Precision components subject to the provisions of this paragraph 1-2207.4 are those which are included in fuzes, boosters, and aircraft clocks in the following Federal Supply Classes:

FS Class	*Description*
1305	Ammunition Through 30mm
1310	Ammunition, Over 30mm up to 75mm
1315	Ammunition, 75mm through 125mm
1320	Ammunition, over 125mm
1325	Bombs
1330	Grenades
1340	Rockets and Rocket Ammunition
1345	Land Mines
1390	Fuzes and Primers
6645	Time Measuring Instruments (aircraft clocks only)

(2) *Domestic manufacture* means precision components for mechanical time devices manufactured in the United States or Canada. When a mechanical timing assembly is involved, all components of the assembly must also have been manufactured in the United States or Canada.

(b) *Policy* It has been determined that Defense requirements for precision components for mechanical time devices must be procured from domestic manufacturing sources to the maximum extent practicable. Accordingly, all procurements of precision components for mechanical time devices and all procurements of items containing precision components for mechanical time devices shall include, except as provided in (c) below, a requirement that such components delivered under the contract be of domestic manufacture only

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(c) *Procedures.*

(1) All procurements of items in the Federal Supply Classes listed in (a)(1) or any subassembly, component, or part thereof shall provide that precision components for mechanical time devices, in the quantities and of the type and sizes (including tolerances) required to produce the end item being supplied, be of domestic manufacture and incorporated into the items delivered by the contractor and subcontractor at every tier. To accomplish this, the clause set forth in 7-104.46 shall be inserted in all contracts except:

(i) when the procuring contracting officer knows that the item being procured does not contain precision components for mechanical time devices;

(ii) when the urgency of the military requirement necessitates delivery of an end item containing other than domestically manufactured precision components for mechanical time devices;

(iii) in small purchases using small purchase procedures, other than in purchase of precision components for mechanical time devices as the end item;

(iv) purchases of standard commercial items, other than—

(A) those which are intended for use as components or subassemblies or defense equipment or systems (*e.g.*, repair parts) or

(B) purchases of precision components for mechanical time devices as the end item; or

(v) purchases made overseas for overseas use.

(2) Subsequent to the award of a contract which includes the clause required by (1) above, the contracting officer may waive the "use" but not the acquisition requirements of the clause. Such waiver may be granted upon submission of a written request by the contractor if the contractor or subcontractor has on hand subassemblies or end items containing nondomestic precision components for mechanical time devices and either:

(i) the production of such subassemblies or end items in the performance of all or a part of the contract using precision components for mechanical time devices of domestic manufacture would interfere with economical or normal production scheduling of the military product under contract or with production of another item (military or commercial); or

(ii) the delivery schedule under the contract or subcontract is such that use of other than domestic precision components for mechanical time devices or subassemblies or parts is necessary.

The contracting officer should grant waivers only to the extent and for the period of time necessary to permit the contractor to acquire and use domestic components.

1-2207.5 *High-Purity Silicon.*

(a) Definitions. As used in this paragraph:

(1) *High-purity silicon* is N or P type and has a resistivity greater than 3000 ohm-centimeter.

(2) *Domestic manufacture* means high-purity silicon manufactured in the United States or Canada. When an item or subassembly containing high-purity silicon is involved, all such silicon (polycrystal and single crystal) incorporated in the item or subassembly must also have been manufactured in the United States or Canada.

(b) Policy. It has been determined that Department of Defense requirements for high-purity silicon must be acquired from qualified domestic manufacturing sources to the maximum extent practicable. Accordingly, all acquisitions of high-purity silicon and all acquisitions of items containing high-purity silicon shall include, except as provided in (c) below, a requirement that such high-purity silicon and high-purity silicon incorporated in items containing high-purity silicon delivered under the contract be of domestic manufacture only.

(c) Procedures.

(1) The clause set forth in 7-104.109 shall be inserted in all contracts except:

(i) when the procuring contracting officer knows that the item being acquired does not contain high-purity silicon;

(ii) in small purchases using small purchase procedures, other than in purchase of high-purity silicon as the end item;

(iii) purchases of standard commercial items, other than purchases of high-purity silicon as the end item;

(iv) purchases made overseas for overseas use.

(2) Subsequent to the award of a contract, the contracting officer may waive the requirements set forth in 7-104.109. Such waiver may be granted upon submission of a written request by the contractor if the contractor or subcontractor has on hand subassemblies or end items containing nondomestic high-purity silicon, and either:

(i) the production of such subassemblies or end items in the performance of all or a part of the contract using high-purity silicon of domestic manufacture would interfere with the normal production scheduling of the military product under contract or with production of another item (military or commercial); or

(ii) the delivery schedule under the contract or subcontract is such that use of other than domestic high-purity silicon is necessary.

The contracting officer should grant waivers only to the extent and for the period of time necessary to permit the contractor to acquire and use domestic high-purity silicon.

1-2208 Small Business Concerns. The policy of placing a fair proportion of purchases and contracts with small business concerns (see 1-702) applies in the field of mobilization planning and each Department shall continually study its Industrial Preparedness Production Planning procedures to include small business participation to the maximum practical extent.

1-2209 Priorities, Allocations, and Allotments. In order to maintain an administrative means of promptly mobilizing the nation's economic resources in the event of war or national emergency, and to keep current defense programs on schedule, it is a statutory requirement and national policy to require contractors to use industrial priority ratings and allotment authority to support military procurement (see 1-307).

Part 23—Environmental Protection

1-2300 Scope of Part. This Part sets forth policies and procedures for carrying out the requirements of the Clean Air Act, as amended (42 U.S.C. 1857 et seq., as amended by Public Law 91-604), The Federal Water Pollution Control Act (33 U.S.C. 1251 et seq. as amended by Public Law 92-500) Executive Order 11738 and the related regulations of the Environmental Protection Agency (EPA) (40 CFR Part 15).

1-2301 Policy.

(a) Executive Order 11738 provides in Section 1 that "It is the policy of the Federal Government to improve and enhance environmental quality. In furtherance of that policy, the program prescribed in this Order is instituted to assure that each Federal agency empowered to enter into contracts for the procurement of goods, materials, or services and each Federal agency empowered to extend Federal assistance by way of grant, loan, or contract shall undertake such procurement and assistance activities in a manner that will result in effective enforcement of the Clean Air Act (hereinafter referred to as the 'Air Act') and the Federal Water Pollution Control Act (hereinafter referred to as the 'Water Act')."

(b) Except as provided in 1-2302.4, purchasing offices shall not enter into, renew, or extend any contract for the procurement of goods, materials, or services or extend Federal financial assistance to a firm proposing to use in the performance thereof a facility which is listed in the EPA List of Violating Facilities, pursuant to 40 CFR Part 15.20 as a violating facility under either the Air Act or the Water Act.

1-2302 Administration and Enforcement.

1-2302.1 *Solicitation Provision.* The provision set forth in 7-2003.71 shall be included in each solicitation except those involving small purchases (Section III, Part 6).

1-2302.2 *Clause.* Unless exempted pursuant to 1-2302.4, the clause in 7-103.29 shall be included in all contracts except those involving small purchases (Section III, Part 6).

1-2302.3 *Compliance Responsibilities.* The primary responsibility for ensuring compliance with Federal, State or local environmental control laws and any rules, regulations, standards or guidelines issued pursuant thereto rests with those agencies, such as the Environmental Protection Agency, charged with this responsibility under the various laws concerned. When, however, any condition in any facility being used in the performance of a nonexempt contract, which involves noncompliance with clean air or water standards comes to the attention of the contracting officer in the performance of his regular duties, he shall notify the appropriate Secretary or his designee in accordance with Departmental procedures. The Secretary or his designee shall promptly transmit such reports to the Director, Office of Federal Activities, EPA.

3-608.9 *Order-Invoice-Voucher Method.*

(a) Standard Form 44 (Purchase Order-Invoice-Voucher) is designed primarily for over-the-counter purchases by authorized individuals while away from the purchasing office or at isolated activities. It is a multipurpose form which can be used as a purchase order, receiving report, supplier's invoice and public voucher.

(b) Since there are no written terms and conditions included thereon, Standard Form 44 is authorized for use only when no other small purchase method is considered more suitable and all of the following conditions are satisfied:

(i) the transaction is not in excess of $2,500, except for aviation fuel and oil purchases which will not exceed $10,000,

(ii) supplies or services are immediately available, and

(iii) one delivery and one payment will be made.

(c) Instructions for completion of Standard Form 44 contained on the form may be supplemented in accordance with Departmental needs to satisfy internal procedural requirements. Negotiation authority need not be cited. In view of the negotiable character of the Standard Form 44, installations will maintain adequate safeguards to assure proper usage and availability of funds.

3-608.10 *Purchase Orders Via Written Telecommunications Media.*

(a) A written telecommunicated purchase order is an order for supplies or services which is electrically transmitted to a supplier and which is not signed by the contracting officer.

(b) A written telecommunicated purchase order may be used only when all of the following conditions are present:

(i) its use is more advantageous to the Government than any other small purchase technique,

(ii) an unsigned transmitted order is acceptable to the supplier,

(iii) the order is approved by the contracting officer prior to its transmission,

(iv) the order does not require written acceptance by the supplier, and

(v) the purchasing office retains all contract administration functions.

(c) When a written telecommunicated purchase order is used:

(i) the General Provisions on DD Form 1155r shall be incorporated by reference in the transmitted order, as appropriate;

(ii) administrative information which is not needed by the supplier should not be transmitted but should be placed only on copies intended for internal distribution;

(iii) the same distribution shall be made of the transmitted order as is made of DD Form 1155; and

(iv) no DD Form 1155 or other small purchase form shall be issued.

(d) A written telecommunicated purchase order may be unpriced, *provided*, it meets the conditions set forth in 3-608.3.

3-609 Reserved.

Part 7—Establishing Overhead Rates

3-700 Scope of Part. This Part sets forth the policy and procedure for establishing billing and final overhead rates for use in making interim reimbursements and final settlements under Department of Defense contracts.

3-701 Definitions.

3-701.1 *Final Overhead Rates.* The term final overhead rate, as used in this Part, means a percentage or dollar factor which expresses the ratio(s) mutually agreed upon by the Government and the contractor, at the close of the contractor's fiscal year, of indirect expense incurred in the period to direct labor, manufacturing cost, or other appropriate base of the same period.

3-701.2 *Overhead Billing Rates.* The term overhead billing rate, as used in this Part, means an overhead rate for interim reimbursement purposes which may be adjusted as necessary pending establishment of the final overhead rate.

3-701.3 *Overhead (Indirect Cost).* The term overhead (indirect costs), as used in this Part, is defined in 15-203 and 15-305.

3-701.4 *Postdetermined Overhead Rate.* The term postdetermined overhead rate, as used in this Part relative to contracts with educational institutions, refers to the establishment of the rate after the completion of the period to which the rate pertains.

3-701.5 *Predetermined Overhead Rate.* The term predetermined overhead rate as used in this Part refers to the situations involving educational institutions when final overhead rates are used to establish the amount of reimbursement for the indirect costs to be incurred during a future period of contract performance (*see 3-704.2(b)*).

3-702 Purpose.

3-702.1 *Final Overhead Rates.* The reason for establishing final overhead rates is to provide a method for determining the amount of reimbursement for indirect costs for a specific period.

3-702.2 *Overhead Billing Rates.* These rates provide a method for interim reimbursement of incurred indirect costs at estimated rates, subject to appropriate adjustment when final rates are established.

3-703 Applicability. Billing and final overhead rates will be used for all cost reimbursement type contracts; final overhead rates shall be considered in accordance with 15-106 for the final pricing of fixed-price incentive and fixed-price redeterminable type contracts as well as other contracts which require settlement of indirect costs prior to establishing final contract price. Overhead billing rates will be used in determining progress payment amounts.

3-704 Contract Clauses.

3-704.1 *Contracts With Contractors Other Than Educational Institutions.* Insert the appropriate "Allowable Costs" clause in cost type contracts with other than educational institutions:

(i) cost reimbursable supply — 7-203.4(a) or (b);
(ii) cost reimbursable research and development — 7-402.3;
(iii) cost reimbursable construction — 7-605.5;
(iv) consolidated facilities — 7-702.10;
(v) facilities acquisition — 7-703.9;
(vi) cost reimbursable services — 7-1909.4.

contemplate that the report of engineering appraisal (as to the need for the kinds and quantities of labor and material) shall be provided the auditor in order that the DCAA report may reflect the monetary effect of both the auditor's and the engineer's recommendations. Contracting officers should provide as much time as possible for the auditor to perform his evaluation, whenever possible providing advance notice that a request will be forthcoming. Although price proposals are given the highest priority by DCAA, advance notice of price proposals will assist the auditor in providing timely audit advice to the contracting officer.

(2) DCAA provides procurement liaison auditors (PLAs) at most major procurement and contract administration offices to facilitate the receipt and use of audit service and to provide accounting and audit advice as to whether or not audit review of a price proposal should be waived.

(3) In submitting his audit report, the auditor shall include comments in regard to the extent to which discrepancies or mistakes of fact in the proposal have been discussed with the contractor. Unless specifically requested to do so by the contracting officer, the auditor shall not discuss his conclusions or recommendations regarding the contractor's estimated or projected costs.

(c) *Additional Functions of the Contract Auditor.*

(1) Under cost-reimbursement type contracts, the cost-reimbursement portion of fixed-price contracts, letter contracts which provide for reimbursement of costs, time and material contracts, and labor-hour contracts:

(i) The contract auditor is the authorized representative of the contracting officer for the purpose of examining reimbursement vouchers received directly from contractors, transmitting those vouchers approved for provisional payment to the cognizant disbursing officer and issuing DCAA Form 1, "Notice of Contract Costs Suspended and/or Disapproved," simultaneously to the contractor and disbursing officer with a copy to the cognizant ACO, for deduction from current payments with respect to costs claimed but not considered reimbursable. If the contractor disagrees with the deduction from current payments, the contractor may submit a request in writing to the cognizant ACO for the ACO to consider whether the unreimbursed costs should be paid and to discuss his fundings with the contractor; file a claim under the "Disputes" clause which the cognizant ACO will process in accordance with 1-314; or both of the above.

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In addition, the contracting officer may direct the issuance of DCAA Form 1 with respect to any cost that he has reason to believe should be suspended or disapproved. The contract auditor will approve fee portions of vouchers for provisional payment in accordance with the contract schedule and any instructions received from the administrative contracting officer. Completion vouchers shall be forwarded to the ACO for approval and transmittal to the cognizant disbursing officer.

(ii) The contract auditor shall be responsible for making appropriate recommendations to the ACO concerning the establishment of interim overhead billing rates, when such rates are provided for in the contract.

(2) Under Cost-Reimbursement Type Contracts With Canadian Contractors:

(i) On contracts with the Canadian Commercial Corporation, audits are automatically arranged by the Department of Defence Production (Canada) (DDP) in accordance with agreement between Departments of the Army, Navy, and Air Force; Defense Supply Agency; and Department of Defence Production (Canada) (see 6-503(c)). Audit reports are furnished to DDP. Upon advice from DDP, the Canadian Commercial Corporation (CCC) will certify the invoice and forward it with Standard Form 1034 (Public Voucher) to the ACO for further processing and transmittal to the disbursing officer

(ii) On contracts placed directly with Canadian firms, audits are requested by the ACO from the Audit Services Branch, Comptroller of the Treasury, Department of Finance, Ottawa, Ontario, Canada. Invoices are approved by the auditor on a provisional basis pending completion of the contract and final audit. These invoices, accompanied by Standard Form 1034 (Public Voucher) are forwarded to the ACO for further processing and transmittal to the disbursing officer. Periodic advisory audit reports are furnished directly to the ACO. In the event that costs claimed are suspended or disapproved, the ACO shall issue the DCAA Form 1, "Notice of Contract Costs

Suspended and/or Disapproved" to the contractor. DCAA Form 1 will be processed in the same manner as indicated in (1)(i) above with regard to contractor appeals.

(3) Responsibilities for Pre-Award Surveys and Reviews: Pre-Award surveys of potential contractors' competence to perform proposed contracts shall be managed and conducted by the contract administration office. When information is required on the adequacy of the contractor's accounting system or its suitability for administration of the proposed type of contract, such information shall always be obtained by the ACO from the auditor. The contract administration office shall be responsible for advising the PCO on matters concerning the contractor's financial competence or credit needs.

(4) Reviews of Contractors' Estimating Systems:

(i) The establishment, maintenance, and consistent use of formal cost estimating systems by contractors is to the mutual benefit of the Government and industry, particularly where a large portion of the contractor's business is defense work and there are a number of significant proposals requiring review. Procuring activities and contract administration activities are required to furnish full support to a program of encouraging major defense contractors to formalize and follow good estimating procedures. It is recognized that estimating procedures will vary among contractors, and may vary between plants or divisions of a contractor due to differences in products, size and methods of operations, production vs. research, and other factors. While formal systems do not eliminate the need for judgmental factors to be applied by contractors in developing cost proposals, they do provide a sound foundation for the systematic and orderly application of these judgment factors to specific proposals. The consistent preparation of proposals in accordance with an acceptable estimating system is of material benefit in assuring both the contractor and the Government that proposals are realistically and reasonably priced, that the 3-807.3 requirements for utilizing current, accurate, and complete cost and pricing data in developing the proposal are met, and that under-estimating and overestimating of contract costs are minimized. Some of the advantages of sound estimating procedures are: a greater degree of confidence can normally be placed in the accuracy and reliability of contractors' individual pricing proposals; it expedites the negotiation process; it reduces the amount of detailed explanation of estimating processes on each individual proposal as required by the notes on DD Form 633; and, as in the case of the well established practice regarding acceptable accounting systems, reduces the scope of reviews performed by audit and other technical and procurement personnel.

(ii) A regular program for conducting reviews of selected contractors' estimating systems or methods shall be established and managed by the Defense Contract Audit Agency. Reviews and reports shall be accomplished as a joint contract audit and contract administration

office team effort, with the contract auditor designated as its head. Reviews shall be tailored to take full advantage of the day-to-day work done as an integral part of both the contract audit and contract administration activities. The program established by the contract audit activity shall be coordinated with the appropriate contract administration activity to assure that team membership includes qualified technical specialists, and that adequate personnel resources are made available to accomplish the program. A copy of the survey report, together with a copy of the official notice of corrective action required, shall be furnished to each purchasing and contract administration office having substantial business with that contractor. Any significant deficiencies in the system not corrected by the contractor shall be referenced in Part V of subsequent Pre-Award Surveys and will be considered in subsequent proposal reviews and by the ACO and PCO in negotiating with, and in determining the reasonableness of prices proposed by, that contractor. Where these deficiencies continue to exist and where they have an adverse effect on prices, the problem should be brought to the attention of procurement officials at a level necessary to bring about corrective action.

(iii) Among the matters to be considered in determining the acceptability of a contractor's estimating system are the following:

(A) responsibilities within the contractor's organization for originating, reviewing, and approving estimates;

(B) procedures followed in developing estimates for each of the direct and indirect elements of cost;

(C) the source of data used in developing the estimates and in assuring that such data is current, complete, and accurate;

(D) the documentation developed and maintained by the contractor to support the estimate;

(E) management support of the program review including approval of the estimate, controls established to assure consistent compliance with estimating procedures, and personnel training and evaluation programs; and

(F) the extent of coordination and communication between the various elements of the contractor's organization responsible for the estimate.

(5) Cost Accounting Standards Board Rules and Regulations. In accordance with Section III, Part 12 - Cost Accounting Standards, and Section XV - Contract Cost Principles and Procedures, the cognizant contract auditor shall be responsible for making recommendations to the ACO as to whether

(i) a contractor's Disclosure Statement, submitted as a condition of contracting, adequately describes the actual or proposed cost accounting practices as required by Public Law 91-379, 50 U.S.C. App. 2168, as implemented by the Cost Accounting Standards Board;

(ii) a contractor's disclosed cost accounting practices are in compliance with Section XV and applicable Cost Accounting Standards;

Part 10—Reserved

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4-908 Agency/Department Point of Contact. Each agency shall establish procedures within the agency to coordinate the receipt and handling of unsolicited proposals. Since the early involvement of procurement personnel is essential to the proper processing, evaluation, and possible contract award, agencies should consider designating their procurement activities for this purpose.

4-909 Receipt, Review, and Evaluation. Each agency shall establish uniform procedures that provide for the coordinated control of the receipt, evaluation, and disposition of proposals. Because of the sensitivity of the evaluation process, particular attention should be devoted to the conduct of evaluations. The procedures shall be consistent with the provisions of 4-909 through 4-913. Agency procedures shall also address reproduction (duplicating) and disposition of proposal material, particularly data which the offeror has identified as subject to duplication, use, and disclosure restrictions (see 4-913(a)).

(a) Unsolicited proposals shall be acknowledged as soon as possible by the office which has been assigned the coordination responsibility (see 4-908), and processed in an expeditious manner.

(b) Prior to making a comprehensive evaluation of an unsolicited proposal, the coordinating office (see 4-908) shall determine that the document:

(i) contains sufficient technical and cost information to permit a meaningful evaluation; and

(ii) has been approved by a responsible official or authorized representative of the organization submitting the proposal, or a person authorized to contractually obligate the organization.

(c) If the document does not meet the requirements in paragraph (b) above, the offeror shall be given the opportunity to provide the required data. A comprehensive evaluation of an unsolicited proposal need not be made if the proposal is not within the purview of the mission of the agency (also see 4-912(a)). In such cases, the submitter shall be furnished a prompt reply, stating how the document is being interpreted by the agency, the reason(s) for not evaluating it, and the disposition or intended disposition of the material submitted. The agency shall not deny reconsideration of a timely and appropriately revised or supplemented proposal which is responsive to such an initial agency determination.

(d) Comprehensive evaluations shall be coordinated by the organizational entity designated in accordance with 4-908. Each unsolicited proposal that is circulated for a comprehensive evaluation within the agency shall have attached or imprinted a legend identifying it as an unsolicited proposal, and stating that it shall be used only for purposes of evaluation (see 4-913(c)). In evaluating an unsolicited proposal, agency personnel shall consider in addition to any other criteria, the following:

(i) unique, innovative, or meritorious methods, approaches, or ideas which have originated with or are assembled together by the offeror that are contained in the proposed effort or activity;

(ii) overall scientific, technical, or socio-economic merits of the proposed effort or activity;

(iii) potential contribution which the proposed effort is expected to make to the agency's specific mission, if pursued at this time;

(iv) capabilities, related experience, facilities, or techniques, or unique combinations thereof which the offeror possesses and offers, and which are considered to be integral factors for achieving the scientific, technical, or socio-economic objective(s) of the proposal; and

(v) qualifications, capabilities, and experience of the proposed principal investigator, team leader, or key personnel who are considered to be critical in achieving the objectives of the proposal.

(e) Upon completion of the comprehensive evaluation of an unsolicited proposal, agency evaluation personnel shall, in accordance with agency procedures, notify the coordinating office (see 4-908) of their conclusions together with recommendations for further action.

4-910 Method of Procurement.

(a) A favorable comprehensive evaluation of an unsolicited proposal is not, in itself, sufficient justification for negotiating on a noncompetitive basis with the offeror. When a document qualifies as an unsolicited proposal (see 4-904(a) and 4-909(b)) but the substance (i) is available to the Government without restriction from another source, or (ii) closely resembles that of a pending competitive solicitation, or (iii) is otherwise not sufficiently unique to justify acceptance (see 4-909(b)), the unsolicited proposal shall not be acceptable. When procurement is intended and competition is feasible, the proposal shall be returned to the offeror together with the reasons for the return (see 4-909(e)).

(b)(1) Except as provided in (2) below, a negotiated noncompetitive procurement is permissible when an unsolicited proposal has received a favorable technical evaluation, unless it is determined that the substance thereof is available to the Government without restriction from another source, or a competitive procurement is otherwise appropriate. The agency technical office sponsoring the procurement shall support its recommendation with a justification for noncompetitive procurement. The justification shall be based on a comprehensive evaluation of the proposal. The justification shall include the facts and circumstances that operate to preclude competition and that support the recommended noncompetitive action. Consideration shall include the evaluation factors listed in 4-909(d).

(2) When so limited by an applicable DoD Appropriation Act, contracts for studies, analyses, or consulting services (see 22-1101(a) and (b)), may be entered into on the basis of an unsolicited proposal only when the Head of the Contracting Activity or his designee (no lower than the Chief of the Contracting Office) determines that:

(i) as a result of thorough technical evaluation, only one source is found fully qualified to perform the proposed work; or

(ii) the purpose of the contract is to explore an unsolicited proposal which offers significant scientific or technological promise, represents the product of original thinking, and was submitted in confidence by one source; or

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(iii) the purpose of the contract is to take advantage of unique and significant industrial accomplishment by a specific concern, or to insure that a new product or idea of a specific concern is given financial support;

except that this limitation shall not apply to contracts in an amount of less than $25,000, contracts related to improvements of equipment that is in development or production, or contracts as to which a civilian official of the Department of Defense who has been confirmed by the Senate, determines that the award of such contract is in the interest of national defense.

(c) When it is determined that the subject matter of an unsolicited proposal is acceptable for award on a noncompetitive basis, the unsolicited proposal will serve as the basis for negotiation.

4-911 Prohibitions. Agencies shall not permit all or any part of an unsolicited proposal to be used as the basis, or portion of, a solicitation, or in negotiation with other firms unless the offeror is notified of and agrees to the intended use. However, nothing herein precludes the Government from using any data, concept or idea which it could have used had the unsolicited proposal not been submitted. With respect to data (see 4-913(a)) tendered in an unsolicited proposal, disclosure of information which concerns or relates to trade secrets, processes, operations, style of work, or apparatus, and other matters may result in the imposition of a criminal penalty pursuant to the provisions of 18 U.S.C. 1905.

4-912 Interagency Coordination. When it is determined that a meritorious unsolicited proposal is not related to the mission of the recipient agency or may be of interest to other agencies in addition to the recipient agency, the recipient agency may identify for the offeror other agencies whose missions bear a relationship to the subject matter of the unsolicited proposal.

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(iii) the purpose of the contract is to take advantage of unique and significant industrial accomplishment by a specific concern, or to insure that a new product or idea of a specific concern is given financial support;

except that this limitation shall not apply to contracts in an amount of less than $25,000, contracts related to improvements of equipment that is in development or production, or contracts as to which a civilian official of the Department of Defense who has been confirmed by the Senate, determines that the award of such contract is in the interest of national defense.

(c) When it is determined that the subject matter of an unsolicited proposal is acceptable for award on a noncompetitive basis, the unsolicited proposal will serve as the basis for negotiation.

4-911 Prohibitions. Agencies shall not permit all or any part of an unsolicited proposal to be used as the basis, or portion of, a solicitation, or in negotiation with other firms unless the offeror is notified of and agrees to the intended use. However, nothing herein precludes the Government from using any data, concept or idea which it could have used had the unsolicited proposal not been submitted. With respect to data (see 4-913(a)) tendered in an unsolicited proposal, disclosure of information which concerns or relates to trade secrets, processes, operations, style of work, or apparatus, and other matters may result in the imposition of a criminal penalty pursuant to the provisions of 18 U.S.C. 1905.

4-912 Interagency Coordination. When it is determined that a meritorious unsolicited proposal is not related to the mission of the recipient agency or may be of interest to other agencies in addition to the recipient agency, the recipient agency may identify for the offeror other agencies whose missions bear a relationship to the subject matter of the unsolicited proposal.

4-912
ARMED SERVICES PROCUREMENT REGULATION

(A) This exception is intended to permit the Military Departments to contract for a nonrecurring requirement for a noncataloged item. "Not contemplated as an item in the supply system" as a practical matter means that the item is not in the supply system nor is such anticipated. This exception could cover a part or component for a prototype and such part or component may be stock numbered at a later date.

(B) This exception may not be used to cover purchases of recurring requirements for an item based solely on the fact that the item is not stock numbered nor may it be used to purchase items which have only slightly different characteristics from previously cataloged items.

(b) *Defense Logistics Agency and General Services Administration Responsibility To Procure Excluded Items Upon Request.* Items other than nuclear ordnance materiel which may be purchased by the other Military Departments at their option under (a) above shall be procured by DLA or GSA at the requests of the Military Departments.

(c) *Exclusions to Defense Logistics Agency or General Services Administration Assignments by Agreement.* The Military Departments shall process to the appropriate DLA Center or GSA Support Region for procurement those service-managed items which do not meet the exception criteria set forth in (a) above, unless by mutual agreement between the cognizant Military Service Inventory Manager and the DLA Center concerned, or the GSA Support Region, the item is determined to be most satisfactorily procured on a Military Service basis. The Military Departments shall insure that subsequent procurements of items previously classified as exceptions under (a) above do in fact continue to meet the exception criteria at the time of the subsequent procurement. Otherwise, such procurements shall be forwarded to DLA or GSA for purchase.

(d) *Exclusions for Local Purchase of Integrated Materiel Managed Items.* Requiring Departments may purchase at their option any DLA or GSA centrally managed, commercially available item *provided:*

(1) in the case of an emergency requirement, such as a work stoppage, the purchase action is limited to immediate-use quantity; or

(2) in the case of routine requirements, the total line item value does not exceed $10.00 and local purchase is determined to be the most economical method of supply.

5-1201.3 *Department of the Army.*

Federal Supply Class Code	*Commodity*
FSC ("P" after the FSC number indicates a partial FSC assignment)	Electronic Equipment. Each Department is assigned procurement responsibility for those items which the Department either designed or for which it sponsored development. See FSC 5821 under Navy listings for assignment of certain commercially developed radio sets (*i.e.*, developed without the use of government funds).
1005 P *	Guns, through 30mm This partial FSC assignment applies to guns, through 30mm, and parts and equipment therefor, as listed in Department of Army Supply Manuals / Catalogs. It does not apply to naval ordnance type guns; MK 11 and MK 12, 20mm gun; and aircraft gun mounts.
1010 P *	Guns, over 30mm, up to 75mm This partial FSC assignment applies to guns, over 30mm and up to 75mm, and parts and equipment therefor, as listed in Department of the Army Supply Manuals / Catalogs. It does not apply to naval ordnance type guns and aircraft gun mounts.
1015 P *	Guns, 75mm through 125mm This partial FSC assignment applies to This partial FSC assignment applies to guns, 75mm through 125mm, and parts and equipment therefor, as listed in Department of Army Supply Manuals / Catalogs. It does not apply to naval ordnance type guns.
1020 P *	Guns over 125mm through 150mm
1025 P *	Guns over 150mm through 200mm
1030 P *	Guns over 200mm through 300mm 1035 P * Guns over 300mm These partial FSC assignments apply to guns, over 125mm, and parts and equipment therefor, as listed in Department of Army Supply Manuals / Catalogs. They do not apply to naval ordnance type guns.
1040	Chemical Weapons and Equipment
1055 P *	Launchers, Rocket and Pyrotechnic This partial FSC assignment applies to launchers, rocket and pyrotechnic, as listed in Department of Army Supply Manuals /Catalogs. It does not apply to naval ordnance type and airborne type, with the exception of 2.75 inch Rocket Launchers which are included in this partial FSC assignment to the Department of the Army.
1090 P	Assemblies Interchangeable Between Weapons in Two or More Classes This partial FSC assignment applies to the following items: *National Stock Number Nomenclature* 1090-563-7232 Staff Section, Class 1090-699-0633 Staff Section 1090-796-8760 Power Supply 1090-885-8451 Wrench Corrector 1090-986-9707 Reticle Assembly
1095 P *	Miscellaneous Weapons This partial FSC assignment applies to miscellaneous weapons, and parts and equipment therefor, as listed in Department of Army Supply Manuals / Catalogs. It does not apply to naval ordnance type; line throwing guns (which are under DoD Coordinated Procurement assignment to the Department of the Navy); and aircraft type miscellaneous weapons.

items available in the United States but not available within the time required (for coordinated acquisition specifying a foreign end product, see 5-1106.3(b)).

(xi) Unreasonable Cost--acquisitions, other than those covered in (i) through (x) above where United States end products or services are available and the difference between the domestic cost and the foreign cost exceeds 50 percent of the foreign cost, if so determined in advance by the individuals designated in (b) below.

(b) The individuals listed below, and the immediate deputies of those listed in (1) below, are designated to make the determinations required by (a)(iii), (x) and (xi) above.

(1) For acquisitions estimated not to exceed $2 million in foreign cost, except that this authority may be redelegated to other individuals specifically designated for this purpose for acquisitions estimated not to exceed $500,000:

Department of the Army--
- Director for Requirements and Acquisition, U.S. Army Materiel Development and Readiness Command;
- Commander in Chief, U.S. Army, Europe; and DCSLOG, U.S. Army, Europe;
- Commander, Eighth U.S. Army; Chief of Staff, Eighth U.S. Army;
- Chief, U.S. Army Security Agency;
- Commander, Corps of Engineers Command;
- Commander, U.S. Army, Japan;

Department of the Navy--
- Commander-in-Chief, U.S. Naval Forces, Europe;
- Commander, U.S. Naval Forces, Japan;
- Commander, U.S. Naval Forces, Philippines;
- Chief of Naval Material;
- Commander in Chief, U.S. Atlantic Fleet;
- Commander, Naval Logistics Command, Pacific Fleet;
- Commander, Military Sealift Command (MSC);
- Commandant, U.S. Marine Corps;
- Commander, Naval Facilities Engineering Command;
- Commanding General, III Marine Amphibious Force;

Department of the Air Force--
- Commander, U.S. Air Forces in Europe;
- Commander, Pacific Air Force;
- Commander, Military Airlift Command (MAC);
- Commander, Air Force Logistics Command;
- Commander, Air Force Systems Command;
- Commander, Strategic Air Command;
- Commander, Tactical Air Command;
- Commander, Air Force Communications Command;
- Commander, Space Command;

Defense Logistics Agency--Executive Director, Contracting;
Defense Communications Agency--Director.

(2) For acquisitions estimated to exceed $2 million in foreign cost--Secretary of the Department concerned.

(c) Acquisition of scientific and technical knowledge resulting in expenditures outside the United States and Canada shall be made only in the following cases:

(i) those set forth in (a)(i), (ii) and (viii) above;

(ii) when it is determined in advance, by the individuals designated in (d) below, that the requirement can only be filled by foreign end products or services and that it is not feasible to forego filling the requirement or to provide a U.S. substitute for it; and

(iii) acquisitions other than those covered in (i) and (ii) above when U.S. end products or services are available, and the difference between the domestic cost and the foreign cost exceeds 50 percent of the foreign cost as determined by the individuals designated in (d) below.

Whenever practicable, such acquisitions shall be made on a cost-sharing basis or other arrangement designed to limit any adverse effect on the balance of payments. Policy questions concerning such arrangements should be directed to the Under Secretary of Defense for Research and Engineering.

(d) The individuals listed below (and the immediate deputies of those listed in (1) below) are designated to make the determinations required by (c)(ii) and (c)(iii) above.

(1) For acquisitions estimated not to exceed $2 million in foreign cost, except that this authority may be redelegated to individuals specifically designated for this purpose for acquisitions estimated not to exceed $100,000:

Department of the Army--
- Commanding General, Army Materiel Development and Readiness Command;
- Commander, Corps of Engineers Command;
- Surgeon General, Army Medical Corps;
- Chief of Research, Development and Acquisition;

Department of the Navy--
- Chief of Naval Research;
- Commander, Naval Air Systems Command;
- Commander, Naval Electronics Systems Command;
- Commander, Naval Sea Systems Command;
- Chief, Bureau of Medicine and Surgery;
- Commander, Naval Supply Systems Command;
- Chief of Naval Development;
- Oceanographer of the Navy;
- Commander, Naval Facilities Engineering Command;
- Military Sea Lift Command;
- DC/S Installations and Logistics Department, Headquarters U.S. Marine Corps

Department of the Air Force--
- Commander, Air Force Systems Command;
- Commander, Air Force Logistics Command;

6-1305.4 Applicability and Allowability of Sales Commissions or Fees.

(a) When a contracting officer is requested to obtain price and availability data from a contractor to support the tendering of an Offer and Acceptance, he shall require the contractor to identify the amount of any sales commissions or fees. Allowable costs for sales commissions or fees applicable to contracts for FMS shall not exceed $50,000 per contract (including all modifications and subcontracts thereto) for each foreign customer served by that contract. Although commissions and fees may be less than $50,000 per contract, all such commissions and fees must be justified and supported based on the criteria in 6-1305.4(b). If deviations to this policy are considered necessary, 1-109.3 shall apply. In addition, sales commissions or fees shall not be allowed for follow-on spares provided under DoD Cooperative Logistic Supply Support Arrangements.

(b) In order to provide the appropriate notice and advice regarding sales commissions and fees to a foreign government at the time an Offer and Acceptance is submitted, the contracting officer, except with respect to those contracts excluded in 1-506.3(i) and (ii), shall:

(i) require the contractor to submit a Contractor's Statement of Contingent or Other Fees (Standard Form 119) (including any such fees claimed by subcontractors);

(ii) determine under 1-505 whether a bona fide employee or agency relationship exists; (For the purposes of FMS, the definition in 1-504 of improper influence also extends to officials of the foreign government.)

(iii) require the contractor to submit a breakdown of the fee related to the services performed by the sales representative. Even though a bona fide employee or agency relationship is determined to exist, the basic test of reasonableness for the purposes of making the statement required by 6-1305.3(a)(iii), is an assessment of the services provided, or to be provided, compared to the amount of the fee. In addition to the fee breakdown of services, a comparative analysis may be made of the proposed fee/commission with recent payment for comparable services under commercial sales (non-FMS) of the same or similar items, and sales commissions and fees allowed on previous FMS sales of comparable scope and dollar amounts. In analyzing the fee, consideration should be given to whether the sale is the initial or follow-on sale because the effort for follow-on sales of additional quantities, spares and support equipment would not normally be as great as the effort for the initial sale.

(c) The PCO shall 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 contracting 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 office shall notify the prospective contractor and request withdrawal of the fee for the sales representative from the proposal. Should the contractor refuse to withdraw the fee, the Department of Defense will notify the foreign government that the Department of Defense is unable to purchase the items or services from that contractor.

6-1305.6 Special Country Requests With Respect to Sales Commissions and Fees. Pursuant to DoD Manual 5105.38-M (Military Assistance and Sales Manual), Letters of Offer and Acceptance for requirements for the governments of Australia, Taiwan, Egypt, Greece, Iran, Israel, Japan, Jordon, Republic of Korea, Kuwait, Pakistan, Philippines, Saudi Arabia, Turkey, Thailand, United Arab Emirates, or Venezuela (Air Force) are required to provide that all U.S. Government contracts resulting from the Letters of Offer shall prohibit the payment of sales commission and fee unless such payments have been identified and payment thereof approved in writing by the government involved before contract award. Therefore, the contracting officer shall insert the clause in 7-104.107 in all solicitations and contracts for FMS awarded on behalf of these purchasers unless such payment has been approved.

6-1306 Recovery of Nonrecurring Costs.

6-1306.1 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.

6-1306.2 Applicability.

(a) This policy applies to those products and technologies for which investment costs equal or exceed $5 million for any of the following:

(i) 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.

(ii) Nonrecurring production costs.

(iii) 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 which individually meet the above thresholds, recoupment will be made on a component when 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.

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(b) For all other types of contracts:
"Notwithstanding any other provision of this contract, any direct or indirect costs of sales commissions or fees for contractor (or subcontractor) sales representatives for the solicitation or promotion or otherwise to secure the conclusion of the sale of any of the supplies or services called for by this contract to the Government of . . . . . .* shall be considered as an unallowable item of cost under this contract."

*Name of foreign country.

(End of clause)

7-104.108 *Reserved.*

7-104.109 *Required Sources for High-Purity Silicon.* In accordance with 1-2207.5, insert the following clause:

REQUIRED SOURCES FOR HIGH-PURITY SILICON (1983 JUN)

(a) For the purpose of this clause:

(1) "High-purity silicon" is N or P type and has a resistivity greater than 3000 ohm-centimeter.

(2) "Domestic manufacture" means high-purity silicon manufactured in the United States or Canada. When an item or subassembly containing high-purity silicon is involved, all such high-purity silicon incorporated in the item or subassembly must also have been manufactured in the United States or Canada.

(b) The Contractor agrees that end items and components thereof delivered under this contract shall contain high-purity silicon of domestic manufacture only.

(c) The requirement for delivery in (b) above may be waived in whole or in part by the Contracting Officer when such waiver is determined to be in the Government's interest.

(d) The Contractor agrees to retain until the expiration of three years from the date of final payment under this contract and to make available during such period, upon request of the Contracting Officer, records showing compliance with this clause.

(e) The Contractor agrees to insert this clause, including this paragraph (e), in every subcontract or purchase order which involves the purchase of an item or subassembly containing high-purity silicon.

(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)

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(b) For all other types of contracts:
"Notwithstanding any other provision of this contract, any direct or indirect costs of sales commissions or fees for contractor (or subcontractor) sales representatives for the solicitation or promotion or otherwise to secure the conclusion of the sale of any of the supplies or services called for by this contract to the Government of . . . . . .* shall be considered as an unallowable item of cost under this contract."

*Name of foreign country.

(End of clause)

7-104.108 *Reserved.*

7-104.109 *Required Sources for High-Purity Silicon.* In accordance with 1-2207.5, insert the following clause:

REQUIRED SOURCES FOR HIGH-PURITY SILICON (1983 JUN)

(a) For the purpose of this clause:

(1) "High-purity silicon" is N or P type and has a resistivity greater than 3000 ohm-centimeter.

(2) "Domestic manufacture" means high-purity silicon manufactured in the United States or Canada. When an item or subassembly containing high-purity silicon is involved, all such high-purity silicon incorporated in the item or subassembly must also have been manufactured in the United States or Canada.

(b) The Contractor agrees that end items and components thereof delivered under this contract shall contain high-purity silicon of domestic manufacture only.

(c) The requirement for delivery in (b) above may be waived in whole or in part by the Contracting Officer when such waiver is determined to be in the Government's interest.

(d) The Contractor agrees to retain until the expiration of three years from the date of final payment under this contract and to make available during such period, upon request of the Contracting Officer, records showing compliance with this clause.

(e) The Contractor agrees to insert this clause, including this paragraph (e), in every subcontract or purchase order which involves the purchase of an item or subassembly containing high-purity silicon.

(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)

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

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(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 *Overseas Distribution of Defense Subcontracts.* In accordance with 1-340, insert the clause in 7-104.78.

7-204.67 *Reserved.*

7-204.68 *Offset Arrangement.* In accordance with 6-1310.3(d), insert the clause in 7-104.105.

7-204.69 *Qualifying Country Sources as Subcontractors.* In accordance with 6-1403.4, insert the clause at 7-104.106.

7-204.70 *Procurement of High-Purity Silicon.* In accordance with 1-2207.5, insert the clause in 7-104.109.

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).

Secretary and approved by the Contracting Officer, for or 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 *Overseas Distribution of Defense Subcontracts.* In accordance with 1-340, insert the clause in 7-104.78.

7-303.69 *Reserved.*

7-303.70 *Limitation on Sales Commissions and Fees for Foreign Governments.* In accordance with 6-1305.6, insert the clause in 7-104.107.

7-303.71 *Procurement of High-Purity Silicon.* In accordance with 1-2207.5, insert the clause in 7-104.109.

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.

7-304.1 *Changes.*

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 $500,000, 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.

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.

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(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 *Overseas Distribution of Defense Subcontracts.* In accordance with 1-340, insert the clause in 7-104.78.

7-403.65 *Reserved.*

7-403.66 *Limitation on Sales Commissions and Fees for Foreign Governments.* In accordance with 6-1305.6, insert the clause in 7-104.107.

7-403.67 *Procurement of High-Purity Silicon.* In accordance with 1-2207.5, insert the clause in 7-104.109.

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.

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8-101.10 *Other work* means any current or scheduled work of the contractor, whether Government or commercial, other than work related to the terminated contract.

8-101.11 *Partial termination* means the termination of a part, but not all, of the work which has not been completed and accepted under a contract.

8-101.12 *Plant clearance period* means a period beginning with the effective date of the termination for convenience and ending, for each particular property classification (such as raw materials, purchased parts, and work in process) at any one plant or location, 90 days after receipt by the termination contracting officer (TCO) of acceptable inventory schedules covering all items of that particular property classification in the termination inventory at that plant or location, or ending on such later date as may be agreed to by the TCO and the contractor. Final phase of a plant clearance period means that part of a plant clearance period after the receipt of acceptable inventory scheduled covering all items of the particular property classification at the plant or location.

8-101.13 *Plant equipment* means personal property of a capital nature (consisting of equipment, machine tools, test equipment, furniture, vehicles, and accessory and auxiliary items, but excluding special tooling and special test equipment) used or capable of use in the manufacture of supplies or in the performance of services or for any administrative or general plant purpose.

8-101.14 *Prime contract* means any contract as defined in 1-201.4 entered into by any Department or procuring activity.

8-101.15 *Industrial plant equipment* means that part of plant equipment with an acquisition cost of $5,000 or more which is listed in 13-312 and is reportable to the Defense Supply Agency for screening in accordance with 24-205.3.

8-101.16 *Salvage* means property which, because of its worn, damaged, deteriorated, or incomplete condition, or specialized nature, has no reasonable prospect of use or sale as serviceable property without major repairs or alterations but which has some value in excess of its scrap value.

8-101.17 *Scrap* means property that has no value except for its basic material content.

8-101.18 *Serviceable or usable property* means property that has reasonable prospect of use or sale either in its existing form or after minor repairs or alterations; only property in Federal Condition Codes A1, A2, A4, A5, B1, B2, B4, B5, F7, or F8 (see 24-302.9).

8-101.19 *Settlement agreement* means a written agreement in the form of an amendment to the contract, between the contractor and the Government settling all or a severable portion of a settlement proposal.

8-101.20 *Settlement proposal* means a termination claim submitted by a contractor or subcontractor in the form, and supported by the data, required by this Section.

8-101.21 *Special machinery and equipment* means that part of plant equipment which was acquired or constructed solely for the performance of the terminated contract or the terminated contract and other Government contracts, and as to which the contractor claims loss of useful value.

8-101.22 *Special tooling* shall have the meaning given in 13-101.5.

8-101.23 *Special test equipment* shall have the meaning given in 13-101.6.

8-101.24 *Subcontract* means any contract as defined in 1-201.4 other than a prime contract, entered into by a prime contractor or a subcontractor, calling for supplies or services required for the performance of any one or more prime contracts.

8-101.25 *Termination claim* means any claim by a contractor or subcontractor, permitted by the terms of a prime contract, for compensation for the termination, in whole or in part, of the prime contract or a subcontract thereunder, and any other claim which this Section authorizes to be asserted and settled in connection with a termination settlement.

8-101.26 *Termination inventory* means any items of physical property purchased, supplied, manufactured, furnished, or otherwise acquired for performance of the terminated contract and properly allocable to the terminated portion of the contract. The term does not include any facilities, special test equipment, material, or special tooling, which are subject to a separate contract or a special contract provision governing the use or disposition thereof. Termination inventory may include contractor-acquired property and Government-furnished property as defined in 8-101.4 and 8-101.8.

8-101.27 *Terminated portion of the contract* means that portion of a terminated contract which relates to work or end items not already completed and accepted prior to the effective date of termination and which the contractor is not to continue to perform.

8-101.28 *Unadjusted contract changes* are any contract changes or contract provisions as to which a definitive modification is required but has not been executed.

8-803 DD Form 547—Settlement Proposal for Cost-Reimbursement Type Contracts. DD Form 547 is to be used by prime contractor submitting termination claims on cost-reimbursement type contracts. It is also suitable for use in connection with terminated cost-reimbursement type subcontracts. See F-200.547.

8-804 Reserved.

8-805 Forms of Settlement Agreement. See 8-210. In Architect Engineer contracts, substitute *Architect-Engineer* for *Contractor* wherever it appears.

8-805.1 *Settlement Agreement for Use in Settling Fixed-Price Prime Contracts After Complete Termination.*

THIS SUPPLEMENTAL AGREEMENT OF SETTLEMENT, entered into this _____ day of _____, 19— between the **UNITED STATES OF AMERICA** (hereinafter called "the Government") represented by the Contracting Officer executing this contract, and _____

(i) a corporation organized and existing under the Laws of the State of _____,

(ii) a partnership consisting of _____,

(iii) an individual doing business as _____,

(hereinafter called "the Contractor").

WITNESSETH THAT:

WHEREAS, the Contractor and the Government have entered into Contract No. _____ under date of _____, 19____ which, together with any and all amendments, changes, modifications, and supplements thereto, is hereinafter referred to as "the contract"; and

WHEREAS, The Termination for Convenience of the Government clause of the contract provides that the performance of work under the contract may at the convenience of the Government be terminated by the Government in whole, or from time to time in part, whenever the Contracting Officer shall determine that such termination is in the best interest of the Government, and that the Contractor and the Contracting Officer may agree upon the whole or any part of the amount to be paid to the Contractor by reason of such termination; and

WHEREAS, by notice of termination dated _____ the Government advised the Contractor of the complete termination of the contract for the convenience of the Government; and

WHEREAS, as used herein the following terms shall have the meanings hereinafter set forth:

The term "*termination inventory*" means any items of physical property purchased, supplied, manufactured, furnished, or otherwise acquired for performance of the contract which are properly allocable to the terminated portion of the contract, but shall not include any facilities, materials, production or other equipment, or special tooling, which are subject to a separate contract or a special contract provision governing the use or disposition thereof. Termination inventory may include Government-furnished property and contractor-acquired property as defined below:

(i) Government-furnished property is property in the possession of or acquired directly by the Government, and delivered or otherwise made available to the Contractor.

(ii) Contractor-acquired property is property procured or otherwise provided by the Contractor for the performance of a contract, whether or not the Government has title by the terms of the contract, or exercises its contractual right to take title.

The term "*subcontract*" means any contract as defined in ASPR 1-201.4 other than a prime contract, entered into by a prime contractor or a subcontractor, calling for supplies or services required for the performance of any one or more prime contracts.

The term "*scrap*" means property that has no value except for its basic material content.

NOW, THEREFORE, the parties hereto do mutually agree as follows:

ARTICLE 1. The Contractor certifies that all contract termination inventory (including scrap) has been retained or otherwise acquired by him, sold to third parties, returned to suppliers, stored for the Government, delivered to the Government, otherwise properly accounted for, and all

proceeds or retention prices thereof, if any, have been taken into account in arriving at this agreement.

ARTICLE 2. a. The Contractor certifies that, prior to the execution of this agreement, each of the Contractor's immediate subcontractors whose claim is included in the claim settled by this agreement has furnished to the Contractor a certificate stating (i) that all of his subcontract termination inventory (including scrap) has been retained or otherwise acquired by him, sold to third parties, returned to suppliers, stored for the Government, delivered to the Government, or otherwise properly accounted for, and all proceeds or retention prices thereof, if any, were taken into account in arriving at the settlement of the subcontract or subcontracts, and (ii) that the subcontractor has received from each of the immediate subcontractors whose claim was included in his claim a substantially similar certificate.

b. The Contractor hereby transfers and conveys to the Government all the right, title, and interest, if any, which the Contractor has received, or is entitled to receive, in and to subcontract termination inventory, if any, not otherwise properly accounted for, and hereby assigns to the Government any and all of his rights relating thereto.

ARTICLE 3. The Contractor certifies that, with respect to all items of termination inventory the costs of which were taken into account in arriving at the amount of this settlement, or in the settlement of any subcontract claim included in this settlement: (i) all such items are properly allocable to the terminated portion of the contract; (ii) such items are not in excess of the reasonable quantitative requirements of the terminated portion of the contract; (iii) such items do not include any items reasonably usable without loss to the Contractor, on his other work; and (iv) the Contractor has informed the Contracting Officer of any substantial change in the status of such items between the dates of his termination inventory schedules and the date of this agreement.

ARTICLE 4. In all cases where the Contractor has not previously made such payments, the Contractor shall, within ten (10) days after receipt of the payment provided for hereunder, pay to each of its immediate subcontractors (or to their respective assignees) the respective amounts to which they are entitled, after deducting, if the Contractor so elects, any amounts then due and payable to the Contractor by such subcontractors.

ARTICLE 5. a. The Contractor has received the sum of $_____ on account of work and services performed, or articles delivered, under the completed portion of the contract. The Government as part of this negotiated settlement hereby confirms and acknowledges the right of the Contractor, subject to the provisions of Article 6 hereof, to retain such sum heretofore paid and agrees that such sum constitutes a portion of the total amount to which the Contractor is entitled in settlement of the Contract.

b. In addition, upon execution of this agreement the Government agrees to pay to the Contractor or his assignee, upon presentation of an invoice or voucher, the sum of $_____ (*insert net amount of settlement*), arrived at by deducting from the sum of $_____ [*for claim submitted on inventory basis, insert gross amount of settlement; for claim submitted on total cost basis, insert gross amount of settlement less amount set forth in 5a above*], (1) the amount of $_____ representing all unliquidated partial or progress payments previously made on account to the Contractor or his assignee and all unliquidated advance payments (with interest, if any, thereon), and (2) the amount of $_____ representing all applicable property disposal credits [and (3) the amount of $_____ representing all other amounts due the Government under this contract except as hereinafter provided in Article 6].* (**To be inserted where appropriate.*) Said sum, together with all other sums heretofore paid, constitutes payment in full and complete settlement of the amount due the Contractor by reason of the complete termination of work under the contract and of all other claims and liabilities of the Contractor and the Government under the contract, except as hereinafter provided in Article 6.

ARTICLE 6. Notwithstanding any other provision of this agreement, the following rights and liabilities of the parties under the contract are hereby reserved:

[The following list of reserved or excepted rights and liabilities is intended to cover those which should most frequently be reserved, and which should in any event be scrutinized at the time a settlement agreement is signed (see 8-210.2). The suggested language of the enumerated excepted items on the list may be varied in the discretion of the Contracting Officer to cover more accurately the exceptions needed in a particular case. Where greater accuracy or completeness may be achieved by a reference to the number of the contract clause or provision covering the matter in question, this method of enumerating reserved rights and liabilities may be followed. Omit any of the following which are not applicable and add any additional exceptions or reservations required.]

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TERMINATION OF CONTRACTS

(1) All rights and liabilities, if any, of the parties under the Renegotiation Act of 19____ [*insert reference to applicable Renegotiation Act*].
(2) All rights and liabilities of the parties arising under the contract articles, if any, or otherwise which relate to reproduction rights, patent infringements, inventions, applications for patent and patents, including rights to assignments, invention reports, and licenses, and in covenants of indemnity against patent risks.
(3) All rights of the Government to take the benefit of agreements or judgments reducing or otherwise affecting royalties paid or payable in connection with the performance of the contract.
(4) All rights and liabilities of the parties under the contract relating to options (except options to continue or increase the work under the contract), covenants not to compete, covenants of indemnity.
(5) All rights and liabilities of the parties under agreements with respect to the future care and disposition by the Contractor of Government-owned property remaining in his custody.
(6) All rights and liabilities of the parties under the contract with respect to any contract termination inventory stored for the Government pursuant to Article 1 hereof.
(7) All rights and liabilities of the parties under the contract with respect to any and all Government property furnished to the Contractor for the performance of this contract.
(8) All rights and liabilities of the parties arising under the contract, or otherwise, concerning defects in, or guarantees or warranties relating to, any articles or component parts furnished to the Government by the Contractor pursuant to the contract or this agreement.
(9) All rights and liabilities, if any, of the parties under those clauses inserted in the contract because of the requirements of Acts of Congress and Executive Orders, including without limitation, any applicable clauses relating to the following topics: labor law, contingent fees, domestic articles, employment of aliens, "officials not to benefit." [*If the contract contains clauses of this character inserted for reasons other than requirements of Acts of Congress or Executive Orders, the suggested language should be appropriately modified.*]

In Witness Whereof, etc.

(End of Agreement)

8–805.2 *Settlement Agreement for Use in Settling Fixed-Price Prime Contracts After Partial Termination.*

THIS SUPPLEMENTAL AGREEMENT OF SETTLEMENT, entered into this _____ day of _____, 19____ between the **UNITED STATES OF AMERICA** (hereinafter called "the Government") represented by the Contracting Officer executing this contract, and _____

(i) a corporation organized and existing under the Laws of the State of _____;
(ii) a partnership consisting of _____;
(iii) an individual doing business as _____;

(hereinafter called "the Contractor")

WITNESSETH THAT:

WHEREAS, the Contractor and the Government have entered into Contract No. ____ under date of _____, 19— which, together with any and all amendments, changes, modifications, and supplements thereto, is hereinafter referred to as "the contract"; and

WHEREAS, the Termination for Convenience of the Government clause of the contract provides that the performance of work under the contract may at the convenience of the Government be terminated by the Government in whole, or from time to time in part, whenever the Contracting Officer shall determine that such termination is in the best interest of the Government, and that the Contractor and Contracting Officer may agree upon the whole or any part of the amount to be paid to the Contractor by reason of such termination; and

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TERMINATION OF CONTRACTS

WHEREAS, by Notice of Termination dated _____, the Government advised the Contractor of the partial termination of the contract for the convenience of the Government as of the date and to the extent provided in such Notice, to which reference is hereby made as to the part terminated, and said part is hereinafter referred to as the "terminated portion of the contract"; and

WHEREAS, as used herein, the following terms shall have the meanings hereinafter set forth:

The term "*termination inventory*" means any items of physical property purchased, supplied, manufactured, furnished, or otherwise acquired for performance of the contract which are properly allocable to the terminated portion of the contract, but shall not include any facilities, materials, production or other equipment, or special tooling, which are subject to a separate contract or a special contract provision governing the use or disposition thereof. Termination inventory may include Government-furnished property and contractor-acquired property as defined below:

(i) Government-furnished property is property in the possession of or acquired directly by the Government, and delivered or otherwise made available to the Contractor.
(ii) Contractor-acquired property is property procured or otherwise provided by the Contractor for the performance of a contract, whether or not the Government has title by the terms of the contract, or exercises its contractual right to take title.

The term "*subcontract*" means any contract as defined in ASPR 1-201.4 other than a prime contract, entered into by a prime contractor or a subcontractor, calling for supplies or services required for the performance of any one or more prime contracts.

The term "*scrap*" means property that has no value except for its basic material content.

NOW, THEREFORE, the parties hereto do mutually agree as follows:

ARTICLE 1. The terminated portion of the contract is designated as follows: (*specify the terminated portion clearly as to items, including (i) item numbers, (ii) descriptions, (iii) quantity terminated, (iv) unit price of items, (v) total price of terminated items, and (vi) any other explanation necessary to avoid uncertainty or misunderstanding.*)

ARTICLE 2. The Contractor certifies that all contract termination inventory (including scrap) has been retained or otherwise acquired by him, sold to third parties, returned to suppliers, stored for the Government, delivered to the Government, or otherwise properly accounted for, and all proceeds or retention prices thereof, if any, have been taken into account in arriving at this agreement.

ARTICLE 3. a. The Contractor certifies that, prior to the execution of this agreement, each of the contractor's immediate subcontractors whose claim is included in the claim settled by this agreement has furnished to the Contractor a certificate stating (i) that all his subcontract termination inventory (including scrap) has been retained or otherwise acquired by him, sold to third parties, returned to suppliers, stored for the Government, delivered to the Government, or otherwise properly accounted for, and all proceeds or retention prices thereof, if any, were taken into account in arriving at the settlement of the subcontract or subcontracts and (ii) that the subcontractor has received from each of the immediate subcontractors whose claim was included in his claim a substantially similar certificate.

b. The Contractor hereby transfers and conveys to the Government all the right, title and interest, if any, which the Contractor has received, or is entitled to receive, in and to subcontract termination inventory, if any, not otherwise properly accounted for, and hereby assigns to the Government any and all of his rights relating thereto.

ARTICLE 4. The Contractor certifies that, with respect to all items of termination inventory the costs of which were taken into account in arriving at the amount of this settlement, or in the settlement of any subcontract claim included in this settlement: (i) all such items are properly allocable to the terminated portion of the contract; (ii) such items are not in excess of the reasonable quantitative requirements of the terminated portion of the contract; (iii) such items do not include any items reasonably usable, without loss to the Contractor, on his other work; and (iv) the Contractor has informed the Contracting Officer of any substantial change in the status of such items between the dates of his termination inventory schedules and the date of this agreement.

ARTICLE 5. In all cases where the Contractor has not previously made such payments, the Contractor shall, within ten (10) days after receipt of the payment provided for hereunder, pay to each of his immediate subcontractors (or to their respective assignees) the respective amounts to which they are entitled, after deducting, if the Contractor so elects, any amounts then due and payable to the Contractor by such subcontractors.

TERMINATION OF CONTRACTS

ARTICLE 6. Upon execution of this agreement, the Government agrees to pay to the Contractor or his assignee, upon presentation of an invoice or voucher, the sum of $_____ *(insert net amount of settlement)*, arrived at by deducting from the sum of $_____ *[insert gross amount of settlement]*, (1) the amount of $_____ representing all unliquidated partial or progress payments previously made on account to the Contractor or his assignee and all unliquidated advance payments (with interest, if any, thereon) applicable to the terminated portion of the contract and (2) the amount of $_____ representing all applicable property disposal credits. Said sum, together with all other sums heretofore paid, constitutes payment in full and complete settlement of the amount due the Contractor with respect to the terminated portion of the contract, except as hereinafter provided in Article 7.

ARTICLE 7. Upon payment of said sum of $_____ *[insert net amount of settlement]*, all obligations of the Contractor to perform further work or services or to make further deliveries under the terminated portion of the contract and all obligations of the Government to make further payments or to carry out other undertakings in connection therewith shall cease; *provided*, however, that nothing herein contained shall impair or affect in any way any covenants, terms or conditions of the contract relating to the completed or continued portion thereof; and *provided further* that, with respect to the terminated portion of the contract, the following rights and liabilities of the parties are reserved.

(The following list of reserved or excepted rights and liabilities relating to the terminated portion of the contract is intended to cover those which should most frequently be reserved, and which should in any event be scrutinized at the time a settlement agreement is signed (see 8-210.2). The suggested language of the enumerated excepted items on the list may be varied in the discretion of the Contracting Officer to cover more accurately the exception needed in a particular case. Where greater accuracy or completeness may be achieved by a reference to the number of the contract clause or provision covering the matter in question this method of enumerating reserved rights and liabilities may be followed. Omit any of the following which are not applicable and add any additional exceptions or reservations required.)

(1) All rights and liabilities, if any, of the parties under the Renegotiation Act of 19____ *[insert reference to applicable Renegotiation Act]*.

(2) All rights of the Government to take the benefit of agreements or judgments reducing or otherwise affecting royalties paid or payable in connection with the performance of the contract.

(3) All rights and liabilities, if any, of the parties under those clauses inserted in the contract because of the requirements of Acts of Congress and Executive Orders, including, without limitation, any applicable clauses relating to the following topics: labor law, contingent fees, domestic articles, employment of aliens, "officials not to benefit." *[If the contract contains clauses of this character inserted for reasons other than requirements of Acts of Congress or Executive Orders, the suggested language should be appropriately modified.]*

(4) All rights and liabilities of the parties arising under the contract articles, if any, or otherwise which relate to reproduction rights, patent infringements, inventions, applications for patent and patents, including rights to assignments, invention reports, and licenses, and to covenants of indemnity against patent risks.

(5) All rights and liabilities of the parties arising under the contract, or otherwise, concerning defects in, or guarantees or warranties relating to, any articles or component parts furnished to the Government by the Contractor pursuant to the contract or this agreement.

(6) All rights and liabilities of the parties with respect to any contract termination inventory stored for the Government pursuant to Article 2 hereof.

In Witness Whereof, etc.

(End of Agreement)

8-805.3 *Partial Settlement Agreement for Use in Settling Fixed-Price Prime Contracts After Complete or Partial Termination. Where Settlement Pertains Only to Settlements With Subcontractors.*

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TERMINATION OF CONTRACTS

THIS SUPPLEMENTAL AGREEMENT OF SETTLEMENT, entered into this _____ day of _____, 19— between the **UNITED STATES OF AMERICA** (hereinafter called "the Government") represented by the Contracting Officer executing this contract, and _____

(i) a corporation organized and existing under the Laws of the State of _____;

(ii) a partnership consisting of _____;

(iii) an individual doing business as _____;

(hereinafter called "the Contractor").

WITNESSETH THAT:

WHEREAS, the Contractor and the Government have entered into Contract No. _____ under date of _____, 19____ which, together with any and all amendments, changes, modifications, and supplements thereto, is hereinafter referred to as "the contract"; and

WHEREAS, the Termination for Convenience of the Government clause of the contract provides that the performance of work under the contract may at the convenience of the Government be terminated by the Government in whole, or from time to time in part, whenever the Contracting Officer shall determine that such termination is in the best interest of the Government, and that the Contractor and Contracting Officer may agree upon the whole or any part of the amount to be paid to the Contractor by reason of such termination; and

WHEREAS, by notice of termination dated _____ the Government advised the Contractor of the [complete termination of the contract for the convenience of the Government;]* [partial termination of the contract for the convenience of the Government as of the date and to the extent provided in such Notice, to which reference is hereby made as to the part terminated, and said part is hereinafter referred to as "the terminated portion of the contract".]* (**Insert appropriate phrase.*) and

WHEREAS, the Contractor, in connection with the performance of the contract, has entered into the following subcontracts (among others):** (***Insert where appropriate.*) **[Insert here a list of the terminated subcontracts included in this settlement]**, which subcontracts were terminated by the Contractor in accordance with the termination for convenience clause of the contract and in accordance with the Notice of Termination received by him from the Government; and

WHEREAS, the parties desire to settle that portion of the termination claim of the Contractor which is based upon the termination of the subcontracts listed herein; and

WHEREAS, as used herein, the following terms shall have the meanings hereinafter set forth:

The term "*termination inventory*" means any items of physical property purchased, supplied, manufactured, furnished, or otherwise acquired for performance of the contract which are properly allocable to the terminated portion of the contract, but shall not include any facilities, material, production or other equipment, or special tooling which are subject to a separate contract or a special contract provision governing the use or disposition thereof. Termination inventory may include Government-furnished property and contractor-acquired property as defined below.

(i) Government-furnished property is property in the possession of or acquired directly by the Government, and delivered or otherwise made available to the Contractor.

(ii) Contractor-acquired property is property procured or otherwise provided by the Contractor for the performance of a contract, whether or not the Government has title by the terms of the contract, or exercises its contractual right to take title.

The term "*subcontract*" means any contract as defined in ASPR 1-201.4 other than a prime contract, entered into by a prime contractor or a subcontractor, calling for supplies or services required for the performance of any one or more prime contracts.

The term "*scrap*" means property that has no value except for its basic material content.

NOW, THEREFORE, the parties hereto do mutually agree as follows:

ARTICLE 1. a. The Contractor certifies that, prior to the execution of this agreement, each of the Contractor's immediate subcontractors whose claim is included in the claim settled by this agreement has furnished to the Contractor a certificate stating (i) that all his subcontract termination inventory (including scrap) has been retained or otherwise acquired by him, sold to third parties, returned to suppliers, stored for the Government, delivered to the Government, or otherwise properly accounted for, and all proceeds or retention prices thereof, if any, were taken into account in arriving at the settlement of the subcontract or subcontracts and (ii) that the subcontractor has received from each of the immediate subcontractors whose claim was included in its claim a substantially similar certificate.

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b. The Contractor hereby transfers and conveys to the Government all the right, title, and interest, if any, which the Contractor has received, or is entitled to receive, in and to such subcontract termination inventory, to the extent that it is not otherwise properly accounted for, and hereby assigns to the Government any and all of his rights relating thereto.

ARTICLE 2. In all cases where the Contractor has not previously made such payments, the Contractor shall, within ten (10) days after receipt of the payment provided for hereunder, pay to each of his immediate subcontractors (or to their respective assignees) the respective amounts to which they are entitled, after deducting, if the Contractor so elects, any amounts then due and payable to the Contractor by such subcontractors.

ARTICLE 3. The Contractor certifies that, with respect to all items of subcontract termination inventory the costs of which were taken into account in arriving at the amount of this settlement, or in the settlement of any subcontract claim included in this settlement: (i) all such items are properly allocable to the terminated portion of the contract; (ii) such items are not in excess of the reasonable quantitative requirements of the terminated portion of the contract; (iii) such items do not include any items reasonably usable, without loss to the Contractor, on his other work; and (iv) the Contractor has informed the Contracting Officer of any substantial change in the status of such items between the dates of his termination inventory schedules and the date of this agreement.

ARTICLE 4. Upon execution of this agreement the Government agrees to pay to the Contractor or his assignee, upon presentation of an invoice or voucher, the sum of $ _____, which sum, [together with the amount of $_____ heretofore paid the Contractor as partial, progress, or advance payments],* (*Insert where appropriate.) constitutes payment in full and complete settlement, except as hereinafter provided in Article 5, of the amount due the Contractor with respect to that portion of his termination claim which is based upon termination of the subcontracts listed hereinabove. [*The first sum to be inserted above should be the net amount of this partial settlement, arrived at by deducting from the gross amounts of settlements with subject subcontractors as approved by the Contracting Officer; the second amount to be inserted above, which is that portion of partial, progress, or advance payments liquidated by this agreement.*]

ARTICLE 5. Notwithstanding any other provision of this agreement, the following rights and liabilities of the parties under the contract are hereby reserved:

[*Insert here a list of the reserved or excepted rights and liabilities of the Government and the Contractor (see 8-210.2). Reference is made to instructions set forth in Article 6 of the agreement set forth in 8-805.1 and Article 7 of the agreement set forth in 8-805.2 and to the reserved or excepted rights and liabilities set forth in those articles, which may be used as appropriately modified to meet the requirements of any given settlement hereunder.*]

In Witness Whereof, etc.

(End of Agreement)

8-805.4 *Settlement Agreement for Use in Settling Cost-Reimbursement Type Prime Contracts After Complete Termination.*

THIS SUPPLEMENTAL AGREEMENT OF SETTLEMENT, entered into this _____ day of _____, 19____ between the **UNITED STATES OF AMERICA** (hereinafter called "the Government") represented by the Contracting Officer executing this contract, and _____

(i) a corporation organized and existing under the Laws of the State of _____;

(ii) a partnership consisting of _____;

(iii) an individual doing business as _____;

(hereinafter called "the Contractor").

WITNESSETH THAT:

WHEREAS, the Contractor and the Government have entered into Contract No. _____ under date of _____, 19____ which, together with any and all amendments, changes, modifications, and supplements thereto, is hereinafter referred to as "the contract"; and

WHEREAS, the Termination clause of the contract provides that the performance of work under the contract may at the convenience of the Government be terminated by the Government in whole, or from time to time in part, whenever the Contracting Officer shall determine that such

termination is in the best interest of the Government, and that the Contractor and Contracting Officer may agree upon the whole or any part of the amount to be paid to the Contractor by reason of such termination; and

WHEREAS, by notice of termination dated _____ the Government advised the Contractor of the complete termination of the contract for the convenience of the Government; and

WHEREAS, as used herein, the following terms shall have the meanings hereinafter set forth:

The term "*termination inventory*" means any items of physical property purchased, supplied, manufactured, furnished, or otherwise acquired for performance of the contract which are properly allocable to the terminated portion of the contract, but shall not include any facilities, materials, production or other equipment, or special tooling, which are subject to a separate contract or a special contract provision governing the use of disposition thereof. Termination inventory may include Government-furnished property and contractor-acquired property as defined below.

(i) Government-furnished property is property in the possession of or acquired directly by the Government, and delivered or otherwise made available to the Contractor.

(ii) Contractor-acquired property is property procured or otherwise provided by the Contractor for the performance of a contract, whether or not the Government has title by the terms of the contract, or exercises its contractual right to take title.

The term "*subcontract*" means any contract as defined in ASPR 1-201.4 other than a prime contract, entered into by a prime contractor or a subcontractor, calling for supplies or services required for the performance of any one or more prime contracts.

The term "*scrap*" means property that has no value except for its basic material content.

NOW THEREFORE, the parties hereto do mutually agree as follows:

ARTICLE 1. The Contractor certifies that all contract termination inventory (including scrap) has been retained or otherwise acquired by him, sold to third parties, returned to suppliers, stored for the Government, delivered to the Government, or otherwise properly accounted for, and all proceeds or retention prices thereof, if any, have been taken into account in arriving at this agreement.

ARTICLE 2. a. The Contractor certifies that, prior to the execution of this agreement, each of the Contractor's immediate subcontractors whose claim is included in the claim settled by this agreement has furnished to the Contractor a certificate stating (i) that all of his subcontract termination inventory (including scrap) has been retained or otherwise acquired by him, sold to third parties, returned to suppliers, stored for the Government, delivered to the Government, or otherwise properly accounted for, and all proceeds or retention prices thereof, if any, were taken into account in arriving at the settlement of the subcontract or subcontracts and (ii) that the subcontractor has received from each of the immediate subcontractors whose claim was included in his claim a substantially similar certificate.

b. The Contractor hereby transfers and conveys to the Government all the right, title and interest, if any, which the Contractor has received, or is entitled to receive, in and to subcontract termination inventory, if any, not otherwise properly accounted for, and hereby assigns to the Government any and all of his rights relating thereto.

ARTICLE 3. The Contractor certifies that, with respect to all items of termination inventory the costs of which were taken into account in arriving at the amount of this settlement, or in the settlement of any subcontract claim included in this settlement: (i) all such items are properly allocable to the terminated portion of the contract; (ii) such items are not in excess of the reasonable quantitative requirements of the terminated portion of the contract; (iii) such items do not include any items reasonably usable, without loss to the Contractor, on his other work; and (iv) the Contractor has informed the Contracting Officer of any substantial change in the status of such items between the dates of his termination inventory schedules and the date of this agreement.

ARTICLE 4. In all cases where the Contractor has not previously made such payments, the Contractor shall, within ten (10) days after receipt of the payment provided for hereunder, pay to each of his immediate subcontractors (or to their respective assignees) the respective amounts to which they are entitled, after deducting, if the Contractor so elects, any amounts then due and payable to the Contractor by such subcontractors.

ARTICLE 5. a. The Contractor has received the sum of $_____ on account of work and services performed, or articles delivered, under the contract prior to the effective date of termina-

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Part 4—Use and Rental of Government Property

13-401 Policy. It is the policy of the Department of Defense to put Government production and research property which is in the possession of a contractor or subcontractor to the greatest possible use in the performance of Government contracts or subcontracts, so long as such use does not confer a competitive advantage on the contractor or subcontractor contrary to the policies set forth in Part 5. The prior approval of the contracting officer having cognizance of Government production and research property is required for any use, whether Government or Non-Government, to insure that the Government receives adequate consideration and that no unfair competitive advantage is created to the benefit of the contractor or subcontractor. Government use is defined as use in support of performance of U.S. Government contracts (including foreign military sales) and Non-Government use is defined as all other use (including direct commercial sales to either domestic or foreign customers, and independent research and development). As a general rule, Government use (except for foreign military sales) is on a rent-free basis, while Non-Government use and use on foreign military sales is on a rental basis. When Government production and research property is no longer required for the performance of Government contracts or subcontracts (including foreign military sales), it shall not continue to be made available to a contractor solely for Non-Government use.

13-402 Authorizing a Contractor To Use Government Production and Research Property.

(a) A contractor may use Government production and research property without charge in the performance of:

(i) prime contracts which specifically authorize use without charge;

(ii) subcontracts of any tier if the contracting officer having cognizance over the prime contract concerned has authorized use without charge by:

(A) approving a subcontract specifically authorizing such use;

(B) including such authorization in the prime contract; or

(C) by otherwise approving such use in writing;

(iii) research, development, or educational work by nonprofit organizations if the contracting officer having cognizance of such property approves such use in writing and determines that:

(A) such use is directly or indirectly in the national interest;

(B) such use is not for the direct benefit of a profit-making organization; and

(C) 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).

(b) A contractor may use Government production and research property on work for foreign governments and international organizations only upon written approval of the contracting officer having cognizance of the property. Such approval shall be granted only if such 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) A contracting officer desiring to authorize use of Government production and research property under the cognizance of another contracting officer shall request the latter to give his concurrence in such use. If concurrence is denied, the matter shall be raised to a level higher than the contracting officer.

(d) Unless its use is authorized by the solicitation, each solicitation shall require any contractor or subcontractor desiring to use Government production and research property in his possession in the performance of the proposed Government contract or subcontract to request the contracting officer having cognizance of such property to give his written concurrence in such use. Such concurrence shall be given whenever possible.

13-403 Charges for the Use of Government Production and Research Property.

(a) Charges for the use of Government production and research property shall be applied as outlined in (1) and (2) below.

(1) Charges for Government facilities shall be in the form of rent computed in accordance with the Use and Charges clause in 7-702.12. The Use and Charges clause shall be included in the contract under which the facilities are accountable. However—

(i) If the Secretary or his designee determines it to be in the best interest of the Government, rent for classes of facilities other than machine tools (Federal Supply Classes 3405, 3408, 3410, 3411 through 3419) and secondary metal-forming and cutting machines (Federal Supply Classes 3441 through 3449) may be charged on some other equitable basis. In such cases, the Use and Charges clause should be appropriately modified.

(ii) The Use and Charges clause shall not be applicable to wholly Government-owned plants operated by private contractors on a fee basis. In such cases, any sales to foreign countries or international organizations will require an asset use charge (see (c) below) in place of the Use and Charges clause.

(iii) In those circumstances where the Secretary or designee determines that a special rental agreement or the Use and Charges clause is not appropriate or is impractical, and Government facilities are to be used for foreign military sales, an asset use charge will be computed and assessed by the DoD officials responsible for preparation of the DoD Offer and Acceptance (DD Form 1513).

(2) The policies and procedures of 1-2400, Recovery of Nonrecurring Costs, shall apply to the recovery of a fair share of DoD cost for special tooling and special test equipment. When 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.

(b) When a particular foreign government or international organization has funded the acquisition of specific production and research property, no rental charges, asset use charges, or nonrecurring recoupments shall be assessed that foreign government or international organization for the use of such property.

(c) Requests for waivers or reduction of charges for the use of Government facilities on work for foreign governments or international organizations shall be submitted to the contracting officer who shall refer the matter through procurement channels. 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.

(d) Rental/asset use charges for use of U.S. production and research property on Foreign Military Sales (FMS) and commercial sales transactions to the Government of Canada are waived through 31 July 1985 on the basis of an understanding according to which the Government of Canada waives its rental/asset use charges reciprocally.

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(ii) The Use and Charges clause shall not be applicable to wholly Government-owned plants operated by private contractors on a fee basis. In such cases, any sales to foreign countries or international organizations will require an asset use charge (see (c) below) in place of the Use and Charges clause.

(iii) In those circumstances where the Secretary or designee determines that a special rental agreement or the Use and Charges clause is not appropriate or is impractical, and Government facilities are to be used for foreign military sales, an asset use charge will be computed and assessed by the DoD officials responsible for preparation of the DoD Offer and Acceptance (DD Form 1513).

(2) The policies and procedures of 1-2400, Recovery of Nonrecurring Costs, shall apply to the recovery of a fair share of DoD cost for special tooling and special test equipment. When 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.

(b) When a particular foreign government or international organization has funded the acquisition of specific production and research property, no rental charges, asset use charges, or nonrecurring recoupments shall be assessed that foreign government or international organization for the use of such property.

(c) Requests for waivers or reduction of charges for the use of Government facilities on work for foreign governments or international organizations shall be submitted to the contracting officer who shall refer the matter through procurement channels. 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.

(d) Rental/asset use charges for use of U.S. production and research property on Foreign Military Sales (FMS) and commercial sales transactions to the Government of Canada are waived through 31 July 1985 on the basis of an understanding according to which the Government of Canada waives its rental/asset use charges reciprocally.

13-403
ARMED SERVICES PROCUREMENT REGULATION

13-404 Non-Government Use of Industrial Plant Equipment (IPE).

(a) Use in support of Foreign Military Sales is considered Government use.

(b) 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 (S&L), Assistant Secretary of the Air Force (RD&L), or the Director of the Defense Logistics Agency shall be obtained. This authority shall not be redelegated without formal OUSDR&E(AM) approval. Requests requiring Departmental level approval should be submitted by the contractor to the cognizant contract administration office at least 6 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, plant equipment code, year of manufacture, and the acquisition cost.

(c) The percentage of non-Government use shall be computed on the basis of the time available for use. For this purpose, the contractor's normal work schedule as represented by the scheduled production shift hours shall be used. The base time period for determining percentages for non-Government use shall be neither less than 3 months nor more than one year. Non-Government use of IPE 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.

(d) The approvals under (b) above 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 use;

(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 for commercial production.

Approval for non-Government use shall be for a period of not less than 3 months or more than one year.

(e) Approving officials shall retain for periodic review, sufficient documentation of the circumstances justifying non-Government use approvals.

[The next page is 13:26.]

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.

Part 2—Contracts with Commercial Organizations

15–201 Basic Considerations.

15–201.1 *Composition of Total Cost.* The total cost of a contract is the sum of the allowable direct and indirect costs allocable to the contract, incurred or to be incurred, less any allocable credits. In ascertaining what constitutes costs, any generally accepted method of determining or estimating costs that is equitable under the circumstances may be used, including standard costs properly adjusted for applicable variances.

15–201.2 *Factors Affecting Allowability of Costs.* Factors to be considered in determining the allowability of individual items of cost include (i) reasonableness, (ii) allocability, (iii) standards promulgated by the Cost Accounting Standards Board, if applicable, otherwise, generally accepted accounting principles and practices appropriate to the particular circumstances, and (iv) any limitations or exclusions set forth in this Part 2, or otherwise included in the contract as to types or amounts of cost items. (But see 15–201.3(b)(4).) When a contractor has disclosed his accounting practices in accordance with Cost Accounting Standards Board Rules, Regulations, and Standards and any such practices are inconsistent with any of the provisions of this Part 2, costs resulting from such inconsistent practices shall not be allowed in excess of the amount that would have resulted from the use of practices consistent with this Part 2.

15–201.3 *Definition of Reasonableness.*

(a) *General.* A cost is reasonable if, in its nature or amount, it does not exceed that which would be incurred by an ordinarily prudent person in the conduct of competitive business. The question of the reasonableness of specific costs must be scrutinized with particular care in connection with firms or separate divisions thereof which may not be subject to effective competitive restraints. What is reasonable depends upon a variety of considerations and circumstances involving both the nature and amount of the cost in question. In determining the reasonableness of a given cost, consideration shall be given to—

(i) whether the cost is of a type generally recognized as ordinary and necessary for the conduct of the contractor's business or the performance of the contract;

(ii) the restraints or requirements imposed by such factors as generally accepted sound business practices, arm's length bargaining, Federal and State laws and regulations, and contract terms and specifications;

(iii) the action that a prudent business man would take in the circumstances, considering his responsibilities to the owners of the business, his employees, his customers, the Government and the public at large; and

(iv) significant deviations from the established practices of the contractor which may unjustifiably increase the contract costs.

[The next page is 15:9.]

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CONTRACT COST PRINCIPLES AND PROCEDURES

Part 2—Contracts with Commercial Organizations

15–201 Basic Considerations.

15–201.1 Composition of Total Cost. The total cost of a contract is the sum of the allowable direct and indirect costs allocable to the contract, incurred or to be incurred, less any allocable credits. In ascertaining what constitutes costs, any generally accepted method of determining or estimating costs that is equitable under the circumstances may be used, including standard costs properly adjusted for applicable variances.

15–201.2 Factors Affecting Allowability of Costs. Factors to be considered in determining the allowability of individual items of cost include (i) reasonableness, (ii) allocability, (iii) standards promulgated by the Cost Accounting Standards Board, if applicable, otherwise, generally accepted accounting principles and practices appropriate to the particular circumstances, and (iv) any limitations or exclusions set forth in this Part 2, or otherwise included in the contract as to types or amounts of cost items. (But see 15–201.3(b)(4).) When a contractor has disclosed his accounting practices in accordance with Cost Accounting Standards Board Rules, Regulations, and Standards and any such practices are inconsistent with any of the provisions of this Part 2, costs resulting from such inconsistent practices shall not be allowed in excess of the amount that would have resulted from the use of practices consistent with this Part 2.

15–201.3 Definition of Reasonableness.

(a) General. A cost is reasonable if, in its nature or amount, it does not exceed that which would be incurred by an ordinarily prudent person in the conduct of competitive business. The question of the reasonableness of specific costs must be scrutinized with particular care in connection with firms or separate divisions thereof which may not be subject to effective competitive restraints. What is reasonable depends upon a variety of considerations and circumstances involving both the nature and amount of the cost in question. In determining the reasonableness of a given cost, consideration shall be given to—

(i) whether the cost is of a type generally recognized as ordinary and necessary for the conduct of the contractor's business or the performance of the contract;

(ii) the restraints or requirements imposed by such factors as generally accepted sound business practices, arm's length bargaining, Federal and State laws and regulations, and contract terms and specifications;

(iii) the action that a prudent business man would take in the circumstances, considering his responsibilities to the owners of the business, his employees, his customers, the Government and the public at large; and

(iv) significant deviations from the established practices of the contractor which may unjustifiably increase the contract costs.

[The next page is 15:9.]

15–201.3
ARMED SERVICES PROCUREMENT REGULATION

(c) 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.

(d) 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 82 SEP edition of DD Form 1155r and the 1 Aug 68 edition of DD Form 1155r-1, the Invoices provision in 7-103.30 shall be substituted for paragraph 3, Payments, of both forms.

PROCUREMENT FORMS

Part 6—Forms for Coordinated Procurement

16–600 Scope of Part. This Part prescribes forms to be used by a requiring Department to request that supplies or nonpersonal services be procured by another Department or agency in accordance with the provisions of Section V, Part 11.

16–601 Military Interdepartmental Purchase Request (MIPR) (DD Form 448) and Standard Form 36. DD Form 448 shall be used by the requiring Departments to:

(i) request the procurement of supplies or nonpersonal services by the procuring department or agency, and

(ii) permit the procuring department or agency to authorize manufacture of the necessary supplies.

DD Form 448 is authorized for use in effecting other types of coordinated procurement pursuant to Section V, Part 11. When a continuation sheet is necessary, Standard Form 36 shall be used.

16–602 Acceptance of MIPR (DD Form 448–2). DD Form 448–2 shall be used by the procuring department to notify the requiring department of the action taken or to be taken upon a MIPR.

16–603 Requisition for Coal, Coke, or Briquettes (DD Form 416). DD Form 416 shall be used in lieu of DD Form 448 by the requiring departments to request the procurement of coal, coke, or fuel briquettes by the procuring department.

16–604 Requisition and Invoice/Shipping Document (DD Form 1149). DD Form 1149 is prescribed for use in accordance with 5–1108.1 and 24–301.5.

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PROCUREMENT FORMS

Part 7—Contract Termination Forms

16–700 Scope of Part. This Part prescribes forms for use in connection with terminated contracts (see Section VIII).

16–701 Notices of Termination. Use of Standard Form 30 (Amendment of Solicitation/Modification of Contract) is prescribed in 16–103(b)(iii) for notices of termination. Appropriate texts of telegraphic and confirming notices of termination which may be used are set forth in 8–801.1 and 8–801.2. Regardless of the format used in issuing termination notices, a supplementary PII number shall be employed to identify the action in accordance with 20–204.

16–702 Settlement Proposal Forms. Although the forms prescribed below are designed for use by prime contractors, they are equally suitable for use by subcontractors.

16–702.1 *Settlement Proposal—Inventory Basis (DD Form 540).* DD Form 540 is prescribed for use by contractors in presenting claims resulting from the termination of fixed-price contracts when such claims are computed on the inventory basis.

16–702.2 *Settlement Proposal—Total Cost Basis (DD Form 541).* DD Form 541 is prescribed for use by contractors in presenting claims resulting from the termination of either fixed-price or cost-reimbursement type contracts when such claims are computed on the total cost basis.

16–702.3 *Settlement Proposal for Cost-Reimbursement Type Contracts (DD Form 547).* DD Form 547 is prescribed for use by contractors in submitting claims resulting from the termination of cost-reimbursement type contracts.

16–702.4 *Settlement Proposal (Short Form) (DD Form 831).* DD Form 831 is authorized for use by contractors in submitting claims resulting from the termination of fixed price contracts when the total claim is less than $10,000.

16–702.5 *Inventory Schedules (DD Forms 542, 543, 544, 545, and 832).* The DD Form 832 (Termination Inventory Schedule E—Short Form) is prescribed for use by contractors to support settlement proposals submitted on DD Form 831 (for instructions on preparing DD Form 832, see 24-302.9). For other inventory schedule forms to support settlement proposals submitted on DD Forms 540, 541, and 547, see 16–818.

16–702.6 *Schedule of Accounting Information (DD Form 546).* DD Form 546 is prescribed for use by contractors in connection with settlement proposals (see 8–307.1).

16–703 Application for Partial Payment (DD Form 548). DD Form 548 is prescribed for use by contractors when applying for partial payments (see 8–213.1(a)).

16–704 Reserved.

16–705 Forms of Settlement Agreement. Use of Standard Form 30 (Amendment of Solicitation/Modification of Contract) is prescribed in 8–210 for termination settlement agreements. Appropriate texts are set forth in 8–805.

16–706 Instructions for Use of Termination Forms. DD Form 1114 consists of instructions for the use of contract termination settlement and inventory schedule forms.

(vii) To provide for the continued currency of acquired data in consonance with requirements.

(viii) To prevent the acquisition of duplicate or overlapping data pertaining to materiel, systems or services when data which would serve the same end has been or is being acquired by the Government from the same or other contractor.

(b) Except as set forth in 7-104.9(n), DD Form 1423 or its mechanized equivalent shall be used when data is required to be delivered under a contract, and shall constitute the sole contractual list of requirements for the amounts and kinds of data required. When DD Form 1423 is used, it will be completed and furnished to the contracting officer by the personnel responsible for determining the data requirements of the contract. The reverse side of the form contains instructions for offerors to follow in entering on the form the price group and estimated price for each data item. The identification of a data item in a standard, specification or similar document does not establish data requirements under a contract; nor does the identification of a data item included in an alteration to a Section VII clause constituting an approved deviation pursuant to 1-109 (and 9-202.3 when applicable). Government personnel are therefore cautioned that, except for the situations listed in 7-104.9 (n) and data called for by ASPR Section VII clauses included in the contract, the delivery of any data item can be assured only by listing it on the DD Form 1423. The clause set forth in 7-104.9(n) shall be used when the DD Form 1423 is used.

(c) In completing the DD Form 1423, the purchasing offices shall insure that block 7 thereon is checked whenever a DD Form 250 is required for shipment of exhibit line or exhibit subline items. A DD Form 250 shall always be required for exhibit or exhibit subline items, which are separately priced (NSP excluded) or where source inspection or acceptance is required.

(d) When both ASPR clause 7-104.62, "Material Inspection and Receiving Report" and a DD Form 1423 are to be included in a contract, special procedures are required for completing the form to avoid incurring unnecessary DD Form 250 preparation and processing costs. In order to mitigate the DD Form 250 costs associated with data, the individuals responsible for completing the DD Form 1423 shall consider, and use where feasible, the various techniques available in reducing DD Form 250 generation. Among the techniques available, where Inspection/Acceptance is at destination and multiple consignees are involved, is the one of splitting data requirements among two or more CLIN/ ELIN/ SUBLINE items. As an example, if there is a data requirement calling for a monthly report to be accepted at destination with copies to be provided multiple consignees, the requirement may be divided between two CLINs within the contract schedule or ELINs on the DD Form 1423. One of the CLINs/ ELINs would be established for the consignee where destination inspection/acceptance is necessary. The second of the CLINs/ ELINs would be established for the remaining consignees for this report. The second CLIN/ ELIN/ SUBLINE would require the preparation of only one DD Form 250 if inspection and acceptance for this CLIN/ ELIN were at origin in accordance with 1-304. This second CLIN/ ELIN/ SUBLINE shall contain, in Block 16 of the DD Form 1423, specific guidance or limitations regarding conditions pertaining to the nature of the inspection/acceptance function. Unless otherwise specified, the inspection/acceptance function at origin shall be limited to examination of: (1) type and kind, (2) quantity; and (3) condition. If the second CLIN/ ELIN/ SUBLINE does not require inspection and acceptance and it is not separately priced, a letter of transmittal may be used as an alternate to a DD Form 250.

16-816 Identical Bid Report for Procurement (Form DJ-1500). This form shall be used in reporting identical bids, pursuant to 1-114.

16-817 Abstract Forms. DD Forms 1501, 1501c, and 1501-1, Abstract of Bids, shall be used to record the bid or proposal evaluation information as required in 1-308, 2-403, and 3-109. In preparing these forms, the extra columns and the continuation sheet may be used to label and record such information as the procuring activity deems necessary.

16-818 Inventory Schedules (DD Forms 542, 543, 544, and 545). (For instructions on preparing these inventory schedules, see 24-302.9.) The following forms are prescribed for use by contractors to report contractor inventory for disposition and to support settlement proposals submitted on DD Form 540, 541, or 547:

(i) DD Form 542 (Inventory Schedule A—Metals in Mill Product Form) and DD Form 542c (Continuation Sheet);

(ii) DD Form 543 (Inventory Schedule B—Raw Materials) and DD Form 543c (Continuation Sheet);

(iii) DD Form 544 (Inventory Schedule C—Work in Process) and DD Form 544c (Continuation Sheet); and

(iv) DD Form 545 (Inventory Schedule D—Dies, Jigs, Fixtures, etc., and Special Tools) and DD Form 545c (Continuation Sheet).

16-819 Material Inspection and Receiving Report (MIRR) (DD Form 250 Series). DD Forms 250, 250c and 250-1 shall be used as required by 7-104.62 and Appendix I.

16-820 Transportation Data for IFB's and RFP's (DD Form 1653). This form, which will contain recommendations to the PCO concerning f.o.b. terms best suited for the procurement, and other suggested transportation provisions including mail and freight shipping information relative to proper points of consignment of supplies for inclusion in the IFB/RFP, shall be completed upon request of the PCO by the transportation specialist, for association with the appropriate purchase request. Mail and freight shipping information generally will be obtained from the Terminal Facilities Guides published by Military Traffic Management and Terminal Service (MTMTS). When appropriate, DD Form 1653 will also include information on combined port handling and transportation charges to be included in the IFB/RFP in connection with export shipments.

16-821 Reserved.

16-822 Evaluation of Transportation Cost Factors (DD Form 1654). This form permits procurement personnel to furnish basic information to the transportation office for development of transportation cost factors which shall be used by

(b) Approval authorities cited in (a) above shall not add firms to any selection list prepared in accordance with 18-402.2(d). If the firms on a submitted selection list are deemed to be unqualified or the list is considered inadequate for other reasons, the approving authority shall record the reasons and return the list through channels to the preselection board for the preparation of a revised list. However, the finding that certain firms on the selection list are unqualified shall not preclude approval of the list provided that a minimum of three firms remain. In such cases the reasons for finding a firm or firms unqualified shall be recorded and lists may be approved with respect to the three or more qualified firms remaining.

18-403 Architect-Engineer Qualifications and Performance Data.

18-403.1 *General.* Selection of architect-engineer firms shall be based on the effective utilization of qualifications and performance data as described below.

18-403.2 *Architect-Engineer Regions and Areas.* For the purposes of receiving and distributing architect-engineer qualification and performance data, the United States is divided into regions, and the rest of the world into general geographic areas. These regions and areas are described and delineated in a booklet entitled "How to Obtain Consideration for Architect-Engineer Contracts with the Department of Defense," which is published by the Office of the Assistant Secretary of Defense (Manpower, Reserve Affairs and Logistics) and is available from the Superintendent of Documents, Government Printing Office, Washington, D. C. 20402, or from DoD construction activities.

18-403.3 *Qualifications Data.*

(a) *Filing.* Firms desiring to be considered for architect-engineer contracts in a given region or area must file Standard Form 254, "Architect-Engineer and Related Services Questionnaire," and when applicable, Standard Form 255, Architect-Engineer and Related Services Questionnaire for Specific Project, (See 16-405.3(a)) with DoD construction activities listed in the booklet for that region or area. Firms are encouraged to submit annually an updated statement of qualifications and performance data on Standard Form 254. Architect-engineer firms shall normally be selected from the region or area in which the project is to be accomplished; however, if sufficient qualified firms are not available in a region or area for consideration for a particular contract, firms from other regions or areas shall be considered. Firms desiring to be considered for architect-engineer contracts in connection with ballistics and space systems should file qualification data with the offices administering this type of construction, as listed in the booklet.

(b) *Distribution, Classification, and Utilization.* Each office listed for a region or area shall maintain an architect-engineer qualifications data file for that region or area. Offices responsible for the construction of ballistics and space systems facilities, as listed in the booklet, shall maintain similar qualifications data files. Receiving offices shall review all Standard Forms 254 and 255, when applicable, filed by architect-engineers, including such forms received pursuant to announcements required by 1-1003.4(b)(2) and shall classify each firm with respect to:

(i) location;
(ii) specialized experience;
(iii) professional capabilities; and
(iv) capacity with respect to scope of work that can be undertaken.

All offices which have a responsibility for selecting architect-engineer firms shall utilize these complete data files in the required selection procedures, either through maintaining files of their own or by arranging for convenient access to the files of another office.

(c) All regional and area offices that maintain qualifications data files shall review and update the file of each architect-engineer firm at least once a year. The updating process should include:

(i) reviewing Standard Forms 254 and 255, when applicable, to assure that the firm is properly classified in accordance with (b) above;
(ii) recording any awards made to the firm in the past year (unless the office uses another method to assure that such award information is available and used during preselection and selection actions);
(iii) posting date of review; and
(iv) discarding any material that has not been updated within the past three years, if considered no longer pertinent.

18-403.4 *Performance Data.* For each contract over $10,000 awarded, a performance evaluation report shall be prepared by the cognizant construction activity, utilizing DD Form 1413, "Performance Evaluation — Architect-Engineer Professional Services Contractor." Such reports may also be prepared for contracts of lesser amounts. For contracts of over $10,000, the construction activity shall distribute the DD Form 1413 to all other offices within the region or geographical area as listed in the booklet "How to Obtain Consideration for Architect-Engineer Contracts with the Department of Defense" and to the Washington, D. C. headquarters of their respective construction activities. DD Form 1413 shall be filed and utilized in a manner similar to qualifications data (Standard Form 254).

This requirement is exempt from report control symbol pursuant to Section III.D.2, DoD Directive 5000.19.

18-404 Contractual Reports.

18-404.1 *Field Offices.* Field offices of the construction activities within each region (see 18-403.2) of the United States, less Alaska and Hawaii, shall furnish a quarterly report to each other and to their respective Washington headquarters of all architect-engineer contracts over $25,000 (except contracts involving classified projects) awarded during the quarter. Field offices of the construction activities within the geographical areas (see 18-403.2) of the rest of the world shall furnish such a quarterly report to their respective Washington headquarters only. Field offices responsible for the construction of ballistics and space systems facilities shall furnish similar reports to each other and to their respective Washington headquarters. The above reports shall be due within 15 days after the end of the quarter concerned and shall be cumulative within the calendar year.

18–405 Release of Information on Architect-Engineer Selections. After the required approvals for the selection have been obtained, information may be released by the contracting officer identifying only the architect-engineer firm selected, and describing the work in general terms, unless precluded by security considerations. If negotiations are terminated without consummating a contract, the contracting officer may release such information and state that negotiations will be undertaken with another (named) architect-engineer. When an award has been made, the contracting officer may release this information, but the estimated construction cost of the facilities involved shall not be divulged.

Part 5—Foreign Purchases and Construction in Foreign Countries

18–501 Construction in Foreign Countries.

18–501.1 *General.* Construction in foreign countries includes construction anywhere outside the United States. In contracts which are entered into with foreign contractors or are for performance in foreign countries, the term "United States" will appear before the word "Government."

18–501.2 *Technical Agreements.* When construction is contemplated in a foreign country, the Office of the Chief of Engineers, Department of the Army, or the Naval Engineering Facilities Command, Department of the Navy, as appropriate, should be invited to participate in the negotiations of any technical working agreement with a foreign government concerning the construction. This agreement negotiated between appropriate officials of the United States and the foreign government should, to the extent feasible and where not otherwise provided for in other agreements, cover all elements necessary for the construction required by the laws, regulations and customs of the United States and the foreign government, relating to:

(i) the acquisition of all necessary rights;
(ii) the expeditious, duty free importation of labor, material and equipment;
(iii) the payment of taxes applicable to contractors, personnel, materials and equipment;
(iv) the applicability of workmen's compensation laws and other labor laws to citizens of the United States, citizens of the host country and citizens of other countries;
(v) the provision of utility services;
(vi) the disposition of surplus materials and equipment;
(vii) the handling of claims and litigation; and
(viii) any other problems which can be foreseen and appropriately resolved by such agreement.

18–502 Labor.

18–502.1 *The Defense Base Act.* The Defense Base Act extends the applicability of the Longshoremen's and Harbor Worker's Compensation Act to certain classes of employees engaged in work outside the United States (see 10–403(a)). Where indigenous employees are subject to the compensation laws or comparable provisions of the host country for job-connected illness or injury, the contracting officer shall consider requesting a waiver of the Defense Base Act (see 10–403(b)).

18–502.2 *Labor Laws of Host Country.* Contractors shall comply with the applicable labor laws of the host country. Exemption from such laws shall be sought by means of treaty, executive agreement or express authorization from proper officials, where compliance with the laws is impractical or serves no useful purpose.

18–503 Materials. Purchase of materials, equipment and supplies for construction overseas shall generally be the responsibility of the contractor performing the work; but where necessary to comply with foreign law, or to avoid taxation, or to obtain other advantages, purchase may be by the United States. Contracting officers shall consider savings that may be obtained by exemptions from

(xi) availability from Government sources of industrial facilities or special test equipment (see Section XIII, Part 3);

(xii) whether consideration was given to the solicitation of small business and labor surplus area subcontract sources;

(xiii) the extent of compliance with Cost Accounting Standards in the awarding of subcontracts;

(xiv) whether the prime contractor has adequately and reasonably translated the Government's technical requirements in the prime contract;

(xv) whether the acquisition approach is in keeping with the risks involved and current policy; and

(xvi) prime contractor's assessment and disposition of subcontractors alternate proposals, if offered.

(b) In reviewing subcontracts, careful and thorough evaluation is particularly necessary when:

(i) the prime contractor's procurement system or performance thereunder is considered inadequate;

(ii) subcontracts are for items for which there is no competition or for which the proposed prices appear unreasonable (see 3-807.9(d));

(iii) close working arrangements or business or ownership affiliations exist between the prime and the subcontractor which may preclude the free use of competition or result in higher subcontract prices than might otherwise be obtained;

(iv) subcontracts are applicable to Major System Acquisition (as defined in 1-201.41) and the flow-down procedures of Department of Defense Directive 5000.1;

(v) a subcontract is being proposed at a price less favorable than that which has been given by the subcontractor to the Government, all other factors such as manufacturing period and quantity being comparable; or

(vi) a subcontract is to be placed on a cost-reimbursement, time and materials, labor-hour, fixed-price incentive, or fixed-price redeterminable basis.

When subcontracts have been placed on a cost-reimbursement, time and materials, or labor-hour basis, contracting officers should be hesitant to consent to the repetitive or unduly protracted use of such type of subcontracts and should follow the principles of 3-803(b).

(c) Consent to a subcontract or relief from the requirement for obtaining consent, by virtue of the approval of the contractor's procurement system, does not constitute a determination as to the acceptability of the subcontract price or the allowability of costs. However, it should minimize the requirement for retroactive review of subcontracts, except cost-reimbursement subcontracts, for the purpose of determining reasonableness of costs, unless there is some indication that the costs may be unreasonable. In all cases, costs resulting from such subcontracts shall be subject to the test of allocability.

(d) In consenting to cost reimbursement subcontracts, the contracting officer must insure that fees under such subcontracts never exceed the fees identified in 3-405.6(c)(2)

23-203 Disputes and Arbitration Provisions in Subcontracts.

(a) Consent by the contracting officer to a subcontract does not constitute approval of the terms and conditions of the subcontract. Nevertheless, the contracting officer shall not consent to a provision in the subcontract purporting to give the subcontractor the right to obtain a direct decision of the contracting officer or the right of direct appeal to the Armed Services Board of Contract Appeals. The Government is entitled to the management services of the prime contractor in adjusting disputes between himself and his subcontractors. The contracting officer should act only in disputes arising under the prime contract, and then only with and through the prime contractor, even if a subcontractor is affected by the dispute between the Government and the prime contractor. The contracting officer shall not participate in disputes between a prime contractor and his subcontractors.

(b) However, the contracting officer should not refuse consent to a subcontract, particularly under a cost-reimbursement contract, merely because it contains a clause giving the subcontractor, if he is affected by a dispute arising under the prime contract, an indirect appeal to the Armed Services Board of Contract Appeals through assertion of the prime contractor's right to take such an appeal, or through prosecution of such an appeal by the prime contractor on behalf of the subcontractor. Such a clause must not attempt to obligate the contracting officer or the Board to decide questions which do not arise between the Government and the prime contractor or which are not cognizable under the "Disputes" clause of the prime contract, and must not attempt to obligate the contracting officer to notify or deal directly with the subcontractor. However, such a clause may appropriately provide that the prime contractor and subcontractor shall be equally bound by the contracting officer's or the Board's decision on a dispute.

(c) The prime contractor and his subcontractor may agree to settle disputes by arbitration. The results of such arbitration and the cost resulting therefrom, however, are no more binding on the Government than are the results of a judicial determination or a voluntary settlement; they are subject to independent review and approval under the prime contract. The contracting officer shall not consent to provisions in subcontracts purporting to make the results of arbitration (or judicial determinations or voluntary settlements) binding on the Government.

23-204 Additional Contract Clauses. Additional contract clauses with respect to subcontracting with small business and labor surplus area concerns are set forth in Section VII and referenced in Section I, Parts 7 and 8.

SECTION XXIV—PERSONAL PROPERTY IN POSSESSION OF CONTRACTORS

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24-101.12 *Line item* means a single line entry on a reporting form from any one contract at any one location which indicates a quantity of property having the same description and condition code.

24-101.13 *Material.* (See 13-101.4.)

24-101.14 *Controlled substances* means any of the following:

(i) Narcotic (opium), depressant, stimulant (demerol), or hallucinogenic drug (marijuana) or substance;

(ii) any other drug or substance found by the Attorney General to require control as provided by Title II of the Comprehensive Drug Abuse Prevention And Control Act of 1970; or

(iii) any other drug or substance required to be controlled by the U.S. by international treaty, convention or protocol.

24-101.15 *Personal property* means property of any kind or any interest therein, except real property as defined in B-102.8 and vessels of the following categories: battleships, cruisers, aircraft carriers, destroyers, and submarines.

24-101.16 *Plant clearance* means all actions related to the screening, redistribution, and disposal of contractor inventory from a contractor's plant or work site. (Contractor's plant includes a Government facility when contractor-operated).

24-101.17 *Plant clearance officer* means the Government representative assigned the responsibility for plant clearance. He is an authorized representative of the contracting officer.

24-101.18 *Plant clearance period* means a period beginning with the effective date of the termination for convenience and ending, for each particular property classification (such as raw materials, purchased parts, and work in process) at any one plant or location, 90 days after receipt by the termination contracting officer of acceptable inventory schedules covering all items of that particular property classification in the termination inventory at that plant or location, or ending on such later date as may be agreed to by the termination contracting officer and the contractor. Final phase of a plant clearance period means that part of a plant clearance period after the receipt of acceptable inventory schedules covering all items of the particular property classification at the plant or location.

24-101.19 *Plant equipment* means personal property of a capital nature (consisting of equipment, machine tools, test equipment, furniture, vehicles, and accessory and auxiliary items, but excluding special tooling and special test equipment) used or capable of use in the manufacture of supplies or in the performance of services or for any administrative or general plant purpose.

24-101.20 *Production scrap* means material generated as a scrap in the normal production processes having only a remelting or reprocessing value, including textile clippings, metal clippings, chippings, borings, turnings, and similar types of scrap, including faulty castings and forgings.

24-101.21 *Public body* means any State, Territory, or possession of the United States, any political subdivision thereof, the District of Columbia, the Commonwealth of Puerto Rico, any agency or instrumentality of any of the foregoing, any Indian tribe, or any agency of the Federal Government.

24-101.22 *Radioactive material* means any item or material which is in itself radioactive or which is contaminated with radioactive material giving readings in excess of background radiation as measured on an instrument designed specifically for the type of radiation being emitted.

24-101.23 *Reportable property* means contractor inventory which must be reported or screening in accordance with this Section prior to disposal as surplus.

24-101.24 *Reporting activity* means the Government activity which initiates Standard Form 120, Report of Excess Personal Property, or transmits DD Form 1342s, DoD Property Record Supplementary Data, to the Defense Industrial Plant Equipment Center (DIPEC).

24-101.25 *Salvage* means property which because of its worn, damaged, deteriorated, or incomplete condition, or specialized nature, has no reasonable prospect of sale or use as serviceable property without major repairs or alterations, but which has some value in excess of its scrap value.

24-101.26 *Scrap* means property that has no value except for its basic material content.

24-101.27 *Screening Completion Date (SCD)* means that date on which all screening required by this Section is to be completed, including screening within the Government and donation screening.

24-101.28 *Service educational activity* means any educational activity designated by the Assistant Secretary of Defense (Manpower) as being of special interest to the Armed Services, such as Maritime Academies or Military, Naval, Air Force, Coast Guard preparatory schools.

24-101.29 *Serviceable or usable property* means property that has reasonable prospect of use or sale either in its existing form or after minor repairs or alterations; only property in Federal Condition Codes A1, A2, A4, A5, B1, B2, B4, B5, F7, or F8 (see 24-302.9).

24-101.30 *Special tooling.* (See 13-101.5).

24-101.31 *Special test equipment.* (See 13-101.6).

24-101.32 *Surplus property* means contractor inventory not required within the Department of Defense or by other Federal agencies.

24-101.33 *Termination inventory* means any items of physical property purchased, supplied, manufactured, furnished, or otherwise acquired for performance of the terminated contract and properly allocable to the terminated portion of the contract. The term does not include any facilities, special test equipment, material, or special tooling which are subject to a separate contract or a special contract provision governing the use or disposition thereof. Termination inventory may include contractor-acquired property and Government-furnished property as defined in 24-101.4 and 24-101.9.

24-101.34 *Contractor Inventory Redistribution System (CIRS)* means the special procedures for redistribution screening as set forth in 24-205.4(h).

24-102 Duties and Responsibilities of Plant Clearance Officer. The plant clearance officer shall be responsible for:

(i) providing the contractor with instructions and advice regarding the proper preparation of inventory schedules (see 24-302.9);

(ii) accepting or rejecting inventory schedules and DD Form 1342;

(iii) conducting or arranging for inventory verification and preparation of DD Form 1642, Inventory Verification Survey;

(iv) initiating prescribed screening and effecting resulting transfer and donation actions;

(v) final plant clearance of contractor inventory;

(vi) pre-inventory scrap determinations, as appropriate;

duties include any functional or supervisory responsibility for or within the Defense Property Disposal Program, or for the disposal of contractor inventory; or (3) an agent, employee or immediate member of the household of personnel in (1) and (2) above.

(iii) the authority of a contractor to approve a sale, purchase, or retention at less than cost, by a subcontractor, and the authority of a subcontractor to sell, purchase, or retain at less than cost, contractor inventory with the approval of the next higher-tier contractor does not include authority to approve:

(A) a sale by a subcontractor to the next higher-tier contractor or to an affiliate (see 2-201(a)B(ii) and (b)(xvii)) of such contractor or of the subcontractor; or

(B) a sale, purchase, or retention at less than cost, by a subcontractor affiliated with the next higher-tier contractor.

Each excluded sale, purchase, or retention requires the written approval of the plant clearance officer.

24-202 Contractor-Acquired Property—Purchase or Retention at Cost, or Return to Suppliers.

24-202.1 *Purchase or Retention at Cost.*

(a) Contractors shall be encouraged to purchase or retain contractor-acquired property at cost. No part of the cost of property so purchased or retained shall be included as a claim for reimbursement against the Government. Under cost-reimbursement type contracts, appropriate adjustments shall be made for previously reimbursed costs. When a contractor purchases or retains any allocable contractor-acquired property for use in other continuing Government contracts or commercial operations, handling and transportation charges necessitated by the purchase or retention of such property may be considered as allowable cost (included in contractor's settlement proposal as other costs in case of termination); *provided*, that such costs are reasonable.

(b) When property purchased or retained is for use on a continuing Government contract and is not in excess of the quantitative requirements for completion of that contract, that property shall be considered properly allocable to the continuing contract if that contract is subsequently terminated, even though its procurement would otherwise constitute undue anticipation of production schedules. If, as a result of the purchase or retention of property from a terminated contract for use on other Government contracts, the contractor terminates subcontracts under the other Government contracts, the charges incurred by reason of the termination of such subcontracts may be included as an allocable cost under the contract which generated excess property. When diversion of material in this manner is planned, a careful cost evaluation shall be made to assure that these costs are reasonable in comparison to the cost of property to be diverted.

24-202.2 *Return of Property to Suppliers.* Contractors are authorized and shall be encouraged to return allocable quantities of contractor-acquired property to suppliers for full credit less the supplier's normal restocking charge or 25 percent of cost, whichever is less. Contractors may be reimbursed for reasonable transportation, handling, and restocking charges with respect to the property so

returned, but shall not be reimbursed for the cost of the property returned to suppliers in accordance with this paragraph. Under cost-reimbursement type contracts, appropriate adjustments shall be made for previously reimbursed costs.

24-202.3 *Cost-Reimbursement Type Contracts.* Under cost-reimbursement type contracts, property purchased or retained by the contractor or returned to suppliers, in accordance with 24-202.1 and 24-202.2 above, shall not be reported on inventory schedules. Individual transaction approvals shall not be required, but such transactions shall be subject to review on a periodic basis by the administering activity in coordination with the contract auditor to assure that the Government's interest is fully protected.

24-203 Inventory Schedules. See 24-302.9.

24-203.1 *Withdrawals from Inventory Schedules.* If at any time prior to final disposition any items of contractor-acquired property listed in the contractor's inventory schedules becomes reasonably usable on other work of the contractor without loss to him and this fact is known to the contractor, he must purchase or retain such items at cost in accordance with 24-202, and shall amend his inventory schedules and his claim accordingly. Upon notification to the plant clearance officer, the contractor may similarly purchase or retain at cost any other items of property included in his inventory schedules. Withdrawal of any Government-furnished property included in inventory schedules is subject to written approval by the plant clearance officer. If withdrawal occurs after screening has started, the plant clearance officer shall immediately notify the appropriate screening activity.

24-203.2 *Acceptance of Inventory Schedules.*

(a) Upon receipt of inventory schedules from the contractor, the plant clearance officer shall review the schedules and determine their acceptability. If the schedules are acceptable, the plant clearance officer shall within 15 days execute and transmit to the contractor a DD Form 1637, Notice of Acceptance of Inventory. If any inventory schedule or DD Form 1342 is found to be inadequate, the plant clearance officer shall notify the contractor in writing of the deficiencies within 15 days of the receipt of such schedules. The contractor shall be required to correct or supplement the schedules or DD Form 1342 as to the items which are deficient. Inventory schedules shall not be rejected if the information contained therein is adequate for disposal purposes, even if complete cost data on work in process are not available. Rejection of an inventory schedule shall be limited when possible to specific items thereon and shall not necessarily render the entire schedule unacceptable. Should substantial errors develop which were not apparent from termination inventory schedules previously deemed acceptable, the final phase of a plant clearance period shall not commence until corrected schedules have been submitted, unless the plant clearance officer determines that no unwarranted delay in disposal operations was occasioned thereby.

(b) *Verification of Inventory.* When property is reported excess by a contractor it is necessary that the interests of the Government be protected by assuring that property is physically, quantitatively, and technically allocable to the contract in question and cannot reasonably be diverted to other work of the contractor. The plant clearance officer, who is responsible for disposal of contractor inventory, is also responsible for the adequacy of allocability reviews. In carrying out this responsibility, the plant clearance officer shall establish close coordination with and request the assistance of the contract auditor, quality assurance

representative, production specialist, price analyst, property administrator, or other qualified personnel, as appropriate, when such assistance is necessary. It will be the plant clearance officer's responsibility to assure that adequate verification is accomplished to determine that:

(i) inventory is present at the location indicated;
(ii) it is allocable to the modified or terminated contract or the terminated portion thereof;
(iii) quantity and condition are correctly stated; and
(iv) the contractor has endeavored, where practicable, to divert to other work or to return contractor-acquired property to supplier for appropriate credit.

Verification may be performed by resident Government personnel prior to the formal submission of inventory schedules to the plant clearance officer. Screening prescribed in 24-205 shall not be withheld after receipt of acceptable inventory schedules pending completion of inventory verification. The results of the verification shall be recorded on DD Form 1642, Inventory Verification Survey, in accordance with instructions for performing inventory verification set forth in 24-302.1. A copy of the completed survey form shall be furnished the appropriate contracting officer. Upon completion of inventory verification, the plant clearance officer shall take immediate action to correct any discrepancies noted, including coordination with the contractor, contracting officer, or property administrator, and screening activities, as appropriate. When a controversy arises with respect to allocability, the contractor shall be required to substantiate his position with appropriate documentation which the plant clearance officer shall evaluate and forward to the contracting officer with his recommendations for decision.

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representative, production specialist, price analyst, property administrator, or other qualified personnel, as appropriate, when such assistance is necessary. It will be the plant clearance officer's responsibility to assure that adequate verification is accomplished to determine that:

(i) inventory is present at the location indicated;
(ii) it is allocable to the modified or terminated contract or the terminated portion thereof;
(iii) quantity and condition are correctly stated; and
(iv) the contractor has endeavored, where practicable, to divert to other work or to return contractor-acquired property to supplier for appropriate credit.

Verification may be performed by resident Government personnel prior to the formal submission of inventory schedules to the plant clearance officer. Screening prescribed in 24-205 shall not be withheld after receipt of acceptable inventory schedules pending completion of inventory verification. The results of the verification shall be recorded on DD Form 1642, Inventory Verification Survey, in accordance with instructions for performing inventory verification set forth in 24-302.1. A copy of the completed survey form shall be furnished the appropriate contracting officer. Upon completion of inventory verification, the plant clearance officer shall take immediate action to correct any discrepancies noted, including coordination with the contractor, contracting officer, or property administrator, and screening activities, as appropriate. When a controversy arises with respect to allocability, the contractor shall be required to substantiate his position with appropriate documentation which the plant clearance officer shall evaluate and forward to the contracting officer with his recommendations for decision.

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24-203.2
ARMED SERVICES PROCUREMENT REGULATION

24–204 Scrap.

24–204.1 *General.* Scrap need not be itemized on inventory schedules if (i) the material is physically segregated in the contractor's plant, and (ii) the contractor submits a statement describing the material generally, setting forth its approximate cost, and giving such other information as may be necessary for the plant clearance officer to determine whether the property is scrap. Promptly after the submission of inventory schedules, by the contractor, the plant clearance officer shall review, or cause to be reviewed the contractor's treatment of any items of contractor inventory as scrap. The review shall include a careful examination of the inventory schedules and, in appropriate cases, physical inspection of the property involved. Prior to authorizing disposal of items as scrap, the plant clearance officer shall obtain such approval as may be required.

24–204.2 *Pre-Inventory Scrap Determinations.* The contractor may request the plant clearance officer to make a pre-inventory scrap determination of inventory considered by the contractor to be without value except as scrap. These pre-inventory scrap determinations shall be based on on-site surveys. If the contractor's scrap recommendation is approved, the contractor may make a single descriptive entry on an inventory schedule covering that property and indicating its approximate total cost. If the plant clearance officer determines that any of the property listed by the contractor as scrap is serviceable, usable, or salvable, the contractor shall, in accordance with this determination, submit appropriate inventory schedules. If the determination is made subsequent to the submission of a scrap inventory schedule, the contractor shall be required to submit revised inventory schedules in proper form.

24–204.3 *Segregation.* Property determined to be scrap shall be segregated by the contractor to the extent necessary to assure the highest net proceeds. In appropriate cases, when approved by the plant clearance officer, these sales may be consolidated with the contractor's sales of scrap generated from his other work and, in such cases, the scrap warranty required by 24–204.5 may be waived at the discretion of the plant clearance officer.

24–204.4 *Contractor's Approved Scrap Procedure.*

(a) When a contractor has an approved scrap procedure, certain property may be routinely disposed of in accordance with that procedure and not processed under this Section. Production scrap, as defined in 24–101.20, and production spoilage, may be disposed of through the contractor's approved scrap procedure. In addition, worn, broken, mutilated, or otherwise rejected parts excess to overhaul and repair contracts, may be similarly processed with the approval of the plant clearance officer.

(b) A plant clearance case shall not be established for property which is disposed of through the contractor's approved scrap procedure.

(c) The contractor's scrap and salvage procedures, particularly the sales aspects thereof, shall be reviewed by the plant clearance officer prior to its approval by the property administrator. The plant clearance officer shall assure that the procedure contains adequate requirements for inspection and examination of items to be disposed as scrap. When the contractor's approved scrap procedure does not require physical segregation and disposition of Government- owned from contractor-owned scrap, care shall be exercised to assure that a contract change, which generates a large quantity of property, does not result in an inequitable return to the Government. In those cases, a determination shall be made as to whether separate disposition of Government scrap would be appropriate.

(d) Scrap, other than that disposed of through the contractor's approved scrap procedure, shall be reported on appropriate inventory schedules for disposition in accordance with the provisions of this Section.

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(e)(1) Silver, gold, platinum, palladium, rhodium, iridium, osmium and ruthenium; scrap bearing such metals; and items containing recoverable quantities thereof will be reported to the Defense Property Disposal Service, DPDS-R, Federal Center, Battle Creek, Michigan 49016, for disposition instructions.

(2) Precious metals shall be packaged in nonporous, smooth containers in a manner to prevent loss through leakage or damage to the containers. (Glass containers shall *not* be used.) Grindings or sweepings shall not be packaged in paper or wooden containers as loss occurs due to adhesion of particles. Containers shall be marked to show the type of precious metals contained therein.

(3) The shipping document shall indicate the net weight of each item to the nearest ounce (troy or avoirdupois). Shipment shall be made by the most economical means available, consistent with adequate safeguards to prevent loss or theft.

(4) When the determination is made that precious metal recovery is not feasible, the material in (e)(1) above shall be disposed of through normal procedures. The sales return shall not be less than the scrap value of the precious metal(s) contained therein.

24–204.5 *Scrap Warranty.*

(a) If contractor inventory is sold as scrap, including sale to the holding contractor, a scrap warranty in the form outlined in DD Form 1639, Scrap Warranty, shall be included as a special condition of sale, unless the requirement is waived pursuant to (d) below.

(b) The scrap warranty may be released on behalf of the Government by the administrative contracting officer (TCO for termination inventory), if, as consideration for the release, the Government is paid the difference between (i) the price for which the material was sold as scrap, and (ii) an amount not less than that which the material could reasonably be expected to bring if it were sold at a fair and reasonable price for purposes other than use as scrap. The release of the scrap warranty shall be given by the Government and the consideration paid to the Government, even though the contract containing the warranty was not made directly with the Government.

(c) In the event of resale of any material subject to a scrap warranty, the seller is required to obtain an appropriate scrap warranty from the purchaser. Upon tender of this warranty to the Government, the seller shall be released by the Government from liability under his own warranty.

(d) The scrap warranty requirement may be waived by the plant clearance officer in circumstances described in 24-204.3 and whenever it can be clearly established that such a waiver would not adversely affect the Government's interest. A written justification supporting the waiver shall be prepared and placed in the case file.

24-205 Screening of Contractor Inventory.

24-205.1 *General.*

(a) To promote maximum utilization within the Government, serviceable or usable property included in the contractor's inventory schedules shall be screened prior to disposition by donation or sale. The plant clearance officer shall arrange, in such a manner as to avoid interruption of the contractor's operations, for physical inspection of such property at the contractor's plant if requested by prospective transferees. All transfers of property within the Department of Defense or other agencies of the Government shall be without reimbursement. Except for termination inventory, costs incident to transfers, including packing, crating, preparation for shipment, loading and transportation, which are not the responsibility of the contractor, shall be borne by the transferee. (Costs incident to the movement of industrial plant equipment under the direction and control of the Defense Industrial Plant Equipment Center (DIPEC) shall be borne by the Defense Supply Agency.)

(b) Except as set forth in (c) and (d) below, screening, including a 15-day donation screening, shall be in accordance with 24-205.2 and 24-205.3, and shall be completed within a 90-day period, beginning with the date the plant clearance officer receives acceptable inventory schedules from the contractor. This 90-day period is broken down into two segments. During the first through the 75th day, screening required by 24-205.2(a) and (b) and 24-205.3(a), (b) and (c) is accomplished. The 75th day shall be designated as the automatic release date (ARD) by the plant clearance officer. Screening for the 76th through the 90th day required by 24-205.2(c) and 24-205.3(d) completes the 90-day screening cycle. The full 90-day period shall be designated as the Screening Completion Date (SCD). Plant clearance officers will designate two dates on all screening documents. The 75th day as the ARD and the 90th-day as the SCD, neither of which shall be extended.

(c) Except for Government-furnished property, subcontractor termination inventory to which 8-209.4 applies, is not subject to this paragraph 24-205.

(d) Unless otherwise indicated, or unless the contracting officer determines in individual cases that screening of such property

is desirable, the following categories of contractor inventory are exempt from the screening requirements of 24-205.2:

(i) serviceable or usable property with a line item acquisition cost of $500 or less shall not be screened in accordance with 24-205.2, except that property of a type listed in (f) below shall be screened by the procuring and/or requiring Department in accordance with 24-205.2(a), and except that property reported on DD Forms 543 and 832 shall be screened under 24-205.4(h); property should not be listed as separate line items (as defined in 24-101.12) solely for the purpose of avoiding mandatory screening requirements. Further, when a contractor reports substantially similar items on an inventory schedule, but lists them as separate line items due to different property control identification or assembly numbers, serial numbers, minor variations in condition code or unit cost, or other insignificant or minor reasons, these items will be grouped on the schedule. If the cost of this group of items is more than $500, they will be screened in accordance with 24-205.2. The screening activity shall be informed as to reasons for screening items having an "apparent" line item value exempting them from screening;

(ii) property in condition codes 3, 6, 9, X, and S will not be considered as serviceable or usable property;

(iii) serviceable or usable subcontractor termination inventory to which 8-209.4 applies, with the exception of DIPEC-controlled industrial plant equipment, to which 24-205.3 applies;

(iv) work in process listed on DD Form 544; and

(v) when the aggregate of all schedules to be reported by the contractor has an acquisition cost of $2,500, or less and represents the total inventory to be reported under a specific claim or contract.

(e) Listings of property exempt from formal screening in accordance with paragraph (d) above, with the exception of (d) (iii) shall be maintained in a property screening file for a period of 30 days and made available for the first 15 days for selection by General Services Administration representatives for Federal utilization purposes, and for the second 15 days, for selection for donation purposes in accordance with 24-207. Items selected either for Federal utilization or donation may be disposed of in accordance with 24-206 if shipping instructions are not received within 40 days after date of selection in the case of Federal utilization, or from the start of the donation screening period in the case of donation.

(f) The following categories of contractor inventory are subject to the screening requirements of 24-205.2(a):

(i) serviceable or usable special tooling;

(ii) serviceable or usable special test equipment (see 24-205.4(b) for additional screening procedures);

(iii) items which the contract directs to be screened will be screened as provided by the terms of the contract, irrespective of line item dollar value or condition code;

(iv) items on which the plant clearance officer determines that screening is desirable. In this event, the screening activity will be provided

complete and specific reasons for screening items normally exempt from screening; and

(v) perishables, property bearing a military security classification, and property dangerous to public health or safety.

(g) Upon completion of screening in accordance with 24-205.2(a), property cited in (f) above, with the exception of (f) (v), will be subject to the provisions of (e) above.

(h) Automatic data processing equipment, including that on lease in which the Government is entitled to rental benefits, shall be screened in accordance with 24-205.8.

(i) Contractor inventory located in foreign countries does not require screening with General Services Administration (GSA) in accordance with 24-205.2 and 24-205.3.

24-205.2 *Procedure.*

(a) *First Through 30th Day.* Promptly upon receipt of acceptable inventory schedules from the contractor, serviceable or usable property shall be screened within the procuring Department (see 5-1101.4) and the requiring Department (see 5-1101.3) if such Department is not the procuring Department. The requiring Department shall have first priority for retention of listed items. Such screening shall be completed within 30 days or less. The schedules shall be transmitted with Standard Form 120, Report of Excess Personal Property, reflecting the ARD and SCD and appropriately identified as contractor inventory.

(b) *31st Through the 75th Day.* Four copies of the inventory schedules reflecting deletions of all retained items shall be mailed or otherwise delivered by the plant clearance officer to the General Services Administration Office serving the region in which the property is located, not later than the 31st day from and including the day the acceptable schedules were received by the plant clearance officer. The schedules shall be transmitted with Standard Form 120, Report of Excess Personal Property, reflecting the ARD and SCD and appropriately identified as contractor inventory. At the time of transmittal to the General Services Administration, information copies of the revised inventory schedules shall be forwarded to the other Departments whenever aeronautical or electronic material and equipment is involved. When requests for transfers are received from the procuring or requiring Department after the 31st day and prior to receipt of General Services Administration transfer order, the plant clearance officer shall immediately notify the General Services Administration Office that the items have been withdrawn and are no longer available for General Services Administration screening. Notification shall include identification of the applicable Standard Form 120, the contractor's name, location, and contract number. The General Services Administration will prepare and issue circulars and catalogs to all agencies of the Government within the region. Property selected as a result of reviewing the General Services Administration circulars or catalogs will be requested from the General Services Administration Office that issued the circular or catalog. Department of Defense activities requesting listed property will have priority on a "first come-first served" basis for such property through the 45th day. Thereafter, the General Services Administration will honor requests for any agency of the Government for transfer of property on a "first come-first served" basis. Urgent Department of Defense requirements after the 45th day will be honored ahead of other

agency requests. The General Services Administration will transmit approved orders and shipping instructions for property to be transferred to the Department of Defense activities from which it received the inventory schedules. Such orders and instructions shall be promptly honored and delivery authorized.

(c) *76th Through 90th Day.* During this period the General Services Administration will provide for the screening of all remaining property by eligible donees for possible donation (see 24-207).

24-205.3 *Procedures for Industrial Plant Equipment.*

(a) *Reporting Idle Industrial Plant Equipment.* Industrial plant equipment, identified in 13-312 and having an acquisition cost of $5,000 or more, shall be listed on DD Form 1342, DoD Property Record (see B-306.1, C-306.1 and F-200.1342). The DD Form 1342 shall be prepared by the contractor and submitted to the assigned Government property administrator for appropriate review and transmittal to the plant clearance officer. If the industrial plant equipment has numerically controlled features, the contractor shall prepare and submit DD Form 1342, Section VI (page 2), Numerically Controlled Machine Data (see F-200.1342). Upon receipt of acceptable DD Form 1342, the plant clearance officer will designate the 75th day from that date as the ARD, with the 90th day from that date as the SCD. The ARD will be entered in block 24 of the DD Form 1342 and shall not be extended, except as provided in (e) below. The plant clearance officer will forward two copies of the DD Form 1342 to the Defense Industrial Plant Equipment Center, Memphis, Tennessee 38114, for all industrial plant equipment in condition codes other than "X." Condition code "X" industrial plant equipment shall be processed in accordance with 24-205.1(e). The DD Form 1342 shall be forwarded to DIPEC within 15 working days after becoming idle. No other distribution of this form will be made by the plant clearance officer.

(b) *Screening—First Through 30th Day.* DIPEC shall screen excess industrial plant equipment against all requirements submitted by Department of Defense activities, including Department of Defense reserve requirements, with priority being given to requirements of the owning Department through the 30th day. DIPEC will issue a shipping instruction containing appropriate accounting, funding, transportation, routing recommendations, and preservation instructions for items selected to the appropriate contract administration office.

(c) *Screening—31st Through 75th Day.* On the 31st day, DIPEC will forward excess data to the applicable General Services Administration regional office for Federal utilization screening through the 75th day. During the period from the 31st through the 75th day, the General Services Administration will approve requests from any agency of the Government on a "first come-first served" basis and will approve and forward transfer orders containing appropriate accounting, funding, transportation, routing recommendations, and preservation instructions to the appropriate contract administration office. The General Services Administration will forward copies of the approved transfer orders to DIPEC.

(d) *Screening—76th Through 90th Day.* During this period the General Services Administration will provide for the screening of all remaining industrial plant equipment for possible donation. The General Services Administration will

receive and approve donation applications for industrial plant equipment and will forward approved donation applications, containing appropriate accounting, funding, transportation, routing recommendations, and preservation instructions to the appropriate contract administration office. The General Services Administration will forward copies of the approved donation applications to DIPEC.

(e) If a Department of Defense requirement develops after the 90th day and the item is still available the item will be shipped against such requirement, unless the plant clearance officer has justified and compelling reasons for not making the shipment.

(f) Items of plant equipment with an acquisition cost of less than $5,000, and items of plant equipment with an acquisition cost of more than $5,000 not identified in 13-312, shall not be reported to DIPEC but shall be reported and screened in accordance with 24-205.

(g) The plant clearance officer shall, when IPE has been transferred, donated, sold, destroyed, abandoned, or other disposition taken, assure that the contractor prepares a DD Form 1342 for submission to DIPEC through the Property Administrator within 15 working days. In the case of a transfer of the IPE, assure that the Shipment Status Card or a copy of the completed shipping document is sent to DIPEC.

24-205.4 *Special Screening Procedures.*

(a) *General.* For the special categories of property identified below, standard screening requirements in 24-205 are superseded or modified by the procedure set forth for each category.

(b) *Standard Components of Special Test Equipment.*

(1) Contractors reporting special test equipment for disposal which contain standard, general or multipurpose components will adequately describe the composite unit to clearly reflect its capability and will further list and describe, in sufficient detail to permit screening all such standard components which can be economically removed and reused.

(2) In the event the contractor has a continuing requirement for the standard components to meet other approved special test equipment or facilities requirements, he shall annotate the DD Form 545 to indicate his requirement for such standard components. Screening shall be accomplished in accordance with 24-205.2(a) and the screening activity shall be requested to advise whether they have a requirement for the composite unit or any of the standard components which have not been annotated as being required by the contractor. If the composite unit is not required by the procuring or requiring department (see 24-205.2(a)), the contractor shall have first priority for those standard components which have been approved for transfer by the administrative contracting officer.

(3) Standard components, not categorized as industrial plant equipment, which have not been selected by the contractor or the procuring or requiring departments shall be screened in accordance with 24-205.2(b). If the standard components are categorized as industrial plant equipment and they can be economically removed and reused, and have not been annotated for retention by the contractor, DD Form 545 shall be submitted to DIPEC for screening as industrial plant equipment in accordance with 24-205.3(b), (c) and (d).

(4) Standard components shall not be removed from the composite unit until the requirements for the items have been established. If no requirements exist, the composite units shall be disposed of in accordance with 24-206 and 24-207.

(5) Those items categorized as industrial plant equipment approved for transfer by the administrative contracting officer to fill continuing facilities requirement, will be reported to DIPEC on DD Form 1342 under the procedures prescribed on the facilities reporting.

(c) *Nuclear Materials.*

(1) The possession, use, and transfer of certain nuclear materials are subject to the controls of the United States Nuclear Regulatory Commission (NRC) pursuant to the Atomic Energy Act of 1954, as amended. The materials are:

(i) *by-product material*—meaning any radioactive material (except special nuclear material) yielded in or made radioactive by exposure to the radiation incident to the process of producing or utilizing special nuclear material (see NRC Regulation 10 CFR, Part 30);

(ii) *source material* meaning—

(A) uranium, thorium, or any other material which is determined by NRC pursuant to the provisions of the Atomic Energy Act of 1954, as amended, to be source material, or

(B) ores containing one or more of the foregoing materials, in such concentration as the NRC may, by regulation, determine from time to time (see NRC Regulation 10 CFR, Part 40); and

(iii) *special nuclear material* meaning—

(A) plutonium, uranium enriched in the isotope 233 or in the isotope 235, and any other material which the NRC, pursuant to the provisions of the Atomic Energy Act of 1954, as amended, determines to be special nuclear material, or

(B) any material artificially enriched by any of the foregoing (see NRC Regulation 10 CFR, Part 70).

(2) Excess nuclear material in the categories described above shall be screened with the procuring activity. If there are no requirements, the ultimate method of disposal shall be dependent upon the license issued by the U.S. Nuclear Regulatory Commission or the respective States and pertinent Federal and Service Regulations. Assistance may be solicited on an as needed basis from the following activities having overall knowledge and responsibility for disposal of radioactive material within their respective services:

(i) Army: Commanding General
U. S. Army Materiel Development and Readiness Command
5001 Eisenhower Avenue
Alexandria, Virginia 22333

(ii) Navy: Primary support bureau, command or office.

(iii) Air Force: San Antonio Air Logistics Center
ATTN: MM
Kelly Air Force Base, Texas 78241

(iv) Marine Corps: Commandant of the Marine Corps
Code: LMM
Headquarters, USMC
Washington, D. C. 20380

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(v) Defense Logistics Agency: Appropriate Defense Supply Center initiating the procurement contract.

(vi) National Aeronautics and Space Administration: Headquarters, National Aeronautics and Space Administration, CODE: NIE Washington, D. C. 20546

(vii) Defense Nuclear Agency — Director of Logistics, Code OALE Washington, D. C. 20305

(d) *Reserved.*

(e) *Printing Equipment* determined to be excess to a contract shall be reported for screening in accordance with 24-205.2 It shall be the responsibility of the procuring or requiring Military Department to report all printing equipment excess to its requirements to the Congressional Joint Committee on Printing within the screening period defined in 24-205.2(a). If no requirements exist, the reporting activity shall submit the listing of printing equipment to the General Services Administration for further utilization screening in accordance with 24-205.2(b).

(f) *Motor Vehicles.* When reporting vehicles assigned to Federal Supply Groups 23, 24, and 38 for screening pursuant to 24-205.2, the estimated one-time cost of repairs (parts and labor) will be inserted in block 18b and used to assign a condition code for insertion in block 18c of Standard Form 120

(g) *Contractor Inventory of Civilian Agencies.* Contractor inventory (including industrial plant equipment) excess to Federal civilian agency contracts being administered by the Department of Defense shall be reported by the plant clearance officer to the owning civilian agency for the first 30 days for a determination of requirements. Inventory not required by the civilian agency shall then be reported to the applicable General Services Administration Regional Office in accordance with 24-205.2(b).

(h) *Contractor Inventory Redistribution System (CIRS).* Serviceable and usable contractor inventory of the type listed on DD Forms 543, Inventory Schedule B or DD Forms 832, Inventory Schedule E, having a National Stock Number (NSN) and a line item acquisition value (acquisition value of each unit times the number of units) in excess of $50, or having no NSN and a line item acquisition value in excess of $500 shall be processed as follows:

(i) the 90-day screening period normally applies and the plant clearance officer establishes the ARD and SCD; and

(ii) two copies of the DD Form 543, DD Form 832, or authorized substitutes will be transmitted by Standard Form 120 to the Defense Industrial Plant Equipment Center (DIPEC), Attn: DIPEC-SSB; and

(iii) DIPEC will return an annotated copy of each DD Form 543 or 832 received to the plant clearance officer with a Notification of Receipt form attached. This

notification will inform the plant clearance officer which items were processed, were not accepted, or are now available for local area screening; and

(iv) property submitted for CIRS-processing will be subjected to a 30-day DoD screening period. The requiring activity within the requiring Department shall have requisitioning priority over other activities within that requiring Department and over the procuring Department when the requiring and procuring Departments are different. DIPEC reports items not requisitioned to the General Services Administration on the 31st day, unless the plant clearance officer provided special instructions to the contrary on the Standard Form 120; and

(v) DIPEC will issue shipping instructions on DD Form 1348-1 to the plant clearance officer. The plant clearance officer shall reroute requisitions received directly from the requisitioner to DIPEC during the first 45 days of the screening period. Requisitions received by DIPEC or by the plant clearance officer after the 45th day of the screening cycle shall be forwarded directly to the General Services Administration; and

(vi) the plant clearance officer will instruct the contractor to send one copy of the completed DD Form 1348-1 to DIPEC, Attn: DIPEC-SSB, when shipment has been made; and

(vii) unless the contracting officer directs otherwise, motor vehicles generated under Army and Navy contracts shall not be screened through CIRS.

24-205.5 *Waiver of Screening Requirements.* An exception from screening requirements with respect to excess contractor inventory may be authorized by the Secretary of the procuring department or his designee *provided*

(i) compelling circumstances clearly in the best interest of the Government justify an exception, and

(ii) the procuring department prepares a written notice, including determinations and findings, and furnishes copies thereof to the Administrator, General Services Administration, the Contract Administration Office, and, if plant equipment within the scope of DIPEC is involved, to the Commander, Defense Industrial Plant Equipment Center, Memphis, Tennessee, 38114. Such notice shall be distributed to these activities ten days in advance of the effective date of the exception.

24-205.6 *Local Screening.* Except for classified property or property which is dangerous to public health, contractor inventory which is exempt from formal

of its non-specific meaning to the trade, the term "salvage" risks downgrading of the property in the bidder's viewpoint and shall not be used.

(e) *Lotting* shall be in accordance with the following:

(i) unused items shall be lotted by make or manufacturer, except when quantities or dollar values are small;

(ii) commercially similar items shall be lotted together when practicable;

(iii) used and unused items shall be lotted separately, unless the quantity, value, or nature is such that it is uneconomical to sell separately;

(iv) within the bounds of economical considerations, the size of lots shall be influenced by an effort to encourage bidding by small businesses or individuals;

(v) no lot shall be so small that the administrative cost of selling will be disproportionate to the anticipated proceeds;

(vi) an alternate bid for groups of items or for the entire offering may be solicited by use of an additional item described as follows:

Item _____ (Alternate Bid)
This item consists of all property listed and described in Items _____ to _____, inclusive. Award under this item may be made only if the highest acceptable bid on this item is equal to, or greater than, the total of the highest acceptable bids on Items _____ to _____, inclusive.

(f) *Basis of Sale* shall be:

(i) *Unit Price Basis.* Items offered for sale shall require the bid price to be stated in terms of the quantity or weight generally applied by industry in the commercial sale of such items.

(ii) *Lot Price Basis.* When a sales offering is made on a lot price basis, bids shall be requested only for the entire lot. Use of the lot price basis shall be held to a minimum, since it precludes adjustments. The lot price basis shall be used only when property cannot be sold by unit measure or the potential monetary recovery is small.

(g) *Format of Invitation.* In large sales, a summary list of items offered shall be set forth and used as an item bid sheet, with detailed item descriptions on attached sheets.

(h) *Bidder's Lists.* The plant clearance officer shall assure that commodity bidder's lists sufficient to obtain adequate competition in the sale of contractor inventory are maintained. The plant clearance officer may obtain additional listings, as required, from the Defense Property Disposal Service, DPDS-R, Federal Center, Battle Creek, Michigan 49016. Use of listings maintained by DPDS is encouraged when extremely large quantities of property, special commodities, or unusual geographic location are involved.

(i) *Auction, Spot Bid, and Retail Sales.* Auction, spot bid, and retail sales shall not be utilized for selling contractor inventory, unless approved on an individual case basis by the departmental headquarters of the administering activity.

(j) *Market Impact.* Contracting Officers or plant clearance officers shall submit data to DPDS relative to the proposed sale of machine tools of any one type on hand at any single location in condition A1, A2 or A4 with a total acquisition cost exceeding $250,000. Sales data shall include the Plant Equipment

Code (PEC) number, noun description, quantity, location of property, and the proposed method of sale. DPDS shall advise the contracting officer or plant clearance officer within 5 working days whether or not sale proposal is approved. Priority for sales approval shall be given in those instances where plant clearance or other expedited actions are involved.

24–206.2 *Competitive Sales.*

(a) *General.* Surplus contractor inventory shall be offered for sale on a competitive basis except as provided in 24–206.3. To the extent feasible, subcontractors and suppliers should be solicited when additional competition is likely to result. The plant clearance officer shall provide the contractor with instructions relative to the method of soliciting bids and the basis for offering the property for sale (*i.e.*, serviceable or scrap). In determining the sales method to be used, the plant clearance officer shall consider the expected sales proceeds (based on previous experience and current market) versus the cost of conducting the sale. When he determines that an individual sale will be uneconomical, the material to be sold shall be (i) combined with other material offered for sale, (ii) disposed of through the contractor's approved production generated scrap disposal procedure (see 24–204.4), or (iii) abandoned. Case files will be documented to show the basis for the decision. The contractor's overall program, including all forms and procedures, shall be evaluated by the plant clearance officer and shall be subject to his surveillance. To the extent necessary, the plant clearance officer may reserve the right to approve individual sales offerings prior to distribution. Pursuant to 24–102(xvi) when the the plant clearance officer determines that sale services are required, such service will be arranged for by the plant clearance officer directly with the organization requested to provide the service. The plant clearance officer will justify and document this need. These documents shall be a part of the plant clearance case file. The agreement reached will provide for the Defense Surplus Sales Office or General Services Administration Regional Office to return total proceeds to the plant clearance officer for crediting in compliance with 24–206.4(c).

(b) *Solicitation of Bids.* Contractors shall solicit bids by formal invitations, unless informal bid procedures have been approved by the plant clearance officer as provided in (2) below:

(1) *Formal Bid Procedures.*

(i) bids shall be solicited a minimum of 15 calendar days in advance of the opening of bids to allow bidders an adequate opportunity to inspect the property and prepare and formally submit bids;

The Purchaser certifies that the property covered by this contract will be used in (Insert name of country). In the event resale or export is to be effected by the Purchaser of any of the property, acquired at a price in excess of One Thousand United States Dollars ($1,000) or its equivalent in other currency at the official rate of exchange, the Purchaser agrees to obtain the approval of

_____

(Insert name and address of Property Disposal Contracting Office).
(1968 FEB.)

(c) The property disposal (contracting) officer shall approve sales contracts and requests for approval of resales or exports only if:

(i) the proposed purchaser's name does not appear on a consolidated list of ineligible, debarred and suspended bidders, and

(ii) if the sales contract contains a provision prohibiting exports by purchasers and subpurchasers to communist areas (as listed in 6–401.2).

(d) Any disposals of foreign contractor inventory by the United States Government, as distinguished from disposal by a contractor, shall be in accordance with the security trade control regulation on foreign excess sales, and regulations dealing with integrity and reliability checks.

(e) Generally, disposal activities of the Military Departments shall be utilized to accomplish the disposition of surplus contractor inventory located in foreign countries except Canada. Contractor-conducted sales may be authorized, *provided* the interests of the Government are adequately protected.

24–207 Donations.

(a) Property may be donated only after it has been determined to be surplus following appropriate utilization screening, as provided in this Section. The donation of surplus property to an authorized donee is subordinate to any need for property by a Federal agency, but takes precedence over sale (after screening), destruction, or abandonment. Surplus property which has been made available for donation and is not frozen within the donation screening period is not subject to donation after such property has been recorded on a sales offering in the final format.

(b) Classification of eligible donees in order of precedence and approval requirements are:

(i) for property schedules transmitted to GSA—

(A) *Public Airports.* Donations approved during the first five days of the donation screening period. State or local public airport donations require appeoval of an appropriate Official of the Federal Aviation Administration, Department of Transportation, and GSA.

(B) *Service Educational Activities (SEA).* SEAs have the same order of precedence as in (C) below. Approval required of their national headquarters and GSA.

(C) *Educational, Public Health, and Civil Defense Institutions and Organizations.* Donations approved on a first-come, first-served basis with public airports and SEAs, during the last 10 days of the donation screening period. GSA has the overall responsibility for selecting property determined to be usable and necessary for educational,

public health and civil defense purposes, including research for any such purposes. Surplus property is screened and distributed for educational, public health, and civil defense purposes by State Agencies for Surplus Property (SASP). Approval of GSA is required.

(ii) For property screened in accordance with 24-205.1(e), public airports, SEAs, and SASP screen and select property for donation approval by GSA on a first-come, first-served basis.

(iii) *Public Bodies.* Surplus property may be donated to public bodies in lieu of destruction or abandonment in accordance with paragraph 24-208(c).

(c) In addition to the activities indicated in (b) above, a Department may donate, without expense to the United States, certain material not needed by the Department of Defense to (i) veterans' organizations, (ii) soldiers' monument associations, (iii) state museums, and (iv) incorporated museums operated and maintained only for educational purposes, whose charter denies them the right to operate for profit. For guidance as to limitations and requirements for donation to these activities, see Chapter III, Part 3, DoD 4160.21 M.

(d) The General Services Administration will arrange for donation screening during the last 15 days of the 90 day screening period for serviceable property, as provided by 24-205.2(c) and 24-205.3(d). For property not formally screened with the General Services Administration, see 24-205.1(e). During this period, the plant clearance officer shall maintain applicable inventory schedules in a donable property file, which shall be made available for screening by eligible donees. Donees have the responsibility for notifying the plant clearance officer of items selected for donation and for initiating request for approval to the appropriate General Services Administration Regional Office.

(e) At the expiration of the 15 day donation screening period, items which have not been selected for donation shall be disposed of by sale, or when warranted, abandoned or destroyed. Items which have been selected for donation shall not be disposed of for a period not to exceed 40 days from the start of the donation screening period. Release of the property to eligible donees shall be authorized by the plant clearance officer immediately upon receipt of General Services Administration approval and appropriate shipping instructions. If approval and shipping instructions, including provision for payment of all costs incident to donation, are not received within the 40 day period, the property shall be disposed of otherwise as surplus.

(f) All costs for which the Government is responsible, incident to donation, shall be borne by the donee. Questions concerning the reasonableness of such costs to be borne by the donee shall be referred to the plant clearance officer for appropriate action. The plant clearance officer may utilize the services of qualified Government technical personnel to ascertain the reasonableness of cost quotations for packing, handling, crating, and preparation of items for shipment.

(g) Property required for Government use may be withdrawn at any time prior to shipment or delivery to a donee.

(h) To assist GSA in locating property which is available for donation, each Department shall furnish GSA with a directory of activities where donable property files are maintained and may be reviewed.

24-208 Destruction or Abandonment.

(a) Surplus property which is not otherwise disposed of under this Section may be destroyed or abandoned, *provided*, that the plant clearance officer has determined in writing that:

(i) it has no commercial value and no value to the Government;

(ii) the estimated cost of its care and handling is greater than the probable sale price; or

(iii) because of its nature it constitutes a danger to public health, safety, or welfare.

(b) Except to the extent permitted by provisions of the contract, no contractor inventory shall be abandoned in the contractor's premises without the contractor's written consent.

(c) Surplus property may be donated to public bodies in lieu of abandonment or destruction provided the determination has been made pursuant to (a)(i) or (ii) above. (See 24-201(c).)

24-209 Removal and Storage.

24-209.1 *General.* Contractor inventory shall be removed from the contractor's premises as expeditiously as possible to facilitate clearance of the contractor's plant or work area and to preclude the possibility of incurring storage expenses.

24-209.2 *Special Storage at the Risk of the Contractor.* When the contractor finds it necessary to remove property from his premises prior to completion of disposal action, or prior to expiration of the plant clearance period in the case of a termination, he may, upon written notice to the plant clearance officer, store any items of inventory not previously disposed of in a warehouse or other storage location on or off his own premises, unless otherwise directed by the plant clearance officer within ten days of the receipt of such notice by the plant clearance officer. Such storage shall in no way modify the responsibility of the contractor with respect to such property. The expense of such storage, including any cost incident to the transportation to and from the storage area, shall be borne by the contractor and shall not be charged directly or indirectly to Government contracts, unless the contracting officer determines that such expense is for the convenience of the Government.

24-209.3 *Special Storage at the Expense and Risk of the Government.*

(a) Contractor inventory will be stored only when a determination is made by the departmental purchasing office or the inventory control point that contractor inventory should be retained in storage for future anticipated use. When the Department purchasing office or the inventory control point determines that contractor inventory should be stored, they shall advise the plant clearance officer of:

(i) specific items to be stored;

(ii) reason for retention;

(iii) period of time contractor inventory should be retained in storage; and

(iv) office responsible for authorizing retention.

(b) At any time after expiration of the plant clearance period (see 24–101.18), the contractor may submit to the contracting officer, a list certified as to quantity and quality, of any items of termination inventory not previously disposed of, exclusive of items the disposition of which has been directed or authorized by the contracting officer, and may request the Government to remove such items or enter into a storage agreement covering them. Not later than 15 days thereafter, the Government shall accept title to such items and remove them or enter into a written storage agreement covering the same; *provided*, that the list submitted shall be subject to verification by the contracting officer upon removal of the items (or if the items are stored, within 45 days from the date of submission of the list). Any necessary adjustment to correct the list as submitted shall be made prior to final settlement.

(c) Upon receipt of request to store contractor inventory as provided in (a) above, the plant clearance officer shall request the responsible purchasing office or the purchasing office of the activity authorizing storage to execute a storage agreement. The request shall include the following data:

(i) copy of the Departmental purchasing offices or inventory control points request for storage;
(ii) contractor's request for storage, together with statement as to Government's obligation to store inventory;
(iii) inventory of property to be stored;
(iv) storage space required (actual or estimated);
(v) storage period (actual or estimated); and
(vi) cost (actual or estimated), if cost to the Government will be involved, or statement that contractor will execute a no-cost storage agreement. (Storage agreements for contractor inventory will be executed on a no-cost basis whenever possible.)

(d) If the holding contractor will not agree to store the property, and removal from the contractor's premises is necessary, the plant clearance officer shall ascertain the availability of Government and/or commercial storage facilities and shall provide the purchasing office of the activity authorizing storage with the following data in addition to that required in (c) above:

(i) information as to the availability of Government and/or commercial storage facilities;
(ii) services which will be performed (*e.g.*, packing, crating, shipping);
(iii) estimated expense of storage and services if stored in commercial facilities, together with any bids available; and
(iv) any other pertinent information, including the plant clearance officer's recommendation.

(e) Contract will be executed in accordance with established procurement procedures and will reflect the activity directing storage of the inventory involved. Two months prior to expiration of the storage contract, the field contract administration activity shall contact the activity for which the inventory was stored to determine whether the inventory should be retained for an additional period, or disposed of according to plant clearance procedures.

24–210 Property Disposal Determinations. Written determinations supporting disposal actions in the following categories shall be made and placed in the plant clearance case file:

(i) salvage determination;
(ii) scrap determinations (not required for production scrap);
(iii) abandonment and/or destruction determinations;
(iv) disposal by noncompetitive sale; and
(v) other actions considered necessary by the plant clearance officer.

Determinations shall be recorded on DD Form 1641, Disposal Determination/Approval.

24–211 Reserved.

24–212 Subcontractor Inventory.

24–212.1 *General Policy.*

(a) The prime contractor and each subcontractor are responsible for review and approval of inventory schedules submitted by their respective next lower-tier subcontractors. Any rights which the prime contractor has or acquires in the inventory of his first-tier or lower-tier subcontractors, shall, to the extent directed by the contracting officer, be exercised for the benefit of the Government in accordance with the provisions of the contract between the Government and the prime contractor. The disposal policies and procedures set forth in this Section are applicable to contractor inventory in the possession of subcontractors, except subcontractor termination inventory to which 8–209.4 applies, and other exceptions set forth in this Part.

(b) Subcontractor inventory shall be reported through the next higher-tier subcontractor to the prime contractor, who is responsible for reporting such property to the plant clearance officer having cognizance of the prime contractor's plants in accordance with 24–302.9.

(c) When the property is located outside of his geographic area, the plant clearance officer for the prime contractor's plant shall transfer plant clearance responsibility to the plant clearance officer for the plant where the property is located. The plant clearance officer receiving the plant clearance request shall verify, screen and effect disposition within the time frame applicable under the prime contract. The plant clearance officer assuming plant clearance responsibility shall provide the prime plant clearance officer with all pertinent records including the DD Form 1636, Inventory Disposal Report (IDR), upon completion of plant clearance action. A copy of the DD Form 1636, IDR, will be retained by the plant clearance officer who prepared the form.

24–212.2 *Inventory Schedules.* With the exception of inventory to which 8–209.4 applies, the forms of inventory schedules set forth in F–200.542, F–200.542c, F–200.543, F–200.543c, F–200.544, F–200.544c F–200.545, F–200.545c, and F–200.832 may be used; but, their use is not required if substantially equivalent information as set forth in 24–302.9 is obtained.

24–212.3 *Scrap.* The prime contractor and each higher-tier subcontractor shall review any recommendations of their respective subcontractors concerning scrap. If the prime contractor or the higher-tier subcontractor determines that any of the property is serviceable or usable, the subcontractor shall submit revised inventory data in accordance with such determination. The Government shall not be bound by any determination that property is scrap unless the determination has the prior approval of a plant clearance officer. A scrap warranty shall be obtained whenever property is sold as scrap, except as provided in 24–204.

24-213 Accounting for Contractor Inventory.

(a) In accordance with the terms of the inventory schedules certificate set forth in the forms prescribed in 24-302.9, the contractor or subcontractor shall inform the Government of any substantial change in the status of the inventory arising between the date of submission of inventory schedules and final disposition of the inventory.

(b) As soon as plant clearance has been effected and disposal proceeds have been properly applied, the plant clearance officer shall prepare and distribute DD Form 1636, Inventory Disposal Report, in accordance with 24-302.2.

(c) When any contractor inventory is lost, destroyed, damaged, or for any reason cannot be delivered by the contractor, that inventory shall be identified in the Inventory Disposal Report, and the matter reported to the Government property administrator, or to the termination contracting officer if termination inventory is involved.

Part 3—Forms, Instructions, and Reports

24-301 Forms. The forms listed below are prescribed for use in the performance of plant clearance actions covered in this Section

24-301.1 *Standard Form 97, Certificate of Release of a Motor Vehicle, and Standard Form 97A, Certificate of Release of a Motor Vehicle (Agency Record Copy)*, will be executed by the contracting officer and furnished to the purchaser Plant clearance officers will process Standard Form 97 in connection with transfers, donations, and sales of motor vehicles. Precautionary measures will be taken to prevent unauthorized persons from obtaining these forms. (See F-100.97 and 24-302.8(a)(v).)

24-301.2 *Standard Form 120, Reporting of Excess Personal Property*, shall be used as a cover form for transmitting inventory schedules to all screening activities except DIPEC A form letter prepared in accordance with 24-302.7 will be used to forward DD Forms 1342 to DIPEC for screening. However, Standard Form 120 may be used for this purpose (see F-100.120, 24-205.2, and 24-302.6)

24-301.3 *Reserved.*

24-301.4 *DD Form 1131, Cash Collection Voucher*, shall be used to remit proceeds of sale to the appropriate disbursing officer (See F-200.1131 and 24-206.4(c).)

24-301.5 *DD Form 1149, Requisition and Invoice Shipping Document*, may be used for transfers and donations of excess or surplus contractor inventory except IPE (see F200.1149). DD Form 1348-1 (see 24-301.7) may also be used for these purposes.

24-301.6 *DD Form 1342, DoD Property Record*, shall be used to report idle industrial plant equipment to DIPEC for worldwide screening. (See F-200.1342, 24-205.3, see DSAM 4215.1, AFM 78-1, NAVSUP PUB 5009, AR 700-43, for instructions on how to prepare this form.)

24-301.7 *DD Form 1348-1, DoD Single Line Item Release/Receipt Document*, shall be used for all transfers of Industrial Plant Equipment and Contractor Inventory Redistribution System (CIRS) inventory when directed by DIPEC. It may also be used for the return of other Government-Furnished Material (GFM) (see F200.1348-1).

24-301.8 *DD Form 1640, Request for Plant Clearance*, shall be used to request plant clearance assistance or transfer plant clearance (see 24-212)

24-301.9 *DD Form 1636, Inventory Disposal Report*, shall be prepared for each completed plant clearance case (see 24-302.2)

24-301.10 *DD Form 1638, Report of Excess and Surplus Contractor Inventory*, shall be used to provide a uniform reporting system of essential management data reflecting the scope and effectiveness of the contractor inventory utilization and disposal program (see 24-302.3)

24-301.11 *DD Form 1641, Disposal Determination/Approval*, shall be used to support disposal determinations.

24-301.12 *DD Form 1639, Scrap Warranty*, shall be executed by a purchaser of scrap in accordance with 24-204.5

24-301.13 *DD Form 1642, Inventory Verification Survey*, shall be used to record verification results as prescribed in 24-203.2(b) (see 24-302.1)

24-301.14 *DD Form 1635, Plant Clearance Case Register*, provides a permanent numerical listing of plant clearance cases and shall be maintained by each office performing a plant clearance function. The space provided on the right-hand side of the form may be used for additional columns and headings considered essential by management officials (see F-200.1635 and 24-302.4). In those instances when the plant clearance register has been mechanized, a mechanized form may be used in lieu of the DD Form 1635.

24-301.15 *DD Form 1637, Notice of Acceptance of Inventory*, shall be prepared to open each case and shall be distributed as follows: original to the contractor, one copy to the property administrator, and one copy to the termination contracting officer when termination inventory is involved.

24-302 Instructions. Additional instructions are provided below for completing the forms or reports prescribed in this Section.

24-302.1 *Instructions for Performing Inventory Verification and Determination of Allocability.* The following instructions shall be observed in verifying inventory schedules.

(a) *Allocability.* Determine allocability of inventory by reviewing contract requirements, delivery schedules, bills of material, and other pertinent material. Determine whether schedules include:

(i) material which would not have been required for completion of the terminated or modified portion of the contract;

(ii) material in quantities indicating an unreasonable anticipation of contract requirements; or

(iii) material which might be utilized on the continuing portion of the contract, or diverted to other work of the contractor, either commercial or Government. Utilize sound judgment and experience gained during the life of the contract in detecting common items. In addition review—

(A) contractor's purchase orders for current procurement of similar material,

(B) contractor's plans and orders for current and scheduled production,

(C) contractor's stock record cards, and

(D) contractor's bills of material prepared for items similar to the terminated or modified items.

(b) *Quantity.* Assure that the quantities of inventory available are in accordance with the quantities listed on the inventory schedules. While a complete physical count of each item of inventory normally need not be performed, sufficient checks to assure that the quantities are accurate shall be performed. (See Sampling Guide in (d) below.)

(c) *Condition.* Assure that the condition of the inventory is in accordance with that shown on the inventory schedules.

(iv) *Other Special Conditions.* All other special conditions of sale considered necessary by the Contractor shall be subject to the prior approval of the plant clearance officer. Approval shall be granted, *provided*, the prescribed conditions of sale are not altered or affected thereby and the interest of the Government is not adversely affected.

24-302.9 *Instructions for Preparing Inventory Schedules of Contractor Inventory.*

(a) *Introduction.* Contractor inventory, listed on an inventory schedule for plant clearance purposes, must be adequately described and identified to (i) permit the Military Departments and Federal civilian agencies to determine whether such property can be used, and (ii) facilitate the prompt and effective sale or other disposition of those items which are surplus to Governmental requirements. The inventory schedules will be reviewed by many people who cannot physically inspect the property and whose decisions concerning the property must be based on the data reported in the schedules. Inadequately prepared schedules are subject to rejection by the plant clearance officer, thus delaying disposition of the property. When in doubt as to the extent of the description required, the contractor shall consult the plant clearance officer.

(b) *Definition. Contractor Inventory* (see 24-101.5).

(c) *Applicability.* These instructions apply to all contractor inventory reported on DD Forms 542, 543, 544, 545, or 832, except industrial plant equipment reportable to the Defense Industrial Plant Equipment Center (DIPEC) (see 24-205.3). The DD Forms are self-explanatory, except as noted below. DD Forms may be reproduced, provided no change in size or format is made.

(d) *Inventory Schedule Certificate.* When termination inventory is reported on inventory schedules, the prime contractor, or the subcontractor having title to the property, shall execute the Inventory Schedule Certificate. When contractor inventory, other than termination inventory, is reported on inventory schedules, the prime contractor shall execute the Certificate, irrespective of the location of the property.

(e) *Submission of Inventory Schedules.* Contractor inventory will be reported to the designated plant clearance officer on inventory schedules immediately after it is determined to be excess, at such later time as may be contractually authorized, or as fixed by the plant clearance officer. Inventory schedules of subcontractors shall be processed in accordance with 24-212. Contractor-acquired property purchased or retained pursuant to 24-202 shall not be listed. Partial schedules may be submitted when they cover substantial portions of a particular property classification of excess inventory. Each schedule submitted shall be identified by the contractor as "partial" or "final." Submissions shall not be delayed in order to supply complete cost data on items of work in process where data is not readily available. In addition, on the face of the inventory schedule under the block "Government Prime Contract Number," list not only the applicable contract number but also the type of

contract to which the contractor inventory applies, i.e., fixed price, cost type, facilities, lease or bailment. When the inventory applies solely to one contract modification, indicate the contract change number. When the inventory pertains to a terminated contract, list the termination docket number and group separately on the schedule the Government-furnished property and the contractor-acquired property, clearly identifying each, and providing subtotals for each group.

(f) *Separate Schedules.*

(1) The creation of separate schedules by the contractor shall be subject to the approval of the plant clearance officer who may waive specific requirements for separate schedules set forth in this paragraph (f) when it is clearly to the advantage of the Government to do so. The plant clearance officer shall document the case file justifying the waiver.

(2) Separate sets of schedules also shall be submitted on the forms prescribed under (c) above for contractor inventory without regard to acquisition cost as follows:

(i) serviceable or usable special tooling;
(ii) serviceable or usable special test equipment;
(iii) scrap;
(iv) salvage; or
(v) property bearing a military security classification, regardless of condition or value.

(3) Separate sets of schedules shall be submitted on the forms prescribed under (c) above for serviceable or usable contractor inventory as follows:

(i) For that inventory prescribed for submission on DD Forms 543 or 832: (A) property having a line item acquisition cost of more than $500 but having no National Stock Number (NSN) and property having a line item acquisition cost of more than $50 having an NSN (submit on the same schedule); or (B) property having a line item acquisition cost of $500 or less but having no NSN and property having a line item acquisition cost of $50 or less having an NSN (submit on the same schedule).

(ii) For that inventory prescribed on inventory schedules other than on DD Forms 543 and 832: (A) property having a line item acquisition cost of more than $500; and (B) property having a line item acquisition cost of $500 or less.

(4) *Continuation Sheets.* Use related DD Form continuation sheet whenever more than one page is required.

(g) *National Stock Numbers.* When National Stock Numbers (NSN) have been furnished to the contractor, they will be shown on the inventory schedule for the respective items. In addition, any time National Stock Numbers are available in a contractor's system, they should be reflected in the inventory schedule for the respective items.

(h) *Precious Metals.* Property listed on inventory schedules containing precious metals shall be identified as to the type of metal and quantity expressed in the appropriate weight unit or in the percentage of total content. Industrial diamonds or diamond swarf shall be similarly identified.

(i) *Hazardous Material or Property Contaminated with Hazardous Materials* shall be identified as to the type of hazardous material or the hazardous material which is contaminating the property.

(j) *Number of Copies.* The plant clearance officer will prescribe the number of copies of schedules to be submitted. Machine listings are acceptable provided all essential elements of data are included and an appropriate DD Form is submitted as a cover sheet.

(k) *Product Identification.* When listing subcontractor inventory, insert end item produced by the subcontractor in block marked "Product" and, when known, the end item of the prime contract.

(l) *Condition (Column C).* For the purposes of indicating condition of the property, the Federal Condition Codes indicated below should be used. Use a combination of a letter and a number (such as A1 or F7), or 2 letters (when salvage or scrap is indicated).

FEDERAL CONDITION CODES

Supply Condition Codes	Disposal Condition Codes
A. New, used, repaired, or reconditioned property which is serviceable and issuable to all customers without limitations or restriction. Includes material with more than 6 months shelf-life remaining.	1. Unused-Good. Unused property that is usable without repairs and identical or interchangeable with new items from normal supply sources.
B. New, used, repaired, or reconditioned property which is serviceable and issuable for its intended purpose but which is restricted from issue to specific units, activities, or geographical areas by reason of its limited usefulness or short service-life expectancy. Includes material with 3 through 6 months shelf-life remaining.	2. Unused-Fair. Unused property that is usable without repairs but is deteriorated or damaged to the extent that utility is somewhat impaired.
F. Economically reparable property which requires repair, overhaul, or reconditioning (includes reparable items which are radioactively contaminated).	3. Unused-Poor. Unused property that is usable without repairs but is considerably deteriorated or damaged. Enough utility remains to classify the property better than salvage.
	4. Used-Good. Used property that is usable without repairs and most of its useful life remains.

FEDERAL CONDITION CODES (Continued)

Supply Condition Codes	Disposal Condition Codes
E. Property which has been determined to be unserviceable and does not meet repair criteria.	5. Used-Fair. Used property that is usable without repairs, but is somewhat worn or deteriorated and may soon require repairs.
S. Property that has no value except for its basic material content.	6. Used-Poor. Used property that is usable without repairs, but is considerably worn or deteriorated to the degree that remaining utility is limited or major repairs will soon be required.
	7. Repairs Required. Required repairs are minor and should not exceed 15% of original acquisition cost.
	8. Repairs Required. Required repairs are considerable and are estimated to range from 16% to 40% of the original acquisition cost.
	9. Repairs Required. Required repairs are major because the property is badly damaged, worn, or deteriorated, and are estimated to range from 41% to 65% of original acquisition cost.
	X. Salvage. Property has some value in excess of its basic material content, but repair or rehabilitation to use for the originally intended purpose is clearly impractical. Repair for any use would exceed 65% of the original acquisition cost.
	S. Scrap. Property that has no value except for its basic material content.

(m) *Cost (Columns E and F).* Entries will reflect standard or invoiced cost of the material being reported. In the event such price data is not available, estimated price will be entered and so identified by the symbol "(e)."

(n) *Common Items.* Any items of inventory reasonably usable, without loss to the contractor on its other work because they are materials, parts, or components common in nature to both the contract generating the inventory and other work of the contractor, are not to be listed, except for items the delivery of which has been required by the Government and except for Government-furnished property. (See Inventory Schedule Certificate.)

(o) *Proceeds of Authorized Sale (Column G).* Insert the letter "A" after the amount if the sale (or credit for acquisition) has been authorized or approved by the plant clearance officer. Insert the letter "C" if the amount represents your offer to acquire or sell. In either case, quantity should also be shown (on a second line) if less than the full quantity shown in column d.

(p) *DD Form 543 - Inventory Schedule A - Metals in Mill Product Form.*

(1) *Classification.*

(i) List metals in raw or primary form, as furnished by the mill, and on which there has been no subsequent fabricating operation. Do not include castings and forgings, which are to be listed on DD Form 543. Use a new form, with continuation sheets if necessary, for each type of metal and write the name of the metal or alloy in the "Property Classification" block provided in the upper right-hand corner of the form. Examples are:

Alloy Steel	Copper	Aluminum
Carbon Steel	Free Cutting Brass	Silver
Stainless Steel	Manganese Bronze	Tin

(ii) In addition, on the sheets for any such metal, list like forms of the metal or alloy together in sequence. For example, on the sheet or sheets used to list Carbon Steel, group together all the strip, then follow with the sheets, then the bar stock, etc.

(iii) Schedule A shall also be used to list nonmetallic materials (e.g., plastics, rubber, glass, lumber, etc.) in mill product form identified in terms of length, width, and thickness. The raw or primary of such materials shall be listed on Schedule B.

(2) *Description (Column b).* Furnish such description as is sufficient to enable the plant clearance officer or the screener to determine the appropriate disposition. The specification shown under Column (b.2) shall be identified as pertaining to the Government, or to a particular industrial society or manufacturer, identified by name. Column (b.2) shall also include any other applicable identifying code.

(q) *DD Form 543 - Inventory Schedule B.*

(1) *Classification.*

(i) The term "Raw Materials" is here used to include materials in primary form. Examples of the many different general classifications of raw materials (other than metals) include:

Chemical	Rubber	Shoe cut stock
Pulp and paper	Textiles	Cement
Paper board	Kapoc	Cork
Plastics	Hair	Cotton
Oils, fats, and waxes	Lumber	Wool
Hides	Glass	Leather

(ii) Examples of some of the large number of general classifications of parts, components, finished products, or miscellaneous include:

Engines & turbines	Conveyors	Surgical Instruments
Compressors & pumps	Fans & blowers	Electric Motors
Insulated wire & cable	Bearings	Drugs
Nuts & bolts	Valves	Ignition Equipment

(2) *Description (Column b).* Furnish only such description as is sufficient to enable the plant clearance officer or the screener within the DoD, Federal Civil Agencies or State Agencies for Surplus Property to determine the appropriate disposition. A description such as the catalog description normally provided by a supplier or manufacturer is required for all items which may have reuse or sales value other than for scrap. If the required descriptive information cannot be obtained, it should be indicated on the form as "not available." When the description includes numbers or designations not intelligible in themselves to untrained individuals, they must be identified by qualifying words or phrases. When there is doubt as to the extent of the description required, consult with the plant clearance officer. Inventory descriptions of plant equipment (excluding IPE) will include as a minimum: nomenclature or description of the item and Federal Supply Classification (Cataloging Handbooks H2-1, H2-2, and H2-3); Federal Supply Code for Manufacturers (FSCM) (Cataloging Handbooks H4-1, H4-2) and, at the option of the contractor, the name and address of the equipment manufacturer; and Model/Part Number as prescribed by B-306 and C-306.

(i) The National Stock Numbers shall be listed in column (b.1).

(ii) Items identified by military or Federal standard numbers such as Air Force (AF), Army & Navy (AN), Military Standard (MS), Numbered Air Force (NAF), National Aerospace Standards (NAS), Joint Army and Navy (JAN), or Joint Electronics Type Designation System (JETDS) (formerly Joint Communications-Electronics Nomenclature System (JCENS)) numbers shall be listed by such number and shall include the item name.

(iii) Other items and assemblies shall be identified by the design agency's or design contractor's name, FSCM for the maker of the item, and part or drawing number.

(iv) Items formerly controlled by Plant Equipment Code (PEC) numbers shall be identified by the PEC number when the NSN is not available to the contractor and when the PEC is available in the contractor's records. The PEC number shall be listed in column (b.1).

(r) *DD Form 544 - Inventory Schedule C - Work in Process.*

(1) *Classification.* No classification of items is required. Finished components are not to be listed on this form but on DD Form 543. Other items which have not lost their identity through whole or partial assembly and which are deemed to have further use other than for scrap are also listed on DD Form 543.

(2) *Description (Column b).* Furnish such description as is sufficient to enable the plant clearance officer or the screener to determine the appropriate disposition. Estimated percentage of completion shall be indicated for each line item.

(3) *Condition (Column c).* Generally, Federal condition codes HK (salvage) or SS (scrap) are applicable to work in process.

(s) *DD Form 545 - Inventory Schedule D (Dies, Jigs, Fixtures, Etc., and Special Tools).*

(1) *Classification.* Use a new form for each general classification such as Dies, Jigs, Gauges, Fixtures, Special Tools, and Special Test Equipment. Insert the name of the classification in the designated block in the upper right-hand corner of the form and list the items falling under that classification in sequence. For example, on the sheet used to list Dies, group separately all Extruding Dies, all Forging Dies, all Forming Dies, etc. On the sheet used for gauges, group separately all Thread Gauges, all Radius Gauges, all Depth Gauges, etc.

(2) *Description (Column b).* Furnish description sufficient to enable the plant clearance officer or the screener to determine the appropriate disposition. Also indicate weight and type of material content as directed by the plant clearance officer. Include tool nomenclature, tool number, related product part number or service which the tool produces or acts upon. Each classification of special tooling shall be further segregated by product, part or service to which it applies. Special tooling, usable for maintenance programs, shall be designated as such by placing letter "M" in the left-hand column titled "For Use of Contracting Agency Only."

(t) *DD Form 832 - Inventory Schedule E (Short Form for Use With DD 831).*

(1) *Classification.* No specific classification required but similar items should be grouped together. Several classifications may be listed on one form.

(2) *Description (Column b).* Furnish such description as is sufficient to enable the plant clearance officer or the screener to determine the appropriate disposition.

(2) *Description (Column b).* Furnish such description as is sufficient to enable the plant clearance officer or the screener to determine the appropriate disposition. Estimated percentage of completion shall be indicated for each line item.

(3) *Condition (Column c).* Generally, Federal condition codes HX (salvage) or SS (scrap) are applicable to work in process.

(s) *DD Form 845 - Inventory Schedule D (Dies, Jigs, Fixtures, Etc., and Special Tools).*

(1) *Classification.* Use a new form for each general classification such as Dies, Jigs, Gauges, Fixtures, Special Tools, and Special Test Equipment. Insert the name of the classification in the designated block in the upper right-hand corner of the form and list the items falling under that classification in sequence. For example, on the sheet used to list Dies, group separately all Extruding Dies, all Forging Dies, all Forming Dies, etc. On the sheet used for gauges, group separately all Thread Gauges, all Radius Gauges, all Depth Gauges, etc.

(2) *Description (Column b).* Furnish description sufficient to enable the plant clearance officer or the screener to determine the appropriate disposition. Also indicate weight and type of material content as directed by the plant clearance officer. Include tool nomenclature, tool number, related product part number or service which the tool produces or acts upon. Each classification of special tooling shall be further segregated by product, part or service to which it applies. Special tooling, usable for maintenance programs, shall be designated as such by placing letter "M" in the left-hand column titled "For Use of Contracting Agency Only."

(t) *DD Form 832 - Inventory Schedule E (Short Form for Use With DD 831).*

(1) *Classification.* No specific classification required but similar items should be grouped together. Several classifications may be listed on one form.

(2) *Description (Column b).* Furnish such description as is sufficient to enable the plant clearance officer or the screener to determine the appropriate disposition.

B-102.6 *Special Test Equipment* means either single or multipurpose integrated test units engineered, designed, fabricated, or modified to accomplish special purpose testing in the performance of the contract. Such testing units comprise electrical, electronic, hydraulic, pneumatic, mechanical, or other items or assemblies of equipment, that are mechanically, electrically, or electronically interconnected so as to become a new functional entity, causing the individual item or items to become interdependent and essential in the performance of special purpose testing in the development or production of particular supplies or services. The term "*special test equipment*" does not include:

(i) material;
(ii) special tooling;
(iii) buildings and nonseverable structures (except foundations and similar improvements necessary for the installation of special test equipment); and
(iv) plant equipment items used for general plant testing purposes.

B-102.7 *Facilities* means industrial property (other than material, special tooling, military property, and special test equipment) for production, maintenance, research, development, or test, including real property and rights therein, buildings, structures, improvements, and plant equipment.

B-102.8 *Real Property*, for purposes of accounting classification, means (i) land and rights therein, (ii) ground improvements, (iii) utility distribution systems, (iv) buildings, and (v) structures. It excludes foundations and other work necessary for the installation of special tooling, special test equipment and plant equipment.

B-102.9 *Utility Distribution System* means a system (including distribution and transmission lines, substations, and installed equipment forming an integral part of the system) by which gas, water, steam, electricity, sewerage, or other utility services are transmitted between (i) the outside of the building or structure in which the services are used, and (ii) the point of origin or disposal, or the connection with some other system. For the purpose of this Appendix, it does not include communication services.

B-102.10 *Plant Equipment* means personal property of a capital nature (consisting of equipment, machine tools, test equipment, furniture, vehicles, and accessory and auxiliary items, but excluding special tooling and special test equipment) used or capable of use in the manufacture of supplies or in the performance of services or for any administrative or general plant purpose.

B-102.11 *Industrial Plant Equipment (IPE)* is that part of plant equipment with an acquisition cost of $5,000 or more; used for the purpose of cutting, abrading, grinding, shaping, forming, joining, testing, measuring, heating, treating, or otherwise altering the physical, electrical or chemical properties of materials, components or end items entailed in manufacturing, maintenance, supply, processing, assembly, or research and development operations; and IPE is further identified by noun name in Joint DoD Handbooks.

B-102.12 *Other Plant Equipment (OPE)* is that part of plant equipment, regardless of dollar value, which is used in or in conjunction with the manufacture of components or end items relative to maintenance, supply, processing, assembly or research and development operations; but excluding items categorized as IPE.

B–102.13 *Accessory Item* means an item which facilitates or enhances the operation of plant equipment but which is not essential for its operation, such as remote control devices.

B–102.14 *Auxiliary Item* means an item without which the basic unit of plant equipment cannot operate, such as motors for pumps and machine tools.

B–102.15 *Salvage* means property which, because of its worn, damaged, deteriorated, or incomplete condition, or specialized nature, has no reasonable prospect of sale or use as serviceable property without major repairs or alterations, but which has some value in excess of its scrap value.

B–102.16 *Scrap* means property that has no value except for its basic material content.

B–102.17 *Custodial Records* means written memoranda or identifying checks of any description or type used to control items issued from tool cribs, tool rooms, stockrooms, etc., such as requisitions, issue hand receipts, tool checks, stock record books, etc.

B–102.18 *Individual Item Record* means a separate card form, or document utilized to account for one item of property.

B–102.19 *Stock Record* means a perpetual inventory form of record which shows, by nomenclature, the quantities received and issued and the balances on hand.

B–102.20 *Discrepancies Incident to Shipment* means all deficiencies incident to the shipment of Government property to or from a contractor's facility whereby differences exist between the property purported to have been shipped and the property actually received. Such deficiencies include, but are not limited to loss, damage, destruction, improper status and condition coding, error in identity or classification, and improper consignment.

B–102.21 *Military Property* means Government-owned personal property designed for military operations. It includes end-items and integral components of military weapons systems, along with the related peculiar support equipment which is not readily available as a commercial item. It does not include Government material, special test equipment, special tooling or facilities.

B–102.22 *Work-in-Process* for the purpose of financial reporting means material (See B–102.4) which has been released to the production element.

B–103 Segregation or Commingling of Government Property and Contractor's Property. Government property will be segregated and kept physically separate from contractor-owned property. However, when advantageous to the Government and consistent with the contractor's authority to use such property, the property may be commingled:

(a) when the Government property is special tooling, special test equipment or plant equipment which is clearly identified and recorded as Government property;

(b) when approved by the property administrator in connection with research and development contracts;

(c) when material is included in a multicontract cost and material control system approved in accordance with B–303(e)(ii);

(d) when (i) scrap of a uniform nature is produced from both Government-owned and contractor-owned material and physical segregation is impracticable,

(i) consumable property;
(ii) special test equipment; or
(iii) buildings, nonseverable structures (except foundations and similar improvements necessary for the installation of special tooling), general or special machine tools, or similar capital items.

C–102.6 *Special Test Equipment* means either single or multipurpose integrated test units engineered, designed, fabricated, or modified to accomplish special purpose testing in the performance of the contract. Such testing units comprise electrical, electronic, hydraulic, pneumatic, mechanical, or other items or assemblies of equipment, that are mechanically, electrically, or electronically interconnected so as to become a new functional entity, causing the individual item or items to become interdependent and essential in the performance of special purpose testing in the development or production of particular supplies or services. The term "*special test equipment*" does not include:

(i) material;
(ii) special tooling;
(iii) buildings and nonseverable structures (except foundations and similar improvements necessary for the installation of special test equipment);
and
(iv) plant equipment items used for general plant testing purposes.

C–102.7 *Facilities* means industrial property (other than material, special tooling, military property, and special test equipment) for production, maintenance, research, development, or test, including real property and rights therein, buildings, structures, improvements and plant equipment.

C–102.8 *Real Property*, for purposes of accounting classification, means (i) land and rights therein; (ii) ground improvements; (iii) utility distribution systems; (iv) buildings; and (v) structures. It excludes foundations and other work necessary for the installation of special tooling, special test equipment, and plant equipment.

C–102.9 *Utility Distribution System* means a system (including distribution and transmission lines, substations, and installed equipment forming an integral part of the system), by which gas, water, steam, electricity, sewerage, or other utility services are transmitted between:

(i) outside of the building or structure in which the services are used, and
(ii) the point of origin or disposal, or the connection with some other system.

For the purpose of this Appendix, it does not include communication services.

C–102.10 *Plant Equipment* means personal property of a capital nature (consisting of equipment, machine tools, test equipment, furniture, vehicles, and accessory and auxiliary items, but excluding special tooling and special test equipment) use or capable of use in the manufacture of supplies or in the performance of services or for any administrative or general plant purpose.

C–102.11 *Industrial Plant Equipment (IPE)* is that part of plant equipment with an acquisition of cost of $5,000 or more; used for the purpose of cutting, abrading, grinding, shaping, forming, joining, testing, measuring, heating, treating,

or otherwise altering the physical, electrical or chemical properties of materials, components or end items, entailed in manufacturing, maintenance, supply, processing, assembly or research and development operations; and IPE is further identified by noun name in Joint DoD Handbooks as listed in 13-312.

C-102.12 *Other Plant Equipment (OPE)* is that part of plant equipment, regardless of dollar value, which is used in or in conjunction with the manufacture of components or end items relative to maintenance, supply, processing, assembly or research and development operations; but excluding items categorized as IPE.

C-102.13 *Accessory Item* means an item which facilitates or enhances the operation of plant equipment but which is not essential for its operation, such as remote control devices.

C-102.14 *Auxiliary Item* means an item without which the basic unit of plant equipment cannot operate, such as motors for pumps and machine tools.

C-102.15 *Salvage* means property which because of its worn, damaged, deteriorated, or incomplete condition, or specialized nature, has no reasonable prospect of sale or use as serviceable property without major repairs or alterations, but which has some value in excess of its scrap value.

C-102.16 *Scrap* means property that has no value except for its basic material content.

C-102.17 *Custodial Records* means written memorandum or identifying checks of any description or type used to control items issued from tool cribs, tool rooms, stockrooms, etc., such as requisitions, issue hand receipts, tool checks, stock record books, etc.

C-102.18 *Individual Item Record* means a separate card form, or document utilized to account for one item of property.

C-102.19 *Stock Record* means a perpetual inventory form of record which shows, by nomenclature, the quantities received and issued and the balances on hand.

C-102.20 *Discrepancies Incident to Shipment* means all deficiences incident to the shipment of Government property to or from a contractor's facility whereby differences exist between the property purported to have been shipped and the property actually received. Such deficiencies include, but are not limited to, loss, damage, destruction, improper status and condition coding, error in identity of classification, and improper consignment.

C-102.21 *Military Property* means Government-owned personal property designed for military operations. It includes end-items and integral components of military weapons systems, along with the related peculiar support equipment which is not readily available as a commercial item. It does not include Government material, special test equipment, special tooling or facilities.

C-102.22 *Property Account* means the official records of the Government property provided to a contractor by a Department, which are established and maintained under the provisions of this Appendix. Separate property accounts will be maintained either on an individual contract basis or contractor basis.

C-102.23 *Educational or Other Nonprofit Organization* means any corporation, foundation, trust, or other institution operated for scientific or educational purposes, not organized for profit, no part of the net earnings of which inures to the profit of any private shareholder or individual.

(d) Situations may occur in which the remaining payments available on all pool contracts are not sufficient to liquidate outstanding advance payments. These circumstances will not affect the normal practice by which the net amount payable by or to the Government on each separate contract is determined by offsetting mutual debits and credits of the Government and the contractor respectively arising under each separate contract. For advance payments that remain outstanding after adjustment for debits and credits under each separate contract, amounts realized from the special pool bank account, from property covered by the advance payment lien, and from any other recoveries available for liquidation of advance payments should be applied first to liquidation of the remaining outstanding advance payments, ratably in proportion to the amount of unliquidated advance payments outstanding on each contract respectively. If there is only one open designated pool contract, the entire advance payment loss should fall on that contract. If there is more than one open designated pool contract on which advance payments remain outstanding after adjustment for debits and credits under each separate contract, the advance payment loss (insofar as contracts of two or more Military Departments are involved) will fall on all of those designated pool contracts, ratably in proportion to the amount of unliquidated advance payments outstanding on each contract respectively.

(e) Records will not be maintained to show separately the amount of advance payments invested in each one of the separate pool contracts. The keeping of such records is unnecessary, and would not be consistent with the purposes of pooled advance payments to provide necessary contract financing in such way as to minimize administrative effort and inconvenience of contractors and the Government.

E-419 Excluded Advance Payments. These regulations do not apply to advance payments for:

(i) extension or connection of public utilities for military installations, as authorized by Military Construction Authorization Acts;

(ii) authorized insurance premiums, including insurance of official motor vehicles in foreign countries, and expenses of investigations in foreign countries, as authorized by Section 603 of the Department of Defense Appropriation Act, 1960 (73 Stat. 378) or by other legislation authorizing payments for such expenses;

(iii) rentals, as authorized by Section 606 of the Department of Defense Appropriation Act, 1960 (73 Stat. 378) or by 31 U.S.C. 529i (69 Stat. 314) or by other legislation specifically authorizing advance payment of rent;

(iv) tuition, as authorized by 31 U.S.C. 529i (69 Stat. 314);

(v) subscriptions to publications, as authorized by 31 U.S.C. 530;

(vi) small purchases of goods or services in foreign countries, when the purchase price does not exceed $10,000 or equivalent amount of applicable foreign currency and advance payment of the purchase price or of a part thereof is required by and made in compliance with the laws or ministerial, i.e., governmental, regulations of the foreign country concerned, as authorized by 31 U.S.C. 529i (69 Stat. 314); or

(vii) advertising for military recruitment in high school and college publications not to exceed $500.00 under any single contract.

Part 5—Progress Payments Based on Costs

E–500 Scope. This Part provides uniform policies, procedures, and forms for progress payments based on costs.

E–500.1 *References.* Paragraphs E–000, E–001, E–002, E–003, E–100, E–105, E–106, E–107, and all of Part 2 apply to all progress payments, whether based on costs or on a percentage or stage of completion.

E–500.2 *Exclusions.* This Part does not apply to (i) cost-reimbursement type contracts, except as to progress payments to subcontractors and suppliers thereunder (E–514), or (ii) contracts for construction (as defined in 10–101.6), or for shipbuilding or ship conversion, alteration or repair, when such contracts provide for progress payments based on a percentage or stage of completion.

E–500.3 *Contract Coverage.* Except as provided in E–500.2 above, this Part applies to all contracts (1–201.4) providing for progress payments. This Part applies to new procurement, to contract changes concerning progress payments, and to existing contracts whenever consistent therewith. However, a provision for unusual progress payments not specifically provided for in a contract at the time such contract was initially entered into and which may result in unliquidated unusual progress payments exceeding $25,000,000 shall not be inserted in a contract unless the Committees on Armed Services of the Senate and the House of Representatives have been notified in writing of such proposed payments and 60 days of continuous session of Congress have expired following the date on which such notice was transmitted to such Committees and neither House of Congress has adopted, within such 60–day period, a resolution disapproving such payments. For purposes of this Section, the continuity of a session of Congress is broken only by an adjournment of the Congress sine die, and the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of such 60–day period. In addition, no agreement for payments, other than partial, progress, or other payments specifically provided for in contracts at the time such contracts were initially entered into, shall be entered into without the prior written coordination of the ODDR&E if the effect of such agreement, whether alone or in combination with other agreements between the Department of Defense and the contractor for such payments, would be to provide the contractor at any time with unliquidated balances of these payments in excess of $25,000,000.

E–501 Percentage or Stage of Completion. Progress payments based on a percentage or stage of completion will be confined to contracts for construction (10–101.6), shipbuilding and ship conversion, alteration or repair. For all other contracts, including any separate contracts for engines, machinery, equipment or other components for ships, the only types of progress payment provisions will be those based on costs, as authorized herein. However, on existing contracts which provide for progress payments based on a percentage or stage of completion, it is not required that provision for progress payments based on costs be substituted in connection with future amendments, supplements or modifications, if such substitution is found impracticable.

E–502 Obligations. Nothing in these regulations shall be construed to authorize payment of more than the amount obligated on a contract.

APPENDIX F

ILLUSTRATIONS OF STANDARD AND DEPARTMENT OF DEFENSE FORMS

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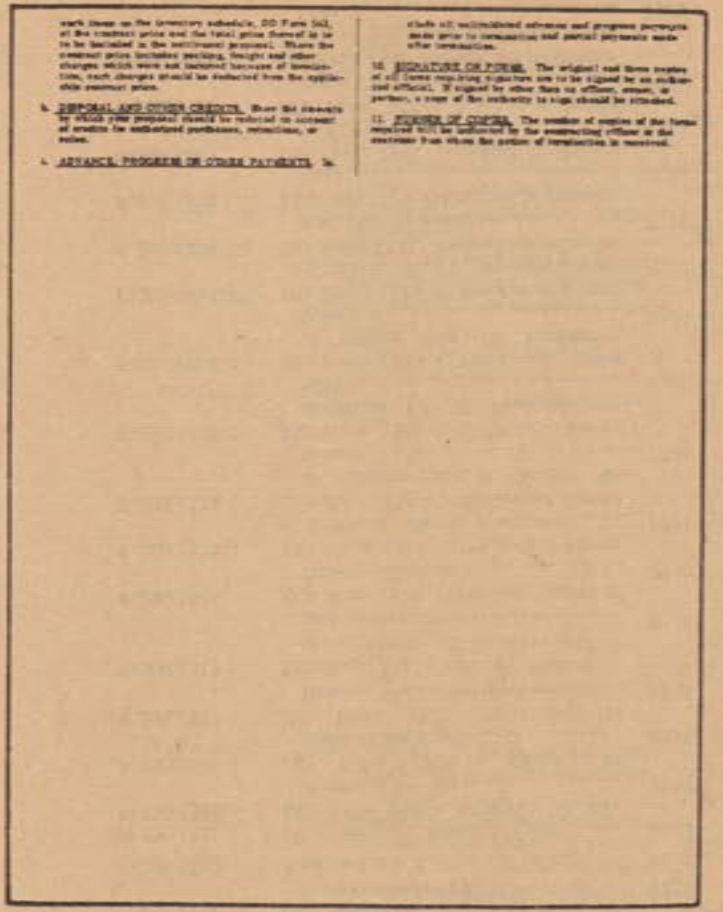
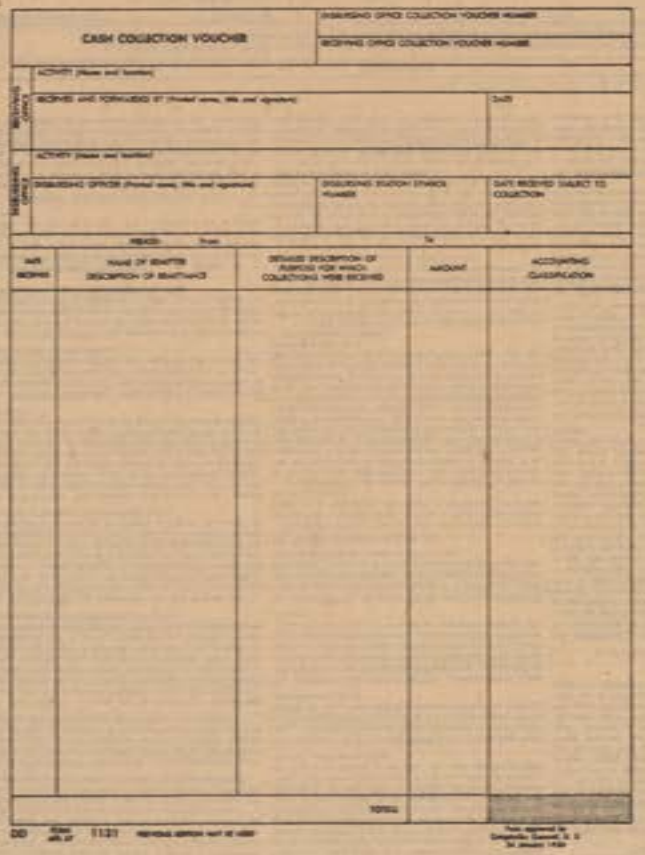
DEPARTMENT OF DEFENSE FORMS

F-200.1114 *DD Form 1114: Instructions for Use of Contract Termination Settlement and Inventory Schedule Forms*—Continued



[The next page is F202.]

F-200.1131 *DD Form 1131: Cash Collection Voucher*


CASH COLLECTION VOUCHER

DISBURSING OFFICE COLLECTION VOUCHER NUMBER

RECEIVING OFFICE COLLECTION VOUCHER NUMBER

CASH COLLECTION

ACTIVITY (Please print or type)

RECEIVED AND FORWARDED BY (Printed name, title and signature)

DATE

DISBURSEMENT

ACTIVITY (Please print or type)

DISBURSING OFFICER (Printed name, title and signature)

DISBURSING STATION SYMBOL NUMBER

DATE RECEIVED SUBJECT TO COLLECTION

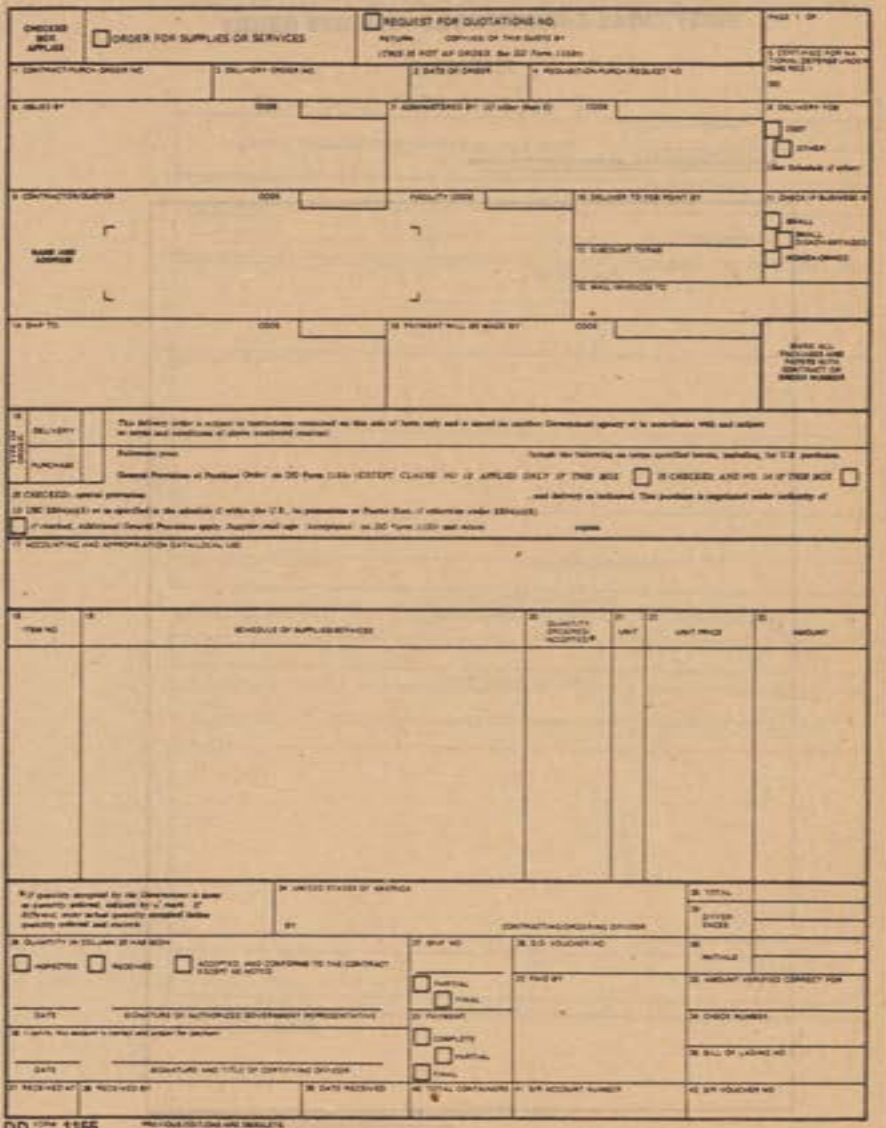
PERIOD: From To

DATE RECEIVED	NAME OF REMITTER DESCRIPTION OF REMITTANCE	DETAILED DESCRIPTION OF PURPOSE FOR WHICH COLLECTIONS WERE RECEIVED	AMOUNT	ACCOUNTING CLASSIFICATION
		TOTALS		

DD 1131

[The next page is F204-A.]

F-200.1155 *DD Form 1155: Order for Supplies or Services/Request for Quotations.* See 3-608.1.


CHECKED BOX APPLIES

ORDER FOR SUPPLIES OR SERVICES

REQUEST FOR QUOTATIONS NO.

PAGE 1 OF

1. CERTIFIED FOR NATIONAL DEFENSE UNDER DMS REG. 1

2. CONTRACT/PURCH. ORDER NO.

3. DELIVERY ORDER NO.

4. DATE OF ORDER

5. REQUISITION/PURCH. REQUEST NO.

6. ISSUED BY CODE

7. ADMINISTERED BY (If other than 6) CODE

8. DELIVERY FOR FOB DEST OTHER (See Schedule if other)

9. CONTRACTOR/OFFEROR CODE FACILITY CODE

NAME AND ADDRESS

10. DELIVER TO FOB POINT BY

11. CHECK IF BUSINESS IS SMALL SMALL DISADVANTAGED WOMEN-OWNED

12. DISCOUNT TERMS

13. MAIL INVOICES TO

14. SHIP TO CODE

15. PAYMENT WILL BE MADE BY CODE

MARK ALL PACKAGES AND PAPERS WITH CONTRACT OR ORDER NUMBER

16. DELIVERY / PURCHASE

This delivery order is subject to instructions contained on this side of form only and is issued on another Government agency or in accordance with and subject to terms and conditions of above numbered contract.

Reference your

Furnish the following on terms specified herein, including, for U.S. purchases, the General Provisions of Purchase Order, as DD Form 1155a (EXCEPT CLAUSE NO. 12 APPLIED ONLY IF THIS BOX IS CHECKED) AND NO. 24 IF THIS BOX IS CHECKED, special provisions and delivery as indicated. This purchase is negotiated under authority of

17. ACCOUNTING AND APPROPRIATION DATA/LOCAL USE

ITEM NO.	SCHEDULE OF SUPPLIES/SERVICES	QUANTITY ORDERED/ ACCEPTED	UNIT	UNIT PRICE	AMOUNT

If quantity accepted by the Government is same as quantity ordered, indicate by X mark. If different, enter actual quantity accepted below quantity ordered and encircle.

18. UNITED STATES OF AMERICA BY CONTRACTING/ORDERING OFFICER

19. TOTAL

20. DIFFERENCES

21. QUANTITY IN COLUMN 20 HAS BEEN INSPECTED RECEIVED ACCEPTED AND CONFORMS TO THE CONTRACT EXCEPT AS NOTED

DATE SIGNATURE OF AUTHORIZED GOVERNMENT REPRESENTATIVE

22. SHIP NO. PARTIAL FINAL

23. GROSS SHIPPING WT.

24. S.O. VOUCHER NO.

25. PAID BY

26. AMOUNT VERIFIED CORRECT FOR

27. PAYMENT COMPLETE PARTIAL FINAL

28. CHECK NUMBER

29. BILL OF LADING NO.

30. I certify this account is correct and proper for payment.

DATE SIGNATURE AND TITLE OF CERTIFYING OFFICER

31. RECEIVED AT 32. RECEIVED BY 33. DATE RECEIVED 34. TOTAL CONTAINERS 35. GBL ACCOUNT NUMBER 36. GBL VOUCHER NO.

DD 1155

F-200.1155r *DD Form 1155r: General Provisions*

THIS PARAGRAPH APPLIES ONLY TO QUOTATIONS SUBMITTED:

Quotations are of firm-fixed-price unless otherwise indicated by quoter. The Government reserves the right to consider quotations or modifications thereof received after the date indicated hereon and prior to the issuance of the Government's acceptance. This is a request for information and quotations furnished are not offers. When quoting, complete blocks 11, 12, 13, 14, 15, 16. If you are unable to quote, please advise. This request does not commit the Government to pay any cost incurred in preparation or the submission of this quotation or to procure or contract for supplies or services.

GENERAL PROVISIONS

1. INSPECTION AND ACCEPTANCE – Inspection and acceptance will be at destination, unless otherwise provided. Until delivery and acceptance, and after any rejection, risk of loss will be on the Contractor unless loss results from negligence of the United States Government. Notwithstanding the requirements for any Government inspection and test contained in specifications applicable to this contract, except where specialized inspections or tests are specified for performance solely by the Government, the contractor shall perform or have performed the inspections and tests required to substantiate that the supplies and services provided under the contract conform to the drawings, specifications and contract requirements listed herein, including if applicable the technical requirements for the manufacturer's part numbers specified herein.

2. VARIATION IN QUANTITY – No variation in the quantity of any item called for by this contract will be accepted unless such variation has been caused by overfilling of bottles, skipping, or packing, or alterations in manufacturing processes, and then only to the extent, if any, specified elsewhere in this contract.

3. PAYMENTS – Invoices shall be submitted in quadruplicate (one copy shall be marked "Original") unless otherwise specified, and shall contain the following information: Contract or order number, item number, contract description of supplies or services, unit, quantities, unit prices and extended totals. Bill of lading number and weight of shipment will be shown for shipments on Government Bills of Lading. Unless otherwise specified, payment will be made on partial deliveries accepted by the Government when the amount due on such deliveries so warrants.

4. DISCOUNTS – In connection with any discount offered, time will be computed from date of delivery of the supplies to carrier when acceptance is at the point of origin, or from date of delivery at destination in case of acceptance at destination 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 considered to be made for the purpose of earning the discount on the date of mailing of the Government check.

5. DISPUTES – (This contract is governed by the Contract Disputes Act of 1978 (Public Law 95-563) (the "Act"). The Act provides administrative procedures for the submittal, analysis, negotiation, and if necessary, litigation of claims relating to this contract. The parties to this contract must comply with certain time restrictions and requirements governing written documents and claims, and on the appeal of those decisions. Further details on the rights and remedies under the Act may be found in the DAR at 1-314.)

6. FOREIGN SUPPLIES – This contract is subject to the Buy American Act (41 U.S.C. 10a-d), as implemented by Section VI of the DAR and any restrictions in appropriations acts on the procurement of foreign supplies. The quotation must identify any foreign items to be furnished.

7. CONVICT LABOR – In connection with the performance of work under this contract, the Contractor agrees not to employ any person undergoing sentence of imprisonment except as provided by Public Law 89-176, September 10, 1965, (18 U.S.C. 4082(c)(2)) and Executive Order 11755, December 29, 1973.

8. 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.

9. 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 at its discretion to deduct from the contract price or consideration or otherwise recover, the full amount of such commission, percentage, brokerage or contingent fee.

10. GRATUITIES – (a) The Government may, by written notice to the Contractor, terminate the right of the Contractor to proceed under this contract if it is found after notice and hearing, by the Secretary or his duly authorized representative, that gratuities (in the form of entertainment, gifts or otherwise) were offered or given by the Contractor, or any agency or representative of the Contractor, to any officer or employee of the Government with a view toward securing a contract or securing favorable treatment with respect to the awarding or amending, or the making of any determinations with respect to the performing of such contract; provided, that the existence of the facts upon which the Secretary or his duly authorized representative makes such findings shall be in issue and may be reviewed in any competent court. (b) In the event this contract is terminated as provided in paragraph (a) hereof, the Government shall be entitled (i) to pursue the same remedies against the Contractor as it could pursue in the event of a breach of the contract by the Contractor and (ii) as a penalty in addition to any other damages to which it may be entitled by law to exemplary damages in an amount (as determined by the Secretary or the duly authorized representative) which shall be not less than three nor more than ten times the costs incurred by the Contractor in providing any such gratuities to any such officer or employee. (c) The rights and remedies of the Government provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under this contract.

11. CONDITION FOR ASSIGNMENT – This Purchase Order may not be assigned pursuant to the Assignment of Claims Act of 1940, as amended (31 U.S.C. 203, 41 U.S.C. 15), unless or until the acquisition has been recognized and has accepted this order by executing the Acceptance hereon.

12. COMMERCIAL WARRANTY – The Contractor agrees that the supplies or services furnished under this contract shall be covered by the most favorable commercial warranties the Contractor gives to any customer for such supplies or services and that the rights and remedies provided herein are in addition to and do not limit any rights afforded to the Government by any other clause of this contract.

13. PRIORITIES, ALLOCATIONS, AND ALLOTMENTS – The Contractor shall follow the provisions of DMS Reg. 1, or DPS Reg. 1 and all other applicable regulations and orders of the Secretary of Domestic Commerce in obtaining controlled materials and other products and materials needed to fill this order.

14. FAST PAYMENT PROCEDURE –

(a) General. This is a fast payment order. Invoices will be paid on the basis of the Contractor's delivery to a post office, common carrier, or, in shipment by other means, to the point of first receipt by the Government.

(b) Responsibility for Supplies. Title to the supplies shall rest in the Government upon delivery to a post office or common carrier for shipment to the specified destination. If shipment is by means other than post office or common carrier, title to the supplies shall vest in the Government upon delivery to the point of first receipt by the Government, notwithstanding any other provisions of the purchase order, the Contractor shall assume all responsibility and risk of loss for supplies (1) not received at destination, (2) damaged in transit, or (3) not conforming to purchase requirements. The Contractor shall either replace, repair, or correct such supplies promptly at his expense, provided instructions to do so are furnished by the Contracting Officer within ninety (90) days from the date title to the supplies vests in the Government. (DR Appendix concerned.)

(c) Preparation of Invoice.

(1) Upon delivery of supplies to a post office, common carrier, or in shipments by other means, the person at that receipt by the Government, the Contractor shall prepare an invoice in accordance with Clause 3 of the General Provisions of Purchase Order; except that previous receipt of inspection certificates shall be prepared in accordance with the provisions of the agreement. (If "Invoice" shall also be prominently marked "Fast Pay.")

(2) If the purchase price includes the cost of transportation, the Contractor shall enter the prepaid shipping cost on the invoice as a separate item. The cost of parcel post insurance will not be paid by the Government. If transportation charges are separately stated on the invoice, the Contractor agrees to retain receipted paid freight bills or other transportation billings paid separately for a period of three (3) years and to furnish such bills to the Government when requested by audit personnel.

(3) In the event this order requires the preparation of a Material Inspection and Receiving Report (DD Form 250), the Contractor has the option of either preparing the DD Form 250 or including the following information on the invoice, in addition to that required in (c)(1) above: (A) a statement in prominent letters "NO DD 250 PREPARED"; (B) shipment number; (C) mode of shipment; and (D) at low more level, (i) National Stock Number and or manufacturer's part number, (ii) unit of measure, (iii) Ship-To Point, (iv) Mark-For-Point if in contract, and (v) MILSTRIP document number if in contract. When a DD Form 250 is not required, the invoice will include the following information: (i) Ship-To Point, (ii) Mark-For-Point and MILSTRIP document number if in contract, as well as the information in (c)(3) above. In all cases where the DD Form 250 is prepared, a copy of the invoice will be included in each shipment.

(4) Certification of Invoice. The Contractor agrees that the submission of an invoice to the Government for payment is a certification that the supplies for which the Government is being billed have been shipped as delivered in accordance with shipping instructions issued by the ordering officer, in the quantities shown on the invoice, and that such supplies are in the quantity and of the quality designated by the other purchase order.

OUTER SHIPPING CONTAINERS SHALL BE MARKED "FAST PAY"

15. (The clause applies if this contract is for services and is not exempted by applicable regulations of the Department of Labor.)

SERVICE CONTRACT ACT OF 1965 – Except to the extent that no exemptions, variations or tolerances 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 of his employees engaged in performing work on the contract not less than the minimum wage specified under section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended (normal minimum wage); however, in cases where section 8 (a)(2) of the Fair Labor Standards Act of 1938 is applicable, the rates specified therein will apply. (d) regulations and interpretations of the Service Contract Act of 1965 contained in 29 CFR Part 4 are hereby incorporated by reference in this contract.

ADDITIONAL GENERAL PROVISIONS

16. CHANGES – The Contracting Officer may at any time, by a written order, and without notice to the sureties, make changes, within the general scope of this contract, in (i) drawings, designs, or specifications, where the supplies to be furnished are to be specially manufactured for the Government in accordance therewith, (ii) method of shipment or packing and (iii) place of delivery. If any such change causes an increase or decrease in the cost of, or the time required for performance of this contract, whether changed or not changed by any such order, an equitable adjustment shall be made by written modifications of this contract. Any claim by the Contractor for adjustment under this clause must be asserted within 30 days from the date of receipt by the Contractor of the notification of change; provided that the Contracting Officer, if he decides that the facts justify such action, may receive and act upon any such claim if asserted 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 limit the Contractor from proceeding with the contract as changed.

17. TERMINATION FOR DEFAULT – The Contracting Officer, by written notice, may terminate this contract, in whole or in part, if the Contractor fails to perform any of the provisions hereof. In such event, the Contractor shall be liable for damages, including the excess cost of reprocuring similar supplies or services; provided that, if (i) it is determined that any reason that the Contractor was not in default, or (ii) the Contractor's failure to perform is without his and his subcontractor's control, fault or negligence, the termination shall be deemed to be a termination for convenience under paragraph 18. As used in this provision the term "subcontractor" and "subcontractors" means subcontractors at any tier.

18. TERMINATION FOR CONVENIENCE – The Contracting Officer, by written notice, may terminate this contract, in whole or in part, when it is in the best interest of the Government. If this contract is for supplies and is so terminated, the Contractor shall be compensated in accordance with Section 1722 of the Defense Acquisition Regulations in effect on this contract's date. To the extent that this contract is for services and is so terminated, the Government 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.

19. ASSIGNMENT OF CLAIMS – Claims for monies due or to become due under this contract shall be assigned only pursuant to the Assignment of Claims Act of 1940, as amended (31 U.S.C. 203, 41 U.S.C. 15). However, payments to an assignee of monies under this contract shall not, to the extent provided in said Act, as amended, be subject to reduction or set-off (See Clause 11).

ACCEPTANCE			
THE CONTRACTOR HEREBY ACCEPTS THE OFFER REPRESENTED BY THE NUMBERED PURCHASE ORDER AS IT MAY PREVIOUSLY HAVE BEEN OR IS NOW MODIFIED, SUBJECT TO ALL OF THE TERMS AND CONDITIONS SET FORTH, AND AGREES TO PERFORM THE SAME.			
NAME OF CONTRACTOR	SIGNATURE	TYPED NAME AND TITLE	DATE SIGNED

DD FORM 1155r PREVIOUS EDITIONS ARE OBSOLETE.

F-200.1473 *DD Form 1473: Report Documentation Page*

SECURITY CLASSIFICATION OF THIS PAGE(When Data Entered)

SECURITY CLASSIFICATION OF THIS PAGE(When Data Entered)

[The next page is F227.]

DEPARTMENT OF DEFENSE FORMS

F-200.1567 *DD Form 1567: Labor Standards Interview*

LABOR STANDARDS INTERVIEW			FORM APPROVED OMB NO. 0704-0158
CONTRACT NUMBER	EMPLOYEE'S NAME (Last, First, M.I.)		
NAME OF PRIME CONTRACTOR	EMPLOYEE'S ADDRESS (Street, City, State, ZIP Code)		
NAME OF EMPLOYER	WORK CLASSIFICATION	WAGE RATE	
	SUPERVISOR'S NAME (Last, First, M.I.)		

	(Check Below) YES	NO
DO YOU WORK OVER 8 HOURS PER DAY?		
DO YOU WORK OVER 40 HOURS PER WEEK?		
ARE YOU PAID AT LEAST TIME AND A HALF FOR OVERTIME HOURS?		
ARE YOU RECEIVING ANY CASH PAYMENTS FOR FRINGE BENEFITS REQUIRED BY THE POSTED WAGE DETERMINATION DECISION?		

WHAT DEDUCTIONS OTHER THAN TAXES AND SOCIAL SECURITY ARE MADE FROM YOUR PAY?

HOW MANY HOURS DID YOU WORK ON YOUR LAST WORK DAY BEFORE THIS INTERVIEW?

HOURS | WHAT DATE (YYMMDD) WAS THAT?

WHAT TOOLS DO YOU USE?

WHEN DID YOU BEGIN WORK ON THIS PROJECT (YYMMDD)?

I HAVE READ THE ABOVE AND CERTIFY IT TO BE CORRECT TO THE BEST OF MY KNOWLEDGE.

EMPLOYEE'S SIGNATURE | DATE (YYMMDD)

INTERVIEWER'S SIGNATURE | DATE (YYMMDD)

INTERVIEWER'S COMMENTS

WORK EMPLOYEE WAS DOING WHEN INTERVIEWED

IS EMPLOYEE PROPERLY CLASSIFIED AND PAID? (If additional space is needed, use comments section.) ☐YES ☐NO

ARE WAGE RATES AND POSTERS DISPLAYED? ☐YES ☐NO

FOR USE BY PAYROLL CHECKER

IS ABOVE INFORMATION IN AGREEMENT WITH PAYROLL DATA? ☐YES ☐NO

COMMENTS

DATE OF CHECK (YYMMDD)	NAME OF CHECKER (Last, First, M.I.)	JOB TITLE	SIGNATURE

DD FORM 82 JUN 1567 PREVIOUS EDITIONS MAY NOT BE USED.

F-200.1567

ARMED SERVICES PROCUREMENT REGULATION

DEPARTMENT OF DEFENSE FORMS

F-200.1568 *DD Form 1568: Labor Standards Investigation Summary Sheet*

LABOR STANDARDS INVESTIGATION SUMMARY SHEET	CONTRACT NUMBER
	DATE OF CONTRACT
REPORTING OFFICE	CONTRACT AGENCY

TYPE OF CONTRACT ☐FIXED PRICE ☐CPFF ☐OTHER (Specify)

CONTRACTOR'S NAME AND ADDRESS (Include ZIP Code)	EMPLOYER'S NAME AND ADDRESS (Include ZIP Code) (If other than prime contractor)

PROJECT AND LOCATION

DESCRIPTION OF WORK

BASIS FOR INVESTIGATION

WAGE DETERMINATION NUMBER	WAGE DETERMINATION DATE

NATURE AND EXTENT OF VIOLATION

NO. EMPLOYEES INVOLVED	ARE VIOLATIONS CONSIDERED WILLFUL? ☐YES ☐NO	COPELAND ACT VIOLATIONS ☐YES ☐NO
DAVIS-BACON ACT UNDERPAYMENTS $	OTHER P. UNDERPAYMENTS $	OTHER P. LAW VIOLATIONS $

CORRECTIVE ACTIONS TAKEN

RESTITUTION MADE ☐YES ☐NO	AMOUNT OF RESTITUTION $	CONTRACTORS PAYMENT WITHHELD ☐YES ☐NO
WITHHELD FOR DAVIS-BACON VIOLATIONS $	WITHHELD FOR OTHER P. UNDERPAYMENTS $	WITHHELD FOR OTHER VIOLATIONS $

REMARKS

PREPARED BY

DATE	TITLE	SIGNATURE

If Contract Part Time Standards Act

DD FORM 1568

F-200.1568

ARMED SERVICES PROCUREMENT REGULATION

TABLE 2—Continued

As Required	Address	Number of Copies
When consignee is an Air National Guard Activity	Consignee address (Block 13), ATTN: Property Officer	8
Navy		
Navy Foreign Military Sales/ Military Assistance Program (Grant Aid)	US Navy International Logistics Control Office (NAVICO) 700 Robins Avenue Philadelphia, PA 19111	2
When typed code (TC) 2T or 7T is shown in Block 16	Aviation Supply Office (ASO) (Code MFA) for aviation-type material 700 Robins Avenue Philadelphia, PA 19111	2
or	and	
When shipment is consigned to another contractor's plant for a Government representative	Ships Parts Control Center (SPCC) (Code 7231) for all other material Mechanicsburg, PA 17055	2
or		
When Block 16 indicates the shipment includes GFP		
Marine Corps		
All shipments consigned to a Marine Corps Activity (excluding aeronautical spares).	Commandant of the Marine Corps Headquarters, USMC Washington, D. C. 20380	1
	Commanding General Marine Corps Logistics Base Albany, GA 31704	2
Bulk Petroleum Shipments	Cognizant Defense Fuel Region (see Table 4)	1

Part 5—Preparation of the DD Form 250–1 (LOADING REPORT)

I–501 Instructions. The DD Form 250–1 shall be prepared in accordance with the following instructions when applied to a tanker or barge cargo lifting. Abbreviations may be used where space is limited. The block numbers correspond to those on the form.

Block 1—TANKER/BARGE. Line out "TANKER" or "BARGE" as appropriate and place "X" to indicate loading report.

Block 2—INSPECTION OFFICE. Enter the name and location of the Government office conducting inspection.

Block 3—REPORT NO. Number each form consecutively, starting with number 1, to correspond to the number of shipments made against the contract. In case shipment is made from more than one location against the same contract, follow this numbering system at each location.

Block 4—AGENCY PLACING ORDER ON SHIPPER, CITY, STATE AND/OR LOCAL ADDRESS (loading). Indicate the applicable Government activity.

Block 5—DEPARTMENT. Indicate Military Department owning product being shipped.

Block 6—PRIME CONTRACT OR P.O.NO. Enter the contract or purchase order number.

Block 7—NAME OF PRIME CONTRACTOR, CITY, STATE AND/OR LOCAL ADDRESS (Loading). Enter the name and address of the contractor as shown in the contract.

Block 8—STORAGE CONTRACT. Enter storage contract number if applicable.

Block 9—TERMINAL OR REFINERY SHIPPED FROM, CITY, STATE AND/OR LOCAL ADDRESS. Enter the name and location of the contractor facility from which shipment is made. Also indicate delivery point in this space as either "FOB Origin" or "FOB Destination."

Block 10—ORDER NO. ON SUPPLIER. Enter number of the delivery order, purchase order, subcontract or suborder placed on the supplier.

Block 11—SHIPPED TO: (Receiving Activity, City, State and/or Local Address). Enter the name and geographical address of the consignee as shown on the shipping order.

Block 12—B/L NUMBER. Where applicable, enter the initials and number of the bill of lading. If commercial bill of lading later to be converted to a Government bill of lading is authorized, show "Com. B/L to GB/L."

Block 13—REQN. OR REQUEST NO. Enter number and date if cited in the shipping instructions.

Block 14—CARGO NO. Enter the cargo number furnished by the ordering office.

Block 15—VESSEL. Enter the name of tanker or barge.

Block 16—DRAFT ARRIVAL. Enter the vessel's draft on arrival.

Block 17—DRAFT SAILING. Enter the vessel's draft on completion of loading.

Block 18—PREVIOUS TWO CARGOES. Enter the type of product constituting previous two cargoes.

TABLE 3 **DD FORM 250-1 DISTRIBUTION**

Type of Shipment	Recipient of DD Form 250-1	Number of Copies: Loading Tanker (Prepared by Shipper/Govt. Representative)	Loading Barge (Prepared by Shipper/Govt. Representative)	Discharge Tanker (Prepared by Receiving Activity)	Discharge Barge (Prepared by Receiving Activity)
On all overseas shipments provide for a minimum of 4 consignees. Place 1 copy (attached to ullage report) in each of 4 envelopes & mark envelopes "Consignee-First Destination," "Consignee-Second Destination," etc., for delivery via the tanker.	Each Consignee By mail (CONUS shipments only) With Shipment	2 1	1 1	(as required)	(as required)
	Master of Vessel	1	1	1	1
	Tanker or Barge Agent	2	2	2	2
	Contractor	(as required)	(as required)	(as required)	(as required)
	Cognizant Inspection Office	1	1	1	1
	Government Representative at each Destination Responsible for Quality	1	1	1	1
	Government Representative at Cargo Loading Point	1	1	1*	1*
On all USNS tankers and all MSC chartered tankers and MSC chartered barges.	Military Sealift Command Code 331 Washington, DC 20390	2	2	2	2
See contract or shipping order for finance documentation and any supplemental requirements for Government-owned product shipments and receipts.	Payment Office: If this is DASC-F, send copies to Defense Fuel Supply Center ATTN: DFSC-CDX, Cameron Station Bldg 5, Alexandria, VA 22314 (Do not send copies to DASC-F)	2	2	2	2

*With copy of ullage report.

TABLE 3—Continued

Type of Shipment	Recipient of DD Form 250-1	Number of Copies: Loading Tanker (Prepared by Shipper/Govt. Representative)	Loading Barge (Prepared by Shipper/Govt. Representative)	Discharge Tanker (Prepared by Receiving Activity)	Discharge Barge (Prepared by Receiving Activity)
For shipments and receipts of DFSC financed cargoes for which DASC-F is not the Paying Office.	Accounting Office, DFSC, ATTN: DFSC-CD, Cameron Station, Alexandria, VA 22314	1	1	1	1
For shipments on all USNS tankers, MSC chartered tankers & barges, & FOB destination tankers with copy of ullage report.	DFSC-OC, Cameron Station Alexandria, VA 22314	1	1	1**	1
		**Dry Tank certificate to accompany DD Form 250-1 and ullage report.			
On Army ILP shipments.	US Army International Logistics Center New Cumberland Army Depot New Cumberland, PA 17070	2	2	2	2
NAVY On all shipments to Navy-Operated Terminals	Navy Fuel Petroleum Office Cameron Station Alexandria, VA 22314	2	1	2	1
On all shipments to AF bases	Directorate of Energy Mgmt SA ALC (SFQ) Kelly AFB, TX 78241	1	1	1	1
On all CONUS loadings.	DFSC Fuel Region(s) cognizant of Shipping Point	1	1	1	1
On all shipments to CONUS Destinations.	DFSC Fuel Region(s) cognizant of Shipping and Receiving Point****	1	1	0	0
For all discharges of cargoes originating at DFSPs & discharging at activities not a Defense Fuel Support Point	Accounting Office, DFSC ATTN: DFSC-CD Cameron Station Alexandria, VA 22314			1***	1***

*** The copies of DD Form 250-1, forwarded by bases, will include the following in Block 11:
Shipped to: Supplementary Address, if applicable; Signal Code; and Fund Code.

**** See Table 4.

TABLE 4

FUEL REGION LOCATIONS AND AREAS OF RESPONSIBILITY

a. DFR Northeast	Defense Fuel Region Northeast McGuire AFB, Bldg. 19-01, NJ 08641
Area of Responsibility: (Region 1)	Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia
b. DFR Southeast	Defense Fuel Region Southeast P.O. Box TT Tyndall AFB, FL 32403
Area of Responsibility: (Region 2)	Alabama, Florida, Georgia, Mississippi, North Carolina, South Carolina, Tennessee, and Kentucky
c. DFR Central	Defense Fuel Region Central 8900 S. Broadway, Bldg. 2 St. Louis, MO 63125
Area of Responsibility: (Region 3)	Colorado, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Montana, Nebraska, North Dakota, Ohio, South Dakota, Utah, Wisconsin, and Wyoming
d. DFR Southwest	Defense Fuel Region Southwest Room 7017, 515 Rusk Avenue Houston, TX 77002
Area of Responsibility: (Region 4)	Arkansas, Louisiana, New Mexico, Oklahoma, and Texas
e. DFR West	Defense Fuel Region West 3171 N. Gaffney Street San Pedro, CA 90731
Area of Responsibility: (Region 5)	Arizona, California, Idaho, Nevada, Oregon, and Washington

TABLE 4—Continued

f. DFR Alaska	Defense Fuel Region Alaska Elmendorf AFB, Alaska 99506
Area of Responsibility:	Alaska and Aleutians
g. DFR Europe	Defense Fuel Region Europe HQ USEUCOM (J4) APO New York 09128
Area of Responsibility:	Central Europe, British Isles and Scandinavia, Mediterranean Region plus Jordan and Iraq Africa, to include the Canary Islands and Seychelles Islands; and the Azores
h. DFR Pacific	Defense Fuel Region, Pacific Camp H. M. Smith Honolulu, HI 96861
Area of Responsibility:	PACOM
i. DFR Caribbean	Defense Fuel Region, Caribbean Naval Station, Box 3399 FPO Miami, FL 34051
Area of Responsibility:	Caribbean Area (includes Puerto Rico, West Indies, and Mexico, but excludes Panama and the Bahamas)

ANNEX II

DOUBLE SAMPLING PLAN

(90% Confidence of rejecting lots having 10% or more defectives)

Lot Range	Sample Size 1	Accept if Defects in Sample 1 Are	Reject if Defects in Sample 1 Are	Continue With Sample 2 if Defects in Sample 1 Are	Sample Size 2	Accept if Sum of Defects in Samples 1 and 2 Equals or is Less Than	Reject if Sum of Defects in Samples 1 and 2 Equals or Exceeds
1-18	All	0	1	-	-	-	-
19-50	18	0	1	-	-	-	-
51-90	21	0	2	1	21	1	2
91-150	25	0	3	1 or 2	25	2	3
151-400	32	0	4	1, 2 or 3	32	3	4
401-10,000	34	0	4	1, 2 or 3	34	3	4
10,001 - 35,000	40	0	5	1, 2, 3, or 4	40	4	5
35,001 - 100,000	46	0	6	1, 2, 3, 4, or 5	46	5	6
100,000+	52	0	7	1, 2, 3, 4, 5, or 6	52	6	7

ANNEX III—TABLE OF RANDOM NUMBERS

Page 1

Line \ Col	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)
1	10480	15011	01536	02011	81647	91646	69179	14194	62590	36207	20969	99570	91291	90700
2	22368	46573	25595	85393	30995	89198	27982	53402	93965	34095	52666	19174	39615	99505
3	24130	48360	22527	97265	76393	64809	15179	24830	49340	32081	30680	19655	81348	69828
4	42167	93093	06243	61680	07856	16376	39440	53537	71341	57004	00849	74917	97758	16379
5	37570	39975	81837	16656	06121	91782	60468	81305	49684	60672	14110	06947	01963	58413
6	77921	06907	11008	42751	27756	53498	18602	70659	90655	15053	21916	81965	44394	42880
7	99562	72905	56420	69994	98872	31016	71194	18736	44013	48840	63213	33949	10656	12952
8	96301	91977	05463	07972	18876	20922	94595	56869	69014	60045	18425	44903	42508	32307
9	89579	14342	63661	10281	17453	83092	57740	06478	23131	15366	38678	44457	05655	38982
10	85475	36857	53342	53988	53060	59533	38867	62300	99150	13985	10439	11458	18593	69952
11	28918	69578	88231	33276	70997	79936	56865	05859	90106	31595	01547	85500	91610	78184
12	63995	36301	46815	05427	69828	69445	18565	72895	52180	20847	12234	90525	53703	90322
13	09480	95969	52836	82737	88974	35888	36320	17917	30015	00272	86055	20568	38617	15465
14	10365	61189	87589	85689	48237	52267	67689	93394	01511	26556	85104	29385	59975	85978
15	07119	97336	71048	08178	77233	13914	47564	81056	97735	85977	29480	74461	28551	90707
16	51085	12781	51821	51259	77452	16308	60756	92144	49442	53900	70960	43800	75601	40719
17	02368	21382	52404	60268	89388	15065	55322	44919	01188	65255	64894	48628	85944	61565
18	01911	54092	33362	94904	31273	04146	18594	29852	71585	85030	51132	01915	92747	64951
19	00149	33916	82958	26834	03775	69229	12535	44372	07351	86367	52666	39975	20476	83477
20	07956	97628	33787	09998	42698	06691	76988	13602	51851	46104	88916	19509	25625	58104
21	48663	91245	85828	14346	09172	30168	90229	04734	59193	22178	30421	61406	99704	32-12
22	06783	84739	90511	27085	60631	48390	83532	79375	89220	57420	82546	17869	29430	72061
23	62874	92520	82651	43040	60414	86232	97662	24010	72555	68607	26940	80604	99907	08209
24	42157	34136	85157	84855	90448	87043	60478	43267	46430	27970	80865	99752	70708	41098
25	82651	20849	60537	64952	61843	41248	13851	58104	29350	89035	83197	20790	10079	14863
26	20849	89768	81536	86645	12659	92259	57102	80424	82651	37542	57600	40805	43808	76038
27	29096	40129	75169	30015	00172	90707	94051	99562	72905	56420	69994	98872	31016	71194
28	35683	47564	81056	97735	85977	29378	74461	28551	90707	10281	37453	83092	94595	54888
29	84378	22131	15366	38678	44947	05585	94394	28837	40801	38980	72152	29301	64197	61772
30	91402	48416	07844	69818	50720	94953	79375	89220	57420	82546	17869	29430	72061	08209
31	06568	04721	87017	97341	42206	35124	74067	95547	81817	42607	43808	76835	62028	76630
32	00723	49884	62197	56170	86324	88072	76122	36086	84637	93141	76038	65855	77919	88006
33	69011	65795	95876	55893	39568	27356	86575	08805	40801	38980	89841	80130	12777	48501
34	25976	57948	29880	84604	67817	48708	23918	52471	65424	69774	33611	54282	85963	03547
35	09763	83473	73577	12908	30883	18317	88290	35797	05998	41688	34958	37888	38917	88050
36	91367	42595	27958	30134	04024	86385	29880	99730	55536	84855	29080	09250	79654	73211
37	17958	56349	90889	69327	28844	38821	96115	26342	19059	03008	73708	83117	36103	48736
38	48302	19584	12848	49618	02308	51038	20455	58727	28158	13475	56942	53389	20562	87338
39	82157	89634	94824	78171	84610	82834	09922	25417	44137	48413	25555	21824	83568	80468
40	14577	62765	35605	81963	39667	17924	54873	56307	61607	49518	89884	20103	27480	19068
41	98427	07523	33362	64270	01638	92477	66969	98420	04880	45585	46587	04102	46840	45709
42	34914	63976	88720	82765	34476	17032	87589	40836	32427	70002	70663	88863	77775	69348
43	70000	28277	30455	46473	23219	53416	94970	25832	69975	94884	39661	72905	00102	66794
44	53976	54914	06990	67245	68350	82948	11398	42878	80287	88267	47363	46634	06541	97809
45	76478	28513	40940	07591	18745	25774	42987	80059	39511	96189	41193	14922	60697	59583
46	90785	52216	83974	09892	65831	39857	50490	83765	58657	14361	31720	57375	56228	41546
47	42366	07432	32338	31698	14883	64413	59744	92351	97473	89286	38923	04110	23726	51900
48	08625	00358	31625	85388	65442	34072	81249	35030	58851	60756	98275	45178	75647	81788
49	95018	68399	83526	70765	10382	04548	76463	34128	02349	17847	88683	13277	62736	98277
50	15864	20449	30498	38391	91138	21999	58916	81458	37890	48283	44752	28920	38541	85653

* U.S. GOVERNMENT PRINTING OFFICE: 1983-361-935:661

[FR Doc. 83-31459 Filed 11-25-83; 8:45 am]
BILLING CODE 3810-01-C

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 181

[CGD 79-013]

Identification, Boat Hull Numbers

Correction

In FR Doc. 83-24693, beginning on page 40716, in the issue of Friday, September 9, 1983, on page 40719, in the first column, in § 181.29(a)(1), in the second line "starboard side" should read "starboard outboard side".

BILLING CODE 1505-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[AD-FRL 2478-5]

Approval and Promulgation of Implementation Plans; California

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: On June 30, 1982, EPA approved revisions to the California State Implementation Plan (SIP) for Lead, except for outstanding portions including the control strategy for Fresno County. Revisions to the SIP were submitted by the State in order to demonstrate attainment of the National Ambient Air Quality Standard (NAAQS) for Lead in Fresno County. Today's notice takes final action under the Clean Air Act to approve the demonstration for Fresno County as a SIP revision.

EFFECTIVE DATE: This action is effective January 27, 1984.

FOR FURTHER INFORMATION CONTACT: David P. Howekamp, Director, Air Management Division, Region 9, Environmental Protection Agency, 215 Fremont Street, San Francisco, CA 94105, Attn: Douglas Grano, (415) 974-8222.

ADDRESS: A copy of today's revision to the California State Implementation (SIP) plan is located at:

The Office of the Federal Register, 1100 L Street NW., Room 8401, Washington, D.C. 20408

Public Information Reference Unit, EPA Library, 401 M Street SW., Washington, D.C.

SUPPLEMENTARY INFORMATION:

Background

On November 19, 1979, the State of California submitted revisions to their SIP for Lead. These revisions provide a statewide plan for attainment/maintenance of the Lead NAAQS.

On June 30, 1982 (47 FR 28374) EPA approved these revisions except for the following portions:

(1) New Source Review (NSR) requirements; and

(2) Control strategies for Los Angeles and Fresno areas.

On April 8, 1983, the State submitted ambient lead data for the Fresno area as a SIP revision.

Demonstration of Attainment

The Fresno area has no significant point sources of lead (i.e., those sources that emit from discrete points rather than from wide areas). Automobiles are the major contributors to lead emissions in the area. In areas such as Fresno, Federal regulations that limit the lead content of gasoline have resulted, and will continue to result, in a gradual decrease in lead emissions. Depending on the lead air concentration in the base (historic) year, it is possible for such areas to attain the lead standard solely due to Federal regulations. Based on those Federal regulations and imformation about past and projected gasoline sales and assuming that lead concentrations decrease proportionally with automotive lead emissions, EPA has calculated critical lead concentrations for several base and attainment years. These were published in a July 1983 draft report entitled Updated Information on Approval and Promulgation of Lead Implementation Plans prepared for EPA Office of Air Quality Planning and Standards, Control Programs Development Division, Research Triangle Park, N.C. If the highest lead concentration for a given base year/attainment year combination is less than the critical value for that combination, EPA assumes that the standard will be attained by the attainment date. In 1976, Fresno had a worst-case quarterly concentration of 4.83 ug/m^3. The national ambient air quality standard is 1.5 ug/m^3. Fresno's worst-case concentration is less than the critical concentration calculated by EPA for an attainment date of 1983; therefore, EPA concludes that the standard is being and will continue to be attained in Fresno.

Also the State of California has submitted documentation which shows no exceedance of the Lead NAAQS of 1.5 ug/m^3 per calendar quarter in Fresno County for the eight consecutive quarters of 1980 and 1981. In addition, the State has certified that 1982 data still to be published provide another four quarters of exceedance free data. EPA has reviewed the data and concludes that this information supports the conclusion that the lead standard is being attained in Fresno County.

The ambient air quality monitoring data for Fresno County demonstrate that the statewide phase-down of lead content in gasoline has been quite successful. All precision monitoring has been conducted as required by CFR Part 58, Appendix A. A description of the air quality monitoring network for lead may be inspected at the Air Resources Board, 1102 Q Street, Sacramento, California. (California State Lead phase-down Standards have been stricter than federal standards.)

Accordingly, the State has requested that EPA drop the requirement for further analysis of the Lead problem in Fresno as well as our requirement for a revised control strategy for the area. In response, EPA sees no need for further analysis for the Fresno area or for revising the Fresno control strategy.

EPA Actions

EPA is taking final action under Section 110 of the Clean Air Act to approve the December 1, 1982 submittal as a revision to the SIP and to approve the Statewide plan for attainment/maintenance of the Lead NAAQS in the Fresno area. Actions on NSR and the control strategy for the Los Angeles area will be taken in separate **Federal Register** notices.

Regulatory Process

It is the purpose of this notice to approve the revision listed above and to incorporate it into the California SIP. This is being done without prior proposal because the revision is noncontroversial and no comments are anticipated. The public should be advised that this action will be effective 60 days from the date of this **Federal Register** notice. However, if notice is received within 30 days that someone wishes to submit adverse or critical comments, the approval will be withdrawn and a subsequent notice will be published before the effective date. The subsequent notice will indefinitely postpone the effective date, modify the final action to a proposed action, and establish a comment period.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Under the Clear Air Act, any petitions for judicial review of this action must be filed in the United States Court of

Appeals for the appropriate circuit by (January 27, 1984). This action may not be challenged later in proceedings to enforce its requirements.

Incorporation by reference of the State Implementation Plan for the State of California was approved by the Director of the Federal Register on July 1, 1982.

Authority: Secs. 110 and 301(a), Clean Air Act, as amended (42 U.S.C. 7410 and 7601(a)).

List of Subjects in 40 CFR Part 52

Intergovernmental relations, Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

Dated: November 17, 1983.

William D. Ruckelshaus,

Administrator.

PART 52—[AMENDED]

Subpart F of Part 52 Chapter I, Title 40 of the Code of Federal Regulation are amended as follows:

Subpart F—California

Section 52.220 is amended by adding paragraph (c)(139) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(139) Amendments to "Chapter 27—California Lead Control Strategy" was submitted on April 8, 1983 by the Governor's designee.

[FR Doc. 83-31717 Filed 11-25-83; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 52

[A-S-FRL 2478-4]

Approval and Promulgation of Implementation Plans, Wisconsin

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: The EPA announces final approval on revisions to the Wisconsin State Implementation Plan (SIP) for TSP. The revision pertains to regulations adopted by the State for fugitive dust control in or near nonattainment areas for total suspended particulates (TSP). A notice of proposed rulemaking on this revision appeared in the June 10, 1983 (48 FR 26841) Federal Register. EPA's action is based upon a revison which was submitted by the State to EPA on December 7, 1982, for incorporation into the SIP.

EFFECTIVE DATE: This final rulemaking becomes effective on December 28, 1983.

ADDRESSES: Copies of the revision to the Wisconsin SIP and other materials relating to this rulemaking are available for inspection at:

The Office of the Federal Register, 1100 L Street NW., Room 8401, Washington, D.C. 20408

U.S. Environmental Protection Agency, Air and Radiation Branch, Region V, 230 South Dearborn Street, Chicago, Illinois 60604

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

Wisconsin Department of Natural Resources, Bureau of Air Management 101 South Webster, Madison, Wisconsin 53707.

FOR FURTHER INFORMATION CONTACT: Gary Gulezian, Chief, Regulatory Analysis Section (5AR-26), Environmental Protection Agency, Region V, Chicago, Ill. 60604, (312) 886-6258.

SUPPLEMENTARY INFORMATION: In today's final rulemaking action, EPA is approving a revision to the TSP portion of Wisconsin's SIP. The revision consists of amendments to Wisconsin Administration Code NR 154.01, Definitions, and NR 154.11(2), Control of Particulate Emissions. The amendments clarify the fugitive dust emission limitations in TSP nonattainment areas identified by the State and revise the applicability criteria for both the public and private sources to which the regulations apply. The amendments were submitted by the State to EPA on December 7, 1982.

Under the amendments, all subject areas, privately or publicly owned, that are located inside or within 1 mile of the TSP nonattainment areas identified by the State, which have a total area of at least 20,000 square feet and are subject on 3 separate days during any 14-consecutive-day period to a traffic rate of at least 10 vehicles per 60-minute period, would be required to meet the control measures contained in WAC NR 154.11 (2). These measures include paving and/or periodic surface treatment of subject areas. The compliance schedule requirements for roadways and public trafficable areas commenced on November 1, 1982, the date that the new rule became effective in the State.

EPA reviewed the amendments and concluded that the controls extend above and beyond the requirements of the existing SIP. Therefore, on June 10, 1983, EPA published a rulemaking action proposing to approve the amendments (48 FR 26841). No public comments were received. Thus, EPA is taking final action to approve the new regulations as a revision to the State SIP.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Under Section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by January 27, 1984. This action may not be challenged later in proceedings to enforce its requirements. (See sec. 307(b)(2).)

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations

Note.—Incorporation by reference of the State Implementation Plan for the State of Wisconsin was approved by the Director of the Federal Register on July 1, 1982.

This notice is issued under authority of sections 110 and 172 of the Clean Air Act, as amended (42 U.S.C. 7410 and 7502).

Dated: November 17, 1983.

William D. Ruckelshaus,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS; WISCONSIN

Title 40 of the Code of Federal Regulations, Chapter I, Part 52 is amended as follows:

1. Section 52.2570 is amended by adding paragraph (c)(30) as follows:

§ 52.2570 Identification of plan.

* * * * *

(c) * * *

(30) On December 7, 1982, Wisconsin submitted revisions to regulations NR 154.01 and NR 154.11(2) for fugitive dust control in or near nonattainment areas for TSP

[FR Doc. 83-31718 Filed 11-25-83; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Community Services

45 CFR Part 1076

Community Development Credit Union Program

AGENCY: Office of Community Services, HHS.

ACTION: Final rule.

SUMMARY: This rule implements the Community Development Credit Union Loan Program which was continued by the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97-35).

DATES: This rule is effective November 28, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. Francis Rupp, at (202) 653-5675.

SUPPLEMENTARY INFORMATION: The Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97-35) ("the Reconciliation Act") repealed the provisions of the Economic Opportunity Act of 1964, which authorized the former Community Services Administration (CSA) to implement the Community Development Credit Union (CDCU) Program, and enacted authority for the Secretary of Health and Human Services to continue to operate the CDCU Program. The Secretary has decided to implement the CDCU program with new regulations in order to make certain policy changes and improve the administration of the program. A proposed rule was published in the **Federal Register** on August 16, 1983, and this final rule reflects the comments which were received on the proposed regulation. This rule does not affect loans previously issued by the Community Services Administration (CSA) under 12 CFR 705.1 through 705.12. Those regulations remain in effect for loans obligated by CSA. This rule will govern the use of CDCU Revolving Loan Fund monies made available subsequent to the date of publication of this rule.

Comments were received by OCS from eight organizations including several community development credit unions which previously received assistance from CSA under this program in 1980, the National Credit Union Administration and the National Federation of Community Development Credit Unions. The primary areas of concern, which will be addressed separately below, are the increased interest rate, provision of technical assistance, the increased matching requirement and sole administration of the program by HHS.

Most comments maintained that the interest rate in the proposed rule was excessive and if the interest rate is to be increased the maximum to be charged should be 5 percent. The commenters further maintained that any increase in the interest rate should not be effected during the present adverse economic conditions. The Department recognizes that economic conditions have been difficult; however, with economic indicators now moving steadily upward the Department does not believe that such past economic adversity alone should be the basis for not increasing the interest rate. Therefore, the interest rate in the final rule recognizes the need for such Federal government lending to reflect more closely the actual interest rates on Federal government borrowings.

The comments from previously funded community development credit unions and the National Federation of Community Development Credit Unions (the Federation) point to the absence of any explicit provisions for technical assistance in the proposed regulations as contrary to the intent of Congress.

However, previous technical assistance to the CSA-funded CDCUs was provided in the form of a grant from CSA to the National Federation of Community Development Credit Unions. The Department believes that, with the expiration of the $200,000 grant from the CSA to the Federation, the 28 previously funded CDCUs should have already received most of the technical assistance necessary to make these organizations viable. Any additional technical assistance needed by individual credit unions should be purchased from the interest spread of 4 percent from any of a variety of credit union industry groups. As regards new organizations, the Department will review applications for new funding to insure that such organizations have either planned in their projected budgets to purchase adequate technical assistance or made other arrangements to fill this need. In addition, technical assistance is presently available from NCUA in connection with that agency's periodic fiscal examinations.

The Department's original objective in increasing the match requirement was to insure greater private sector support. However, the commenters all indicated that such an increase would have the opposite effect. The final rule therefore will only require the member share deposits generated by CDCUs to leverage one dollar for every two dollars of loan funds provided by OCS (See 45 CFR 1076.60-10(c) below) and will give priority consideration to those organization which propose to leverage more than the required match.

The fourth major concern of the Federation and several community development credit unions funded by CSA was sole administration of the program by this Department. Under the Economic Opportunity Act, the CDCU Program was jointly administered by CSA and NCUA. However, in the Reconciliation Act Congress did not indicate that administration of the program should be shared with NCUA as it had when the program was created. The Department's approach will be to request that the NCUA perform a similar function to the one it performed when it shared responsibility with CSA for administering the program. Thus OCS has requested NCUA's recommendations on these regulations, and will consult with NCUA in the future whenever substantive policy issues would impact NCUA's regulation of the CDCUs.

In addition to the major concerns discussed above, a variety of suggestions and observations were made by one or more commenters. The Federation observed that loans should not be for less than five years. The Department in indicating that loans should be repaid "within the shortest time compatible with sound business practice" did not intend to mandate a shorter loan duration, but only intended to provide CDCU's the flexibility to borrow for a shorter period if their unique business circumstances so dictate. Another suggestion raised by several commenters was that eligibility for the program be expanded to include corporate credit unions either serving or controlled by CDCUs. While the Department is not ultimately opposed to such an expansion, the Department does not believe such an expansion is appropriate at present without further study of its impact. At present the Department perfers to concentrate on the CDCUs only, but will consider this suggestion for possible future amendments to this regulation. NCUA proposed a more specific definition of Community Development Credit Union which has been incorporated in the text of this final regulation. NCUA also suggested that all references in the proposed regulation to insurance of the loans be deleted and the Department has agreed. Lastly, NCUA proposed language modification to the subsection of the regulation entitled "Loans to CDCUs" and "Loans", which language the Department has substantially incorporated in this final rule.

The regulations are being codified in Title 45, with other HHS regulations, rather than in Title 12 as proposed.

Regulatory Impact and Regulatory Flexibility Act

This proposed rule governs a program with availability of approximately $2.7 million dollars in Fiscal Year 1984 funds. Consequently, the rule is not major, based on the criteria of Executive Order 12291, and a regulatory impact analysis is not required. In addition, the proposed rule will affect only a small number of credit unions and will not impose an additional burden on them. Accordingly, the Secretary certifies that the rule will not have a significant economic impact on a substantial number of small entities. A regulatory flexibility analysis as defined by the Regulatory Flexibility Act of 1980 (5 U.S.C. Ch. 6) is, therefore not required.

List Of Subjects in 45 CFR Part 1076

Loan programs, Low-income residents, Community revitalization, Chartering, State Credit Union Regulatory Agencies, Economic development, Field of membership, Community needs plan.

For reasons set forth in the preamble, Title 45 of the Code of Federal Regulations, Part 45 is amended to include the following new subpart.

PART 1076—ECONOMIC DEVELOPMENT PROGRAMS

* * * * *

Subpart 1076.60—Community Development Credit Union Loan Program

Sec.

1076.60–1 Applicability.
1076.60–2 Purpose and scope.
1076.60–3 Definitions.
1076.60–4 Purpose of program.
1076.60–5 Eligible applicants.
1076.60–6 Program activities.
1076.60–7 Application for chartering.
1076.60–8 CDCU field of membership.
1076.60–9 Community development committee.
1076.60–10 Loans to CDCUs.
1076.60–11 State Chartered Credit Unions.
1076.60–12 Application for participation in the CDCU Loan Program.

Authority: Pub. L. 97–35, Secs. 623, 633, 681, 95 Stat. 494, 498, 42 U.S.C. 9812, 9822, 9910.

§ 1076.60–1 Applicability.

CDCU Revolving Loan Fund monies obligated prior to the effective date of this regulation are governed by 12 CFR 705.1 through 705.12. Funds obligated after the effective date of this regulation are governed by this subpart.

§ 1076.60–2 Purpose and scope.

The purpose of this subpart is to implement the Community Development Credit Union (CDCU) Loan Program under the direct administration of the Office of Community Services (OCS) of the Department of Health and Human Services (HHS). Legislative changes in 1981 resulted in the assumption by HHS of federal administrative responsibility for the CDCU program as authorized by Sections 623, 633, and 681 of the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35).

§ 1076.60–3 Definitions.

(a) Community Development Credit Union—For the purpose of this regulation, a Community Development Credit Union (CDCU) is a credit union chartered in accordance with § 1076.60–6 and 7 of this subpart or an existing credit union which has as a basic purpose the stimulation of economic development activities and community revitalization efforts aimed at benefitting the community it serves, a majority of which must be low-income residents; and which has submitted an application and has been selected for participation in the CDCU program in accordance with the provisions of this regulation.

(b) Loans—For the purposes of this regulation, a loan from OCS to a CDCU may mean a loan to or a non-membership deposit in a credit union selected and qualified for participation in this program, provided such deposits are permitted by the appropriate state regulatory authority, if the credit union is state-chartered.

§ 1076.60–4 Purpose of program.

The CDCU Loan Program is intended to support community based credit unions in their efforts to:

(a) stimulate economic development activities in the community they service which result in increased income, ownership, and employment opportunities for low-income residents;

(b) to stimulate community revitalization efforts which result in improved community facilities, housing, transportation, etc., and

(c) to provide needed financial and related services to residents of their communities.

§ 1076.60–5 Eligible applicants.

The CDCU Loan Program is available to existing credit unions and organizations proposing to form a credit union, which meet the requirements of this regulation.

§ 1076.60–6 Program activities.

In order to meet the objectives of the CDCU Loan Program, an applicant selected for participation must provide a variety of financial and related services designed to meet the particular needs of the low income community served. These activities may include, but are not limited to, the following:

(a) Activities aimed at supporting and stimulating economic development and revitalization efforts within the low income community, such as:

(1) Efforts to improve housing conditions and increase home ownership through a variety of mechanisms including self-help and co-op housing development projects, assistance in securing and leveraging mortgages, site development and construction financing;

(2) Efforts to increase employment opportunities by aiding existing businesses and promoting the establishment of new businesses. Applicants are encouraged to use funds available through the CDCU Loan Program to serve as a catalyst to attract and stimulate the investment of capital from other private and public sources to promote economic development activities within the community;

(b) Activities aimed at providing member services such as financial counseling; and

(c) Activities aimed at increasing the membership and the capitalization base such as:

(1) Membership drives;

(2) Campaigns to encourage members to increase their share deposits through systematic savings, utilizing such methods as payroll deductions allotments, etc.

(3) Activities aimed at getting businesses and other organizations serving the community to maintain share deposits or contribute financially in other ways to projects supported by the credit union.

§ 1076.60–7 Application for chartering.

Applications for chartering of new credit unions, to enable participation in the CDCU Loan Program, should be submitted to the appropriate Regional Office of the National Credit Union Administration or a state credit union regulatory agency.

§ 1076.60–8 CDCU field of membership.

(a) A CDCU must serve a total community which is comprised primarily of low income residents. Therefore, the CDCU's field of membership should correspond geographically to the designated program area described in an application, and may include employees who regularly work in the area, businesses located within the area, and the residents of the area.

(b) In particular cases, the community served may include a number of contiguous neighborhoods constituting a target area. A target area is defined as that area designated by the Economic

Development Administration or another Federal agency or by a State or local government agency for special assistance to low-income residents such as special impact areas, enterprise zones, etc.

(c) A typical CDCU field of membership may read as follows: Persons who reside or work in that part of Small Town, Any State, designated (e.g. by the Economic Development Adminstration) as the "Special Impact Area" (SIA), bounded on the north by Baker Avenue, on the east by Interstate 85, on the south by First Street, and on the west by Grand Road; employees of this credit union and members of their immediate families; organizations of such persons; individual proprietorships, partnerships, or corporations located within the above SIA and actively engaged in a business practice within the community; and incorporated or unincorporated associations located in the above SIA.

(d) An existing credit union may elect to participate in the CDCU Loan Program upon a majority vote of its board of directors and upon approval of its application for participation. Any credit union field of membership change to conform with a target area as previously described, must be approved by the credit union's board of directors and the appropriate State or Federal regulatory agency in accordance with established procedures.

§ 1076.60-9 Community Development Committee.

Each CDCU shall have a Community Development Committee. The responsibilities of the Community Development Committee fall into two interrelated categories: coordination (liaison) and identification of community needs.

(a) *Coordination.* The Community Development Committee must establish and maintain liaison with all government agencies and others having developmental projects in the community. This liaison will insure a united effort at redeveloping the community with a minimum of duplication.

(b) *Community Needs Plan.* Within 90 days after a credit union has been notified by the Director of OCS of approval of its participation in the CDCU Loan Program, the Community Development Committee of that credit union will prepare and present to the CDCU's board of directors a CDCU Community Needs Plan. This plan will set forth the coordination contacts established and the details of these initiatives. The plan will also contain, in priority sequence, a list of community needs which the credit union proposes to fulfill. The credit union's board of directors will make the decisions on what services can be provided and when.

(Approved by the Office of Management and Budget under control number 0990-0123)

§ 1076.60-10 Loans to CDCU's.

(a) The Director of OCS will make loans to approved CDCUs in accordance with these regulations and the provisions of a notice of availability of funds published in the **Federal Register**.

(b) *Amount of Loans.* The amount of a loan will be based on financial need and a demonstrated capability of an applicant CDCU to provide financial and related services to the Community as set forth in its application. Existing credit unions selected for participation will be eligible to receive up to $200,000 in loans and new credit unions up to $100,000 in loans. The funds will be released to the participating credit union when the requirements of these regulations and associated notice of availability of funds are met.

(c) *Matching Requirements.* Loan monies made available must be matched by the participating credit union by increasing its member share deposits by one dollar for every two dollars provided by OCS. Participating credit unions must meet this match requirement within one year of the approval of the loan application and must maintain the increase in the total amount of member share deposits for the duration of the loan.

(1) Drawdown of the funds to participating credit unions may be made in a maximum of two payments only. Upon approval of its loan application, and before it meets its match requirement, a participating credit union may receive 50% of the loan committed. The remainder of the funds committed will be available to the participating credit union only after it has documented that it has met the match requirement for the total amount of the loan commitment.

(2) Failure of a participating credit union to generate the required match within one year of the approval of the loan will result in the reduction of the loan proportionate to the amount of match actually generated. Payment of any additional funds initially approved will be limited as appropriate to reflect the revised amount of loan approved, and any funds already advanced to the participating credit union in excess of the revised amount of loan approved must be returned immediately to OCS. Failure to return such funds to OCS upon demand shall result in the default of the entire loan.

(3) Failure by a credit union to produce at least 25% of its proposed match may result in the requirement by OCS that immediate and full repayment of the loan be made.

(d) *Terms and Repayment.* (1) Assistance made available in this program is in the form of a loan and must be repaid to OCS. All loans will be scheduled for repayment within the shortest time compatible with sound business practices and with the objectives of the program, but in no case will the term exceed five years. The policy of OCS is to revolve these funds as often as practical, in order to gain maximum economic impact and improve the organizational capacity of participating CDCUs.

(2) Semi-annual interest payments (beginning six months after the granting of a loan) and semi-annual principal payments (beginning one year after the granting of a loan) will be required.

(e) *Interest Rates.* Loans made under this rule shall bear interest at a rate of four (4) percentage points below the average market rate for Treasury Notes of comparable duration as of the date the program recipients are selected by OCS for participation. However, in no case shall the rate be less than 5% per annum.

(f) *Default, Collections and Adjustments.* Conditions attached to each loan agreement will require immediate repayment for breach or default in the performance by the participating CDCU of the terms or conditions of the deposit. This will include misrepresentations, default in making interest/principal payments, failure to report, insolvency, failure to maintain adequate match for the duration of the loan period, etc. Immediate repayment will be required of any balance of the funds for improper use.

(g) *Reporting Requirements.* OCS's monitoring procedures and covenants in the loan agreement will require regular financial and business status reports. The provision of such reports should ensure advance notice of a participant's inability to meet payment schedules.

§ 1076.60-11 State chartered credit unions.

State chartered credit union applicants selected for funding by OCS must obtain written concurrence from their respective state regulatory authority to participate in the CDCU loan program.

§ 1076.60–12 Application for participation in the CDCU loan program.

Application for participation in this program will only be accepted in response to a notice of the availability of funds published in the **Federal Register.**

Harvey R. Vieth,

Director, Office of Community Services.

October 31, 1983.

Margaret M. Heckler,

Secretary of Health and Human Services.

November 2, 1983.

[FR Doc. 83-31762 Filed 11-25-83; 8:45 am]

BILLING CODE 4150-04-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 285

[Docket No. 310-28-212]

Atlantic Tuna Fisheries

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NOAA proposes to implement the recommendations of the International Commission for the Conservation of Atlantic Tunas (Commission) to adopt an international port inspection scheme. The implementation of these final regulations will fulfill the United States' obligation as a member of the International Commission for the Conservation of Atlantic Tunas. The intended effect of this notice is to announce the final regulations which define the procedures for the inspection of United States and foreign fishing vessels by enforcement officers of certain member countries of the Commission.

DATE: Effective December 28, 1983.

FOR FURTHER INFORMATION CONTACT: James J. Morgan, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Room 2106, Terminal Island, California 90731, (213) 548-2518.

SUPPLEMENTARY INFORMATION: The Commission approved an international port inspection scheme at a special meeting held in Madrid, Spain on November 15–21, 1978. Subsequently, at its sixth regular meeting in Madrid on November 14–20, 1979, the Commission adopted a resolution which listed the procedures for the implementation of the scheme. The United States voted to adopt the port inspection scheme. Proposed regulations were published in the **Federal Register** on October 15, 1980 (45 FR 68412) and public hearings were held in Gloucester, Massachusetts and Terminal Island, California on October 22, 1980; written comments were invited until November 14, 1980.

The text of the scheme adopted by the Commission follows:

1. Inspection shall be carried out by the appropriate authorities of the Contracting Parties, who will monitor compliance with the Commission's regulations at their own ports, during tuna transshipment or landing operations or during calls of tuna vessels, without discrimination between their own national vessels and those of other Contracting Parties. Vessels which enter a port because of *force majeure* are exempt from inspection.

2. Each Contracting Party shall notify the Commission of the names of the inspectors appointed for this purpose. The Commission shall communicate to the Contracting Parties the names of all authorized inspectors. Each inspector shall carry identification supplied by competent authorities in accordance with a model approved by the Commission. This document shall be provided to the inspector upon appointment, and shall specify that the inspector has the authority to act according to arrangements approved by the Commission.

3. Prior to an examination, the inspector shall identify himself by presenting the identification described in (2) above. The inspector shall, when he considers it necessary, examine the characteristics of the catches of foreign and domestic flag tuna vessels, under paragraph (1). Inspections shall be carried out so that the vessel suffers the minimum interference and inconvenience and that degradation of the quality of the fish is avoided.

4. The inspector shall draw up a report of his inspection in a form standardized by the Commission. He shall sign the report in the presence of the master of the vessel, who shall be entitled to add or have added to the report any observations which he thinks suitable and which he must sign. The inspector should note in the vessel's logbook that an inspection was made. Copies of the report shall be given to the vessel's master and to the inspector's competent authorities who shall promptly transmit copies to the appropriate authorities of the flag state of the vessel and to the Commission.

5. In making his examination, an inspector may ask the master for any necessary assistance. The master shall enable the inspector to make such examination of catch or gear and any relevant documents as the inspector deems necessary, including fishing logbooks, to verify the observance of the Commission's regulations in force.

6. Resistance to an inspector or failure to comply with his instructions shall be treated by the flag state of the vessel in a manner similar to resistance to, or a failure to comply with the instructions of any inspector of that state or Contracting Party.

7. Inspectors shall carry out their duties in accordance with the rules set out in this inspection scheme but they shall remain under the operational control of their authorities and shall be responsible to them.

8. Contracting Parties shall consider and act on reports of foreign inspectors, according to the provisions of paragraph (4), on a similar basis as the reports of national inspectors in accordance with their national legislation. The provisions of this paragraph shall not impose any obligation on a Contracting Party to give the report of a foreign inspector a higher evidential value than it would possess in the inspector's own country. Contracting Parties shall collaborate, in accordance with their legislation, in order to facilitate judicial or other proceedings arising from reports of inspectors acting under these arrangements.

9. The Contracting Parties shall notify the Commission of measures taken in those cases in which the report of an inspection conducted in accordance with paragraphs (4)-(6) indicates that a violation occurred.

0. All Contracting Parties shall instruct the masters of their tuna vessels on the ICCAT regulations in force. The masters shall also be informed regarding the cooperation to be given to the inspectors in national as well as foreign ports.

11. Contracting Parties whose vessels enter, land or transship their catches in ports other than their own, can send inspectors authorized by the Commission to inspect their own vessels, with respect to the observance of the Commission's regulations, having previously obtained an invitation from the port state in which the inspection shall be executed. (Appendix 2 to Annex 4 of the Biennial Report, 1978–79, Part I)

To become effective under the Commission's rules, a simple majority of the member countries had to approve the scheme. A majority of the member countries did not approve the scheme until 1983; therefore, implementation has been delayed until this time.

It is important to note the relationship of these new Subpart E regulations to the existing regulations of Subparts A through D. The requirements of Subparts A through D remain applicable to a

vessel of the United States wherever it may be. In addition, a vessel of the United States is now subject to inspection under Subpart E by an authorized officer of a contracting party participating in the inspection scheme, when the vessel is in a port of that contracting party.

According to the Commission's rules, only those member countries that have agreed to implement the port inspection scheme will provide inspectors and participate in the program. These are the contracting parties identified in the regulations. Other member countries of the Commission may become contracting parties at a later date and will be identified by a notice in the **Federal Register.**

No public comments were received on the proposed rules for the port inspection scheme.

Sections 285.101 through 285.103 have been rewritten for clarity, but their intended effect is the same as the proposed sections published in 1980.

CLASSIFICATION: Implementing these regulations helps to fulfill the United States' obligation as a member of the International Commission for the Conservation of Atlantic Tunas to make the Commission's recommendations effective. Because this action discharges a foreign affairs obligation it is not subject to the requirements of Executive Order 12291 or the Regulatory Flexibility Act.

These regulations constitute a programmatic function with no potential for significant environmental impact; therefore, they are exempt from the environmental documentation requirements of the National Environmental Policy Act.

The regulations do not require any "collection of information" as defined in the Paperwork Reduction Act (44 USC 4501 *et seq.*); therefore, no paperwork reduction analysis is required.

List of Subjects in 50 CFR Part 285

Fish, Fisheries, Fishing, Reporting requirements.

Dated: Nov. 22, 1983.

William G. Gordon,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons stated in the preamble, 50 CFR Part 285 is amended by adding a new Subpart E as follows:

PART 285—ATLANTIC TUNA FISHERIES

1. The authority citation of 50 CFR Part 285 reads as follows:

Authority: 16 U.S.C. 971–971h.

2. A new Subpart E is added to read as follows:

* * * * *

Subpart E—International Port Inspection

285.100 Basis and purpose.
285.101 Authorized officer.
285.102 Vessels subject to inspection.
285.103 Reports.

Authority: 16 U.S.C. 971–971h.

* * * * *

Subpart E—International Port Inspection

§ 285.100 Basis and purpose.

At its sixth regular meeting, the International Commission for the Conservation of Atlantic Tunas (Commission) adopted an international port inspection scheme to assist in the enforcement of the Commission's recommendations. The following regulations have been adopted by the United States to implement the port inspection scheme.

§ 285.101 Authorized officer.

For the purposes of this subpart, an authorized officer is a person appointed by a contracting party (the United States and the countries listed in § 285.102(a)) as an authorized inspector for the Commission, who possesses an identification card so stating.

§ 285.102 Vessels subject to inspection.

(a) All United States tuna vessels or vessels carrying tuna and their catch, gear, and records are subject to inspection under this subpart by an authorized officer when landing or transshipping tuna or when making a port call at a port of the following countries, which are defined as the contracting parties. The names of any subsequent additional contracting parties may be added to the list by **Federal Register** notice. United States tuna vessels or vessels carrying tuna are also subject to the requirements of subpart A through C as appropriate.

(1) Brazil
(2) Cuba
(3) France
(4) Gabon
(5) Ivory Coast
(6) Portugal
(7) Senegal
(8) South Africa
(9) Spain

(b) All tuna vessels or vessels carrying tuna, and registered by any of the above countries, and their catch, gear and records are subject to inspection under this subpart when landing or transshipping tuna or when making a port call in the United States.

(c) A vessel entering a port of the above countries because of *force majeure* shall be exempt from inspection by an authorized officer.

§ 285.103 Reports.

(a) Inspections shall be reported on a standardized Commission form and signed by the authorized officer. The master shall be entitled to add or have added to the report, any observation which the master thinks suitable. If the master adds information to the report, he also shall sign the report. The authorized officer shall note in the vessel's log that the inspection has been made. A copy of the report shall be given to the vessel master and a copy sent to the authorized officer's national authority.

(b) The master shall allow the authorized officer to examine any portion of the catch and gear and provide any relevant documents as the authorized officer deems necessary to verify compliance with these regulations.

[FR Doc. 83-31784 Filed 11-25-83; 8:45 am]

BILLING CODE 3510-22-M

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50 CFR Parts 611, 672, and 675

[Docket No. 31121-224]

Foreign Fishing, Groundfish of the Gulf of Alaska, and Groundfish of the Bering Sea and Aleutian Islands Area

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Rule-related notice; inseason adjustments.

SUMMARY: NOAA announces the apportionment of amounts of Alaska groundfish to the total allowable level of foreign fishing under provisions of the fishery management plans for the groundfish fishery of the Bering Sea and Aleutian Islands Area and for the groundfish fishery of the Gulf of Alaska. This action is necessary to allow foreign fishermen an opportunity to harvest groundfish that are surplus to the needs of U.S. fishermen. The intent of this action is to promote full utilization of the available groundfish resources.

EFFECTIVE DATE: November 22, 1983.

FOR FURTHER INFORMATION CONTACT: Robert W. McVey (Director, Alaska Region, National Marine Fisheries Service), 907–586–7221, or Janet Smoker (Fishery Biologist, NMFS, Regional Office), 907–586–7230.

SUPPLEMENTARY INFORMATION:

Background

Optimum yields (OY) for various groundfish species are established by the Fishery Management Plan (FMP) for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area and by the FMP for the Groundfish of the Gulf of Alaska. These FMPs were developed under the Magnuson Fishery Conservation and Management Act and are implemented by rules appearing at 50 CFR 611.92 and 611.93, and 50 CFR Parts 672 and 675. The OYs are apportioned at the beginning of each year among domestic annual harvest (DAH), reserve, and total allowable level of foreign fishing (TALFF). Each reserve amount, in turn, is to be apportioned to DAH and/or TALFF during the fishing year, under 50 CFR 611.92(c), 611.93(b), 672.20(c), and 675.20(b). In addition, amounts of the three components of DAH in the Bering Sea and Aleutian Islands area (DAP—domestic processed fish, DNP—fish retained for bait or consumption, and JVP—foreign processed fish) and the two components of DAH in the Gulf of Alaska (DAP and JVP) that will not be taken by U.S. fishermen may be apportioned to TALFF during the fishing year under those same regulations. NOAA announces the apportionments described below under these authorities. In earlier scheduled apportionments, reserves were apportioned to DAH or TALFF as explained in **Federal Register** notices published on May 18, 1983 (48 FR 22229), July 6, 1983 (48 FR 31044), and September 23, 1983 (48 FR 43335). In June DAH amounts in the Bering Sea and Aleutian Islands, and in August DAH amounts in the Gulf of Alaska, were also subject to consideration for apportionment to TALFF. Because it was uncertain what, if any, amounts were excess to the needs of U.S. fishermen, no DAH was apportioned to TALFF at those times. This action announces apportionment to TALFF of DAH amounts of groundfish from the Bering Sea and Aleutian Islands area, and Gulf of Alaska, that became available for reapportionment to TALFF in August of 1983.

1. *Bering Sea and Aleutian Islands.* U.S. fisheries in this area have expanded in 1983 and are continuing to operate. Expansion of shoreside and floating processing capacity has increased amounts needed by DAH. Also, harvests by joint ventures have successfully achieved some JVP amounts. All DNP amounts are expected to be taken. Discussion of each of the three components of DAH follows (See Table 1).

DAP: The DAP amounts of Pacific cod and "other species" has been exceeded. The DAP amounts of pollock, Pacific ocean perch, and other flatfish are retained to supplement anticipated shortfalls in the JVPs for those species. Portions of the DAP amounts for the following species are excess to the needs of domestic fisheries and are apportioned to TALFF: sablefish, yellowfin sole, turbots, and other rockfish.

DNP: DNP amounts for all species appear appropriate for projected U.S. harvests; none are available for TALFF.

JVP: A joint venture targeting on Pacific Ocean perch has recently entered the Bering Sea. Little if any other joint venture activity is expected in the Bering Sea and Aleutian Islands during the remainder of 1983.

No JVP amounts of pollock and other flatfish are available for reapportionment to TALFF. The entire JVP amount of Pacific cod and part of the JVP amount of "other species" are retained to supplement the anticipated shortfall in the DAP of these species. The entire JVP amounts of Pacific Ocean perch, squid, and "other rockfish" are also retained. Portions of the JVP amounts for the following species are excess to the need of domestic fisheries and are apportioned to TALFF: sablefish, yellowfin sole, Atka mackerel, and "other species".

2. *Gulf of Alaska:* U.S. fisheries have harvested large amounts of pollock in the Central Regulatory Area of the Gulf of Alaska. Continued activity in joint ventures is expected in the Western and Central Regulatory areas. U.S. processors are expected to continue operations in all three regulatory areas during the remainder of the year. Apportionment of DAH is addressed by individual regulatory area (See Table 2).

Western Regulatory Area

DAP: The stated capacity and intentions of domestic processors indicate that the DAP amounts of sablefish and pollock are insufficient to meet their needs. The DAP of flounder is appropriate for anticipated U.S. needs. Thus, the DAPs are retained for sablefish, pollock, flounder. Also the DAP amount of Pacific Ocean perch is retained to supplement a shortfall in the JVP amount of that species. A portion of the DAP amount for Pacific cod is excess to the needs of domestic fisheries and is apportioned to TALFF.

JVP: No amount of Pacific Ocean perch is available for apportionment to TALFF. The stated intentions of U.S. fishermen planning to deliver to foreign processors indicate that the entire JVP amounts of Pacific cod and flounders must be retained to meet their needs. The entire JVP amount of sablefish and a part of the JVP amount of pollock is retained to supplement projected shortfalls in the DAPs for those species. Portions of the JVP amounts of pollock and Atka mackerel are excess to the needs of domestic fishermen and are apportioned to TALFF.

Central Regulatory Area

DAP: The DAP amounts of Pacific cod and flounders are insufficient for projected U.S. processing and are retained. The DAP amount of pollock is retained to supplement the shortfall in the JVP amount. The DAP amount for sablefish is appropriate for the projected needs of U.S. fishermen and is retained. A portion of the DAP amounts for Pacific Ocean perch is excess to the needs of U.S. fishermen and apportioned to TALFF.

JVP: No amount of the pollock JVP is available for reapportionment to TALFF. One joint venture targeting on Pacific cod and flounder is in progress, with another proposed for later in the year; the JVP amounts for these species are therefore retained. The current JVP for Pacific Ocean perch is retained to cover projected catches by a joint venture in that species. Portions of the JVP amounts for sablefish and Atka mackerel are excess to the needs of U.S. fishermen and are apportioned to TALFF.

Eastern Regulatory Area

DAP: Certain portions of the DAP amounts of pollock, Pacific cod, flounders, Pacific Ocean perch, and sablefish are excess to the needs of U.S. fishermen and are apportioned to TALFF.

JVP: No joint venture activity is expected in this area for the remainder of the year, so the entire JVP amount for all species is apportioned to TALFF.

All Gulf Areas

DAP: A portion of the DAP amount of "other rockfish" is retained to supplement the projected shortfall in the JVP amount of that species, and the rest is apportioned to TALFF. The DAP amount of thornyhead rockfish is sufficient for U.S. needs and is retained. A portion of the DAP for "other species" is excess to the needs of domestic fishermen and is apportioned to TALFF.

JVP: The JVPs for rockfish and thornyhead rockfish are retained. Certain amounts of the JVPs for squid and "other species" are excess to the needs of domestic fishermen and are apportioned to TALFF.

Comments and Responses

In accordance with 50 CFR 611.92(c), 611.93(b), 672.20(c), and 675.20(b), aggregated reports on U.S. catches of Alaskan groundfish and the processing of those groundfish were made available for public inspection. In addition, those provisions afforded the public an opportunity to submit comments on the extent to which U.S. fishermen will harvest and the extent to which U.S. processors will process Alaska groundfish. One comment was received during the comment period.

Comment: Certain DAH amounts of Pacific cod and sablefish in the Gulf of Alaska are excess to the needs of domestic fishermen and should be apportioned to TALFF.

Response: This action apportions to TALFF 3,600 mt of Pacific cod in the Western Regulatory Area, 80 mt of sablefish in the Central Regulatory Area and 1,900 mt of Pacific cod and 200 mt of sablefish in the Eastern Regulatory Area. These amounts were found by NMFS to be excess to the needs of U.S. fishermen through a recent comprehensive survey of the domestic fishing industry.

Other Matters

This action is required by 50 CFR 611.92(c), 611.93(b), 672.20(c) and 675.20(b), and complies with Executive Order 12291.

In view of the prior notice provided in the authorizing regulation regarding the dates after which apportionment of reserves and reassessment of DAH are to occur, together with the need to avoid disruption of U.S. and foreign fisheries and the obligation to afford a reasonable opportunity to achieve OY, the Agency has determined that to delay the effective date of this rule-related notice or to afford additional opportunity for prior public comment would be impracticable, unnecessary, and contrary to the public interest.

(16 U.S.C. 1801 *et seq.*)

Dated: November 21, 1983.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

TABLE 1.—1983 APPORTIONMENTS OF OYS FOR GROUNDFISH IN BERING SEA AND ALEUTIAN ISLANDS AREA

	Initial	Changes to date	Changes this act.	Final
Pollock:[1] DAP	10,000			10,000
Bering Sea: JVP	64,000	+50,000		114,000
OY=1,000,000:				
DNP	500			500
RES	50,000	−50,000		0
TALFF	875,500			675,500
Pollock: DAP	0			0
Aleutians: JVP	0			0
OY=100,000:				
RES	0			0
TALFF	100,000			100,000
POP:[2] DAP	550			550
Bering Sea: JVP	830			830
OY=3,250:				
RES	162	−162		0
TALFF	1,708	+162		1,870
POP: DAP	550			550
Aleutians: JVP	830			830
OY=7,500:				
RES	375	−375		0
TALFF	5,745	+375		6,120
Sablefish: DAP	500		−400	100
Bering Sea: JVP	200		−150	50
OY=3,500:				
RES	350	−350		0
TALFF	2,450	+350	+550	3,350
Sablefish: DAP	500		−400	100
Aleutians: JVP	200	+50	−150	100
OY=1,500				
RES	150	−150		0
TALFF	650	+100	+550	1,300
Rockfish: DAP	1,100		−1,000	100
OY=7,727:				
JVP	450			450
RES	500	−500		0
TALFF	5,677	+500	+1,000	7,177
Turbots: DAP	1,000		−900	100
OY=90,000:				
JVP	75			75
RES	4,500	−4,500		0
TALFF	84,425	+4,500	+900	89,825
Atka Mackerel:[1] DAP	0			0
OY=24,800:				
JVP	14,500	−1,240	−5,000	10,740
RES	1,240	−1,240		0
TALFF	9,060		+5,000	14,060
Squid: DAP	0	-		0
OY=10,000:				
JVP	50			50
RES	500	−500		0
TALFF	9,450	+500		9,950
Yellowfin Sole:[1] DAP	1,000		−800	200
OY=117,000:				
JVP	30,000		−7,000	23,000
DNP	200			200
RES	5,850	−5,850		0
TALFF	79,950	+5,850	+7,800	93,600
Other Flatfish:[1] DAP	1,000			1,000
OY=61,000:				
JVP	10,000	+762		10,762
DNP	200			200
RES	3,050	−3,050		0
TALFF	46,750	2,288		49,038
Pacific Cod:[1] DAP	26,000	+6,000		32,000
OY=120,000:				
JVP	17,065			17,065
DNP	200			200
RES	6,000	−6,000		0
TALFF	70,735			70,735
Other Species:[1] DAP	1,400			1,400
OY=77,314:				
JVP	6,000		−2,500	3,500
DNP	400			400
RES	3,866	−3,866		0
TALFF	65,848	+3,866	+2,500	72,014

1. For these species, "initial" column contains Amendment 4 figures as published in FR 21336 (May 12, 1983).
2. POP = Pacific ocean perch.

TABLE 2.—1983 APPORTIONMENTS OF OYS FOR GROUNDFISH IN GULF OF ALASKA

	Initial	Changes to date	Changes this act	Final
Pollock: DAP	25			25
Western: JVP	5,750		−5,000	750
OY=57,000:				
RES	11,400	−11,400		0
TALFF	39,825	+11,400	+5,000	56,225
Pollock:[1] DAP	5,380			5,380
Central: JVP	104,020	(+28,600)		132,620
OY=143,000:				
RES	28,600	(−28,600)		0
TALFF	5,000			5,000
Pollock: DAP	695		−600	95
Eastern: JVP	1,520		−1,520	0
OY=16,600:				
RES	3,320	−3,320		0
TALFF	11,065	+3,320	+2,120	16,505
Pacific Cod: DAP	840	+3,312	−3,600	552
Western: JVP	1,040			1,040
OY=16,560:				
RES	3,312	−3,312		0
TALFF	11,368		+3,600	14,968
Pacific Cod: DAP	4,680			4,680
Central: JVP	1,370	+1,342		2,712
OY=33,540:				
RES	6,708	−6,708		0
TALFF	20,762	+5,366		26,148
Pacific Cod: DAP	1,480		−1,400	80
Eastern: JVP	590		−590	0
OY=9,900:				
RES	1,980	−1,980		0
TALFF	5,850	+1,980	+1,990	9,820
Atka Mackerel: DAP	0			0
Western: JVP	290	+936	−500	726
OY=4,878:				
RES	936	−936		0
TALFF	3,452		+500	3,952
Atka Mackerel: DAP	0			0
Central: JVP	1,080		−900	180
OY=20,836:				
RES	4,167	−4,167		0
TALFF	15,589	+4,167	+900	20,656
Atka Mackerel: DAP	0			0
Eastern: JVP	700		−700	0
OY=3,186:				
RES	637	−637		0
TALFF	1,849	+637	+700	3,186
Flounders: DAP	100			100
Western: JVP	600			600
OY=10,400:				
RES	2,080	−2,080		0
TALFF	7,620	+2,080		9,700
Flounders: DAP	300			300
Central: JVP	820			820
OY=14,700:				
RES	2,940	−2,940		0
TALFF	10,640	+2,940		13,580
Flounders: DAP	900		−700	200
Eastern: JVP	460		−460	0
OY=8,400:				
RES	1,680	−1,680		0
TALFF	5,360	+1,680	+1,160	8,200
POP: DAP	25			25
Western: JVP	320	+324		644
OY=2,700:				
RES	540	−540		0
TALFF	1,815	+216		2,031
POP: DAP	295		−100	195
Central: JVP	960			960
OY=7,900:				
RES	1,580	−1,580		0
TALFF	5,065	+1,580	+100	6,745
POP: DAP	300		−250	50
Eastern: JVP	200		−200	0
OY=875:				
RES	175	−175		0
TALFF	200	+175	+450	825
Rockfish: DAP	700		−300	400
OY=7,600:				
JVP	200			200
RES	1,520	−1,520		0
TALFF	5,180	+1,520	+300	7,000
Squid: DAP	0			0
OY=5,000:				
JVP	150		−140	10
RES	1,000	−1,000		0
TALFF	3,850	+1,000	+140	4,990
Thornyhead: DAP	6			6

TABLE 2.—1983 APPORTIONMENTS OF OYS FOR GROUNDFISH IN GULF OF ALASKA—Continued

	Initial	Changes to date	Changes this act	Final
Rockfish:				
JVP	0	+20		20
RES	750	−750		0
TALFF	2,994	+730		3,724
Other Species: [1]				
DAP	1,360		−1,000	360
OY=75,100:				
JVP	2,840		−2,500	340
RES	15,020	−3,240	(−11,780)	0
TALFF	55,880	+3,240	+15,280	74,400
Sablefish: [1,2] DAP	100			100
Western: JVP	170			170
OY=1,670:				
RES	334	(−334)		0
TALFF	1,066	(+420)	(−86)	1,400
Sablefish: [1,2] DAP	1,000	(−592)	(−148)	260
Central: JVP	220		−80	140
OY=3,060:				
RES	612	−760	(+148)	0
TALFF	1,228	(+1,352)	+80	2,660
Sablefish: [1,2] DAP	530	(−64)	−200	266
Eastern: JVP	0			0
(W. Yakutat):				
RES	336	(−336)		0
OY=1,680:				
TALFF	814	(+400)	+200	1,414

1. As modified by Amendment 11, as published in September 21, 1983, FR 43044.
2. Figures in parenthesis reflect administrative adjustments made to compensate for changes resulting from mid-year amendments.

[FR Doc. 83-31664 Filed 11-22-83; 11:49 am]
BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 48, No. 229
Monday, November 28, 1983

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.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1106

Milk in the Southwest Plains Marketing Area; Proposed Suspension of Certain Provisions of the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed suspension of rules.

SUMMARY: This notice invites written comments on a proposal to suspend certain shipping standards for supply plants regulated under the Southwest Plains milk order. The suspension would apply during the month of December 1983. Under the proposed action, only one shipment of milk to a pool distributing plant would be required to qualify a supply plant as a pool plant. The action was requested by the operator of a pool supply plant because of increasing production and a decline in demand for milk in fluid uses. Based on the market's current supply-demand relationship and anticipated declines in fluid milk sales due to school closings during the Christmas holidays, the plant operator does not anticipate that any supply plant shipments will be necessary to furnish the fluid milk needs of distributing plants during the last two weeks of December. Without the suspension, proponent contends that unneeded and uneconomic shipments of supply plant milk would have to be made solely for the purpose of pooling milk of dairy farmers who have historically furnished the fluid milk needs of the market.

DATE: Comments are due not later than 7 days from the date of publication of this notice in the **Federal Register**.

ADDRESS: Comments (two copies) should be filed with the Hearing Clerk, Room 1077, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Joh F. Borovies, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447–2089.

SUPPLEMENTARY INFORMATION: This proposed action has been reviewed under USDA procedures established to implement Executive Order 12291 and has been classified as a "non-major" action.

It has been determined that any need for suspending certain provisions of the order on an emergency basis precludes following certain review procedures set forth in Executive Order 12291. Such procedures would require that this document be submitted for review to the Office of Management and Budget at least 10 days prior to its publication in the **Federal Register**. However, this would not permit the completion of the required suspension procedures on the timely basis necessary to make the suspension effective for the month of December 1983, if this if found necessary. The initial request for this action was received on November 8, 1983.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this proposed action would not have a significant economic impact on a substantial number of small entities. Such action would lessen the regulatory impact of the order on certain milk handlers and would tend to insure that dairy farmers would continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended, (7 U.S.C. 601 *et seq.*), the suspension of the following provisions of the order regulating the handling of milk in the Southwest Plains marketing area is being considered for the month of December 1983:

In § 1106.7(b), the words "not" and "40 percent of".

All persons who desire to submit written data, views, or arguments in connection with the proposed suspension should file two copies of such material with the Hearing Clerk, Room 1077, South Building, United States Department of Agriculture, Washington, D.C. 20250, not later than 7 days from the date of publication of this notice in the **Federal Register**. The period for filing comments is limited to 7 days because a longer period would not provide the time needed to complete the required procedures to make the suspension effective for December 1983.

The comments that are sent will be available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Statement of Consideration

The proposed suspension would reduce the amount of milk that supply plants must ship to pool distributing plants to attain pool plant status under the order. Under the suspension, a supply plant would need to make but one shipment to a pool distributing plant to qualify as a pool plant.

The order provides for pooling supply plants that ship not less than 50 percent of their receipts to pool distribution plants during each of the months of September through January. However, the shipping standard was reduced to 40 percent of a supply plant's receipts during the months of September 1983 through January 1984 on the basis of a temporary rule revision issued on September 7, 1983 (48 FR 41015). The proposed action would eliminate the 40 percent shipping standards applicable to supply plants during December 1983.

The action was requested by a handler who operates a supply plant that is currently pooled under the order on the basis of milk shipments to pool distributing plants. The handler contends that the suspension is necessary because of a general increase in production without a corresponding increase in the demand for milk in fluid use. Based on the market's current supply-demand relationship and anticipated declines in fluid milk sales due to school closings during the Christmas holidays, proponent does not anticipate that any shipments from its supply plant will be needed to furnish the fluid milk needs of distributing plants during the last two weeks of December. Thus, without the suspension, the handler contends that unneeded and uneconomic shipments of milk would have to be made solely for the purpose of pooling the milk of dairy farmers who have historically supplied the fluid milk needs of the market.

List of Subjects in 7 CFR Part 1106

Milk marketing orders, Milk dairy Products.

Signed at Washington, D.C., on November 21, 1983.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 83-31757 Filed 11-25-83; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

10 CFR Part 211

[Docket No. ERA-R-83-01

January 1981 and Entitlements Adjustments Notices

Correction

In FR Doc. 83-29809, beginning on page 50824, in the issue of Thursday, November 3, 1983, on page 50845, in the entry for "Kern" in the third column, "Exceptions and corrections" the entry should read "4 153,759".

BILLING CODE 1505-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 75

[Airspace Docket No. 83-ANM-17]

Proposed Alteration of Jet Routes; Denver, CO

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter the descriptions of Jet Routes J-44 and J-130 located in the vicinity of Denver, CO. These jet route changes would enhance air traffic control procedures in the Denver terminal area by providing unrestricted climbs for eastbound departures and unrestricted descents for westbound traffic into the terminal area. This action would improve traffic flow, permit flexibility for maneuvering traffic in the Denver terminal area and reduce controller workload.

DATE: Comments must be received on or before January 12, 1984.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA, Northwest Mountain Region, Attention: Manager, Air Traffic Division, Docket No. 83-ANM-17, Federal Aviation Administration, FAA Building, Boeing Field, Seattle, WA 98108.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, D.C.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace and Air Traffic Rules Branch (AAT-230), Airspace-Rules and Aeronautical Information Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8626.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 83-ANM-17." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 75.100 of Part 75 of the Federal Aviation Regulations (14 CFR Part 75) to alter the description of J-44 by extending the route from Denver, CO, via McCook, NE, to Lincoln, NE, and alter the description of J-130 by extending the route from Denver, CO, via McCook, NE, to Pawnee City, NE. The McCook VOR has been approved for Expanded Service Volume (ESV) to upgrade it as a high altitude facility. This action would eliminate the extensive radar vectors necessary to expedite departure/arrival traffic in the Denver terminal area. Section 75.100 of Part 75 of the Federal Aviation Regulations was republished in Advisory Circular AC 70-3A dated January 3, 1983.

List of Subjects in 14 CFR Part 75

Jet routes, Aviation safety.

The Proposed Amendment

PART 75—[AMENDED]

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 75.100 of Part 75 of the Federal Aviation Regulations (14 CFR Part 75) as follows:

J-44 [Amended]

By deleting the words "to Denver, CO." and substituting the words "Denver; McCook, NE; to Lincoln, NE."

J-130 [Amended]

By deleting the words "to Denver, CO." and substituting the words "Denver; McCook, NE; to Pawnee City, NE."

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); (49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983)); and 14 CFR 11.65)

Note: The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated,

will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C., on November 21, 1983.

B. Keith Potts,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 83-31668 Filed 11-25-83; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 271

[Docket No. RM79-76-208 (Pennsylvania-4)]

High-Cost Gas Produced From Tight Formations; Notice of Proposed Rulemaking

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978, 15 U.S.C. 3301-3432 (Supp V. 1981) to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703 (1983)). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This Notice of Proposed Rulemaking by the Director of the Office of Pipeline and Producer Regulation contains the recommendation of the Commonwealth of Pennsylvania that the "Catskill/Lock Haven" Formation be designated as a tight formation under § 271.703(d).

DATE: Comments on the proposed rule are due on January 5, 1984. Public hearing: No public hearing is scheduled in this docket as yet. Written requests for a public hearing are due on December 6, 1983.

ADDRESS: Comments and requests for hearing must be filed with the Office of the Secretary, 825 North Capitol Street, N.E., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, (202) 357-8511, or C. W. Gray, Jr., (202) 357-8731.

SUPPLEMENTARY INFORMATION:

Issued: November 21, 1983.

I. Background

On July 6, 1983, the Pennsylvania Department of Environmental Resources (Pennsylvania) submitted to the Commission a recommendation, in accordance with § 271.703 of the Commission's regulations (18 CFR 271.703 (1983)), that the "Catskill/Lock Haven" Formation underlying Clearfield and Cambria Counties, and portions of Clinton, Cameron, and Elk Counties, Pennsylvania, be designated as a tight formation. Pursuant to § 271.703(c)(4) of the regulations, this Notice of Proposed Rulemaking is hereby issued to determine whether Pennsylvania's recommendation that the "Catskill/Lock Haven" Formation be designated a tight formation should be adopted. Pennsylvania's recommendation and supporting data are on file with the Commission and are available for public inspection.

III. Discussion of Recommendation

Pennsylvania has recommended that the "Catskill/Lock Haven" Formation underlying Clearfield and Cambria Counties, and portions of Clinton, Cameron, and Elk Counties, Pennsylvania, be designated as a tight formation. Pennsylvania has excluded from the recommended area any known "sweet spots", and all areas identified as gas storage fields or oil pools.

The "Catskill/Lock Haven" Formation consists of a sequence of interbedded sandstones and shales of the Upper Devonian System which underlies the Mississippian Pocono Group and overlies the Upper Devonian Brallier Shale or its equivalent. The following sands are included in the "Catskill/Lock Haven" Formation: Hundred Foot, Fifth, Bayard, Elizabeth, Warren, Speechley, Balltown, Sheffield, Tiona, 1st, 2nd, and 3rd Bradford, and Kane. The "Catskill/Lock Haven" Formation is found in the recommended area at an average subsurface depth of approximately 1,400 feet and ranges in thickness from approximately 1,500 to 3,500 feet.

Discussion of Recommendation

Pennsylvania's recommendation consists of the application for tight formation recommendation, its supplement, and comments submitted in response to information presented at a public hearing in Pittsburgh, Pennsylvania, on February 17, 1983. Pennsylvania states that in the opinion of the applicant the data suggests that:

(1) The average *in situ* gas permeability throughout the pay section of the proposed area is not expected to exceed 0.1 millidarcy;

(2) The stabilized production rate, against atmospheric pressure, of wells completed for production from the recommended formation, without stimulation, is not expected to exceed the maximum allowable production rate set out in § 271.703(c)(2)(i)(B); and

(3) No well drilled into the recommended formation is expected to produce more than five (5) barrels of oil per day.

With regard to the applicant's description of industry practices that would demonstrate that development of the tight formation would not adversely affect any fresh water aquifer (application sections J and K, and exhibits A through E of section K) Pennsylvania states:

> The Department has no independent data to substantiate that the described drilling and casing practices would prevent co-mingling of waters or pollution of fresh water aquifers, nor does it have data to indicate the degree of compliance with "industry practice."

In response to the requirement of § 271.703(c)(3)(iv) of the Commission's regulations, which requires "[a] report of the extent to which existing state and Federal regulations will assure development of the recommended tight formation will not adversely affect any fresh water aquifers (during both hydraulic fracturing and waste disposal operations) that are or are expected to be used as a domestic or agricultural water supply," Pennsylvania reports the following:

> Pennsylvania's Clean Streams Law of 1937 (35 P.S., Section 691.5 to 691.1001) prohibits the discharge of industrial waste or any substance which causes or contributes to pollution into surface or underground waters of the Commonwealth.
>
> Regulations promulgated under the Clean Streams Law (25 PA Code, Section 97.71 to 97.75) regulate disposal of waste into underground horizons.

However, Pennsylvania further states:

> These regulations however do not contain specific minimum well construction standards. The Commonwealth presently has no regulations specifically regarding well construction practices during drilling or development that are designed to protect fresh water aquifers.

Two written comments were received by Pennsylvania and submitted with the recommendation. One comment was received from the Honorable Joseph A. Petrarca, Member, House of Representatives, Commonwealth of Pennsylvania who submitted comments on March 8, 1983, addressed primarily to this Commission, in opposition to the designation of the "Catskill/Lock

Haven" Formation as a tight formation for economic reasons. Mr. Petrarca made the following arguments.

In view of the large number of gas wells (20,000 to 30,000) that have already been drilled in the geographic area encompassed by the Pennsylvania-2, -3, and -4 tight formation recommendations, and the fact that nearly all of the wells have been drilled into the recommended formations, a tight formation price is not now needed, if a tight formation incentive price was not needed in the past to encourage development in this area.

Mr. Petrarca further argued that since July 1979, 2,116 wells have been drilled in the area and are now receiving the NGPA section 103 price. These currently profitable producing wells will receive a price that is double the current price if the recommended area is designated a tight formation. Mr. Petrarca submits that there is no valid economic justification for increasing the price of gas from these wells.

Mr. Petrarca cites to language in Order No. 99:

> Jurisdictional agencies should be sensitive to the fact that some portions of tight formations have been developed to such an extent as to indicate that the incentive maximum lawful price is not necessary to encourage full production of that portion of the formation. If the agency has information which indicates that such portions can be developed without the incentive price, such portions should be excluded from the jurisdictional agency's recommendation.[1]

Mr. Petrarca finally argues that the areas excluded by Pennsylvania, where gas production rates exceed the maximum flow rates for tight formations provided in § 271.703(c)(2)(i)(B) are a "miniscule portion" of the recommended area, and that the exclusions do not take into account the 2,116 wells that are profitable at prices below the tight formation incentive price.

The Pennsylvania Natural Gas Associates (PNGA) also submitted comments, however, these comments support the Pennsylvania recommendation. PNGA suggested a minor technical revision to a section of the recommendation and submitted the results of additional pressure build-up tests of the "Catskill/Lock Haven" Formation.

Pennsylvania responded to the two comments and its response is included in its recommendation. In response to the arguments made by Mr. Petrarca concerning the need for the incentive price, Pennsylvania stated:

> The Department feels that it has exercised its ability to limit the area of exclusions to the extent allowable by FERC Order 99. Since the Department does not have information on the cost of exploration, drilling, and production, it has no method of economic evaluation of the previously drilled areas to judge whether or not incentive prices are needed for additional drilling in those areas . . .
>
> [W]e note that the Department has eliminated 82 wells of the 2,116 wells drilled after July 16, 1979, using the same criteria used in delineating "sweet spots" in areas drilled prior to July 16, 1979.

Pennsylvania agreed with PNGA's comments and revised its recommendation accordingly.

Pursuant to the authority delegated to the Director of the Office of Pipeline and Producer Regulation by Commission Order No. 97, [Reg. Preambles 1977–1981] FERC Stats. and Regs. ¶ 30,180 (1980), notice is hereby given of the proposal submitted by Pennsylvania that the "Catskill/Lock Haven" Formation, as described and delineated in Pennsylvania's recommendation as filed with the Commission, be designated as a tight formation pursuant to § 271.703.

IV. Public Comment Procedures

Interested persons may comment on this proposed rulemaking by submitting written data, views or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N. E., Washington, D.C. 20426, on or before January 5, 1984. Each person submitting a comment should indicate that the comment is being submitted in Docket No. RM79–76–280 (Pennsylvania–4) and should give reasons including supporting data for any recommendations. Comments should include the name, title, mailing address, and telephone number of one person to whom communications concerning the proposal may be addressed. An original and 14 conformed copies should be filed with the Secretary of the Commission. Written comments will be available for public inspection at the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C., during business hours.

Any person wishing to present testimony, views, data, or otherwise participate at a public hearing should notify the Commission in writing of a desire to make an oral presentation and therefore request a public hearing. Such request shall specify the amount of time requested at the hearing. Requests should be filed with the Secretary of the Commission no later than December 6, 1983.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

Accordingly, the Commission proposes to amend the regulations in Part 271, Subchapter H, Chapter I, Title 18, Code of Federal Regulations, as set forth below, in the event Pennsylvania's recommendation is adopted.

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulation.

PART 271—[AMENDED]

Section 271.703 is amended as follows:

1. The authority citation for part 271 reads as follows:

Authority: Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*; Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432; Administrative Procedure Act, 5 U.S.C. 553.

2. Section 271.703 is amended by adding paragraph (d) (184) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.*

* * * * *

(154) through (183) [RESERVED]

(184) *Catskill/Lock Haven Formation in Pennsylvania.* RM79–76–208 (Pennsylvania–4).

(i) *Delineation of formation.* The "Catskill/Lock Haven" Formation underlies Cambria and Clearfield Counties, western Clinton County including the townships of Noyes, Leidy, East Keating, and West Keating, southern Cameron County including the townships of Grove and Gibson, and southern Elk County including the townships of Benezette and Jay. Excluded from the designated area are any known "sweet spots", and all areas identified on July 5, 1985, as gas storage areas or oil pools. The "Catskill/Lock Haven" Formation consists of a sequence of interbedded sandstones and shales of the Upper Devonian System which underlies the Mississippian Pocono Group and overlies the Upper Devonian Brallier Shale or its equivalent. The following sands are included in the "Catskill/Lock Haven" Formation: Hundred Foot, fifth, Bayard, Elizabeth, Warren, Speechley, Balltown, Sheffield, Tiona, 1st, 2nd, and 3rd Bradford, and Kane.

(ii) *Depth.* The average subsurface depth to the top of the "Catskill/Lock Haven" Formation is approximately 1,400 feet. The thickness of the

[1] 45 FR 56,034 (August 22, 1980) [Docket No. RM–79p76] [Reg. Preambles 1977–1981] FERC Stat. and Regs. Regulations Preambles ¶ 30,183 (August 15, 1980). Order No. 99.

formation ranges from approximately 1,500 to 3,500 feet.

[FR Doc. 83-31716 Filed 11-25-83; 8:45 am]
BILLING CODE 6717-01-M

18 CFR Part 271

[Docket No. RM79-76-206 (Pennsylvania-2)]

High-Cost Gas Produced From Tight Formations; Notice of Proposed Rulemaking;

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978, 15 U.S.C. §§ 3301-3432 (Supp V. 1981) to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR § 271.703 (1983)). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This Notice of Proposed Rulemaking by the Director of the Office of Pipeline and Producer Regulation contains the recommendation of the Commonwealth of Pennsylvania that the Venango Group be designated as a tight formation under § 271.703(d).

DATE: Comments on the proposed rule are due on January 5, 1984.

Public Hearing: No public hearing is scheduled in this docket as yet. Written requests for a public hearing are due on December 6, 1983.

ADDRESS: Comments and requests for hearing must be filed with the Office of the Secretary, 825 North Capitol Street, N.E., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, (202) 357-8511, or C.W. Gray, Jr., (202) 357-8731.

SUPPLEMENTARY INFORMATION:

Issued: November 21, 1983.

I. Background

On July 6, 1983, the Pennsylvania Department of Environmental Resources (Pennsylvania) submitted to the Commission a recommendation, in accordance with § 271.703 of the Commission's regulations (18 CFR 271.703 (1983)), that the Venango Group underlying Fayette, Westmoreland and Indiana Counties, and portions of Jefferson and Armstrong Counties, Pennsylvania, be designated as a tight formation. Pursuant to § 271.703(c)(4) of the regulations, this Notice of Proposed Rulemaking is hereby issued to determine whether Pennsylvania's recommendation that the Venango Group be designated a tight formation should be adopted. Pennsylvania's recommendation and supporting data are on file with the Commission and are available for public inspection.

II. Description of Recommendation

Pennsylvania has recommended that the Venango Group underlying Fayette, Westmoreland, and Indiana Counties, and portions of Jefferson and Armstrong Counties, Pennsylvania, be designated as a tight formation. Pennsylvania has excluded from the recommended area any known "sweet spots", and all areas identified as gas storage fields or oil pools.

The Venango Group consists of a sequence of interbedded sandstones and shales of the Upper Devonian System. The Venango Group is the younger of two sand packages which are bounded by the overlying Mississippian Pocono Group and the underlying Upper Devonian Brallier Shale or its equivalent. The two sand packages are separated by the Zone C shale of Piotrowski and Harper.[1] The following sands are included in the Venango Group: Hundred Foot, Shannopin, Fifty Foot, Gantz, Upper Nineveh, Lower Nineveh, Snee, Boulder, Hickory, Blue Monday, Gordon, Gordon Stray, 2nd Butler, 1st Venango, Rosenberry, 2nd Venango, Shira, 3rd Venango, 3rd Venango Stray, 3rd, 4th, and 5th Knox, Clarion, Byram, Fifth, Bayard, and Elizabeth. The Venango Group is found at an average subsurface depth of approximately 1,500 feet and ranges in thickness from 500 feet along the western edge of the recommended area to 800 feet along the eastern edge.

III. Discussion of Recommendation

Pennsylvania's recommendation consists of the application for tight formation recommendation, its supplement, and comments submitted in response to information presented at a public hearing in Pittsburgh, Pennsylvania, on February 17, 1983. Pennsylvania states that in the opinion of the applicant the data suggests that:

(1) The average *in situ* gas permeability throughout the pay section of the proposed area is not expected to exceed 0.1 millidarcy;

(2) The stabilized production rate, against atmospheric pressure, of wells completed for production from the recommended formation, without simulation, is not expected to exceed the maximum allowable production rate set out in § 271.703(c)(2)(i)(B); and

(3) No well drilled into the recommended formation is expected to produce more than five (5) barrels of oil per day.

With regard to the applicant's description of industry practices that would demonstrate that development of the tight formation would not adversely affect any fresh water aquifer (application sections J and K, and exhibits A through E of section K) Pennsylvania states:

> The Department has no independent data to substantiate that the described drilling and casing practices would prevent co-mingling of waters or pollution of fresh water aquifers, nor does it have data to indicate the degree of compliance with "industry practice."

In response to the requirement of § 271.703(c)(3)(iv) of the Commission's regulations, which requires "[a] report of the extent to which existing state and Federal regulations will assure development of the recommended tight formation will not adversely affect any fresh water aquifers (during both hydraulic fracturing and waste disposal operations) that are or are expected to be used as a domestic or agricultural water supply," Pennsylvania reports the following:

> Pennsylvania's Clean Streams Law of 1937 (35 P.S., Section 691.5 to 691.1001) prohibits the discharge of industrial waste or any substance which causes or contributes to pollution into surface or underground waters of the Commonwealth.
>
> Regulations promulgated under the Clean Streams Law (25 PA Code, Section 97.71 to 97.75) regulate disposal of waste into underground horizons.

However, Pennsylvania further states:

> These regulations however do not contain specific minimum well construction standards. The Commonwealth presently has no regulations specifically regarding well construction practices during drilling or development that are designed to protect fresh water aquifers.

Two written comments were received by Pennsylvania and submitted with the recommendation. One comment was received from the Honorable Joseph A. Petrarca, Member, House of Representatives, Commonwealth of Pennsylvania, who submitted comments on March 8, 1983, addressed primarily to

[1] Piotrowski, R.G. and J.A. Harper, 1979, "Black Shale and Sandstone Facies of the Devonian 'Catskill' Clastic Wedge in the Subsurface of Western Pennsylvania," U.S. Department of Energy, Eastern Gas Shales Project, Series 13, Morgantown Energy Technology Center.

this Commission, in opposition to the designation of the Venango Group as a tight formation for economic reasons. Mr. Petrarca made the following arguments.

In view of the large number of gas wells (20,000 to 30,000) that have already been drilled in the geographic area encompassed by the Pennsylvania-2,-3, and -4 tight formation recommendations, and the fact that nearly all of the wells have been drilled into the recommended formations, a tight formation price is not now needed, if a tight formation incentive price was not needed in the past to encourage development in this area.

Mr. Petrarca further argued that since July 1979, 2,116 wells have been drilled in the area and are now receiving the NGPA section 103 price. These currently profitable producing wells will receive a price that is double the current price if the recommended area is designated a tight formation. Mr. Petrarca submits that there is no valid economic justification for increasing the price of gas from these wells.

Mr. Petrarca cites to language in Order No. 99:

> Jurisdictional agencies should be sensitive to the fact that some portions of tight formations have deen developed to such an extent as to indicate that the incentive maximum lawful price is not necessary to encourage full production of that portion of the formation. If the agency has information which indicates that such portions can be developed without the incentive price, such portions should be excluded from the jurisdictional agency's recommendation.[2]

Mr. Petrarca finally argues that the areas excluded by Pennsylvania, where gas production rates exceed the maximum flow rates for tight formations provided in § 271.703(c)(2)(i) (B), are a "miniscule portion" of the recommended area, and that the exclusions do not take into account the 2,116 wells that are profitable at prices below the tight formation incentive price.

The Pennsylvania Natural Gas Associates (PNGA) also submitted comments, however, these comments support the Pennsylvania recommendation. PNGA suggested a minor technical revision to a section of the recommendation.

Pennsylvania responded to the two comments and its response is included in its recommendation. In response to the arguments made by Mr. Petrarca concerning the need for the incentive price, Pennsylvania stated:

> The Department feels that it has exercised its ability to limit the area of exclusions to the extent allowable by FERC Order 99. Since the Department does not have information on the cost of exploration, drilling, and production, it has no method of economic evaluation of the previously drilled areas to judge whether or not incentive prices are needed for additional drilling in those areas * * *.
>
> [W]e note that the Department has eliminated 82 wells of the 2,116 wells drilled after July 16, 1979, using the same criteria used in delineating "sweet spots" in areas drilled prior to July 16, 1979.

Pennsylvania agreed with PNGA's comments and revised its recommendation accordingly.

Pursuant to the authority delegated to the Director of the Office of Pipeline and Producer Regulation by Commission Order No. 97, [Reg. Preambles 1977–1981] FERC Stats. and Regs. ¶ 30,180 (1980), notice is hereby given of the proposal submitted by Pennsylvania that the Venango Group, as described and delineated in Pennsylvania's recommendation as filed with the Commission, be designated as a tight formation pursuant to § 271.703.

IV. Public Comment Procedures

Interested persons may comment on this proposed rulemaking by submitting written data, views or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before January 5, 1984. Each person submitting a comment should indicate that the comment is being submitted in Docket No. RM79–76–206 (Pennsylvania–2) and should give reasons including supporting data for any recommendations. Comments should include the name, title, mailing address, and telephone number of one person to whom communications concerning the proposal may be addressed. An original and 14 conformed copies should be filed with the Secretary of the Commission. Written comments will be available for public inspection at the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C., during business hours.

Any person wishing to present testimony, views, data, or otherwise participate at a public hearing should notify the Commission in writing of a desire to make an oral presentation and therefore request a public hearing. Such request shall specify the amount of time requested at the hearing. Requests should be filed with the Secretary of the Commission no later than December 6, 1983.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

Accordingly, the Commission proposes to amend the regulations in Part 271, Subchapter H, Chapter I, Title 18, *Code of Federal Regulations*, as set forth below, in the event Pennsylvania's recommendation is adopted.

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulation.

PART 271—[AMENDED]

1. The authority citation for part 271 reads as follows:

Authority: Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*; Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432; Administrative Procedure Act, 5 U.S.C. 553.

2. Section 271.703 is amended by adding paragraph (d) (182) to read as follows:

§ 271.703 Tight formation.

* * * * *

(d) *Designated tight formations.*

* * * * *

(154) through (181) [Reserved]

(182) *Venango Group in Pennsylvania.* RM79–76–206 (Pennsylvania—2).

(i) *Delineation of formation.* The Venango Group underlies Fayette, Westmoreland, and Indiana Counties, Jefferson County excluding the townships of Barnett and Heath, and eastern Armstrong County including the townships of Pine, Mahoning, Redbank, Wayne, Boggs, Rayburn, Valley, Cowanshannock, Plumcreek, Kittanning Manor, Bethel, Burrell, South Bend, Kiskiminetas, Parks, and Gilpin. Excluded from the designated area are any known "sweet spots", and all areas identified on July 5, 1983, as gas storage areas or oil pools. The Venango Group consists of a sequence of interbedded sandstones and shales of the Upper Devonian System. The Venango Group is the younger of two Upper Devonian sand packages which are bounded by the overlying Mississippian Pocono Group and the underlying Upper Devonian Brallier Shale or its equivalent. The following sands are included in the Venango Group: Hundred Foot, Shannopin, Fifty Foot, Gantz, Upper Nineveh, Lower Nineveh, Snee, Boulder, Hickory, Blue Monday, Gordon, Gordon Stray, 2nd Butler, 1st Venango, Rosenberry, 2nd Venango, Shira, 3rd Venango, 3rd Venango Stray, 3rd, 4th, and 5th Knox, Clarion, Byram, Fifth, Bayard, and Elizabeth.

(ii) *Depth.* The average subsurface depth to the top of the Venango Group is

[2] 45 FR 56,034 (August 22, 1980) [Docket No. RM79–76] [Reg. Preambles 1977–1981] FERC Stat. and Regs. Regulations Preambles ¶ 30,183 (August 15, 1980), Order No. 99

approximately 1,500 feet. The thickness of the formation ranges from 500 feet along the western edge of the recommended area to 800 feet along the eastern edge.

[FR Doc. 83-31714 Filed 11-25-83; 8:45 am]
BILLING CODE 6717-01-M

18 CFR Part 271

[Docket No. RM79-76-207 (Pennsylvania—3)]

High-Cost Gas Produced From Tight Formations; Notice of Proposed Rulemaking

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432 (Supp V. 1981) to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703 (1983)). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This Notice of Proposed Rulemaking by the Director of the Office of Pipeline and Producer Regulation contains the recommendation of the Commonwealth of Pennsylvania that the Bradford Group be designated as a tight formation under § 271.703(d).

DATE: Comments on the proposed rule are due on January 5, 1984. Public hearing: No public hearing is scheduled in this docket as yet. Written requests for a public hearing are due on December 6, 1983.

ADDRESS: Comments and requests for hearing must be filed with the Office of the Secretary, 825 North Capitol Street, N.E., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, (202) 357–8511, or C. W. Gray, Jr., (202) 357–8731.

Issued: November 21, 1983.

I. Background

On July 6, 1983, the Pennsylvania Department of Environmental Resources (Pennsylvania) submitted to the Commission a recommendation, in accordance with § 271.703 of the Commission's regulations (18 CFR 271.703 (1983)), that the Bradford Group underlying Fayette, Westmoreland and Indiana Counties, and portions of Jefferson and Armstrong Counties, Pennsylvania, be designated as a tight formation. Pursuant to § 271.703(c)(4) of the regulations, this Notice of Proposed Rulemaking is hereby issued to determine whether Pennsylvania's recommendation that the Bradford Group be designated a tight formation should be adopted. Pennsylvania's recommendation and supporting data are on file with the Commission and are available for public inspection.

II. Description of Recommendation

Pennsylvania has recommended that the Bradford Group underlying Fayette, Westmoreland, and Indiana Counties, and portions of Jefferson and Armstrong Counties, Pennsylvania, be designated as a tight formation. Pennsylvania has excluded from the recommended area any known "sweet spots", and all areas identified as gas storage fields or oil pools.

The Bradford Group consists of a sequence of interbedded sandstones and shales of the Upper Devonian System. The Bradford Group is the older of two sand packages which are bounded by the overlying Mississippian Pocono Group and the underlying Upper Devonian Brallier Shale or its equivalent. The two sand packages are separated by the Zone C shale of Piotrowski and Harper.[1] The following sands are included in the Bradford Group: 1st and 2nd Warren, Speechley, Tiona, Balltown, Sheffield, 1st, 2nd, and 3rd Bradford, and Kane. The Bradford Group is found at an average subsurface depth of approximately 2,500 feet and ranges in thickness from near zero along the western edge of the recommended area to approximately 1,300 feet along the eastern edge.

III. Discussion of Recommendation

Pennsylvania's recommendation consists of the application for tight formation recommendation, its supplement, and comments submitted in response to information presented at a public hearing in Pittsburgh, Pennsylvania, on February 17, 1983. Pennsylvania states that in the opinion of the applicant the data suggests that:

(1) The average *in situ* gas permeability throughout the pay section of the proposed area is not expected to exceed 0.1 millidarcy;

(2) The stabilized production rate, against atomospheric pressure, of wells completed for production from the recommended formation, without stimulation, is not expected to exceed the maximum allowable production rate set out in § 271.703(c)(2)(i)(B); and

(3) No well drilled into the recommended formation is expected to produce more than five (5) barrels of oil per day.

With regard to the applicant's description of industry practices that would demonstrate that development of the tight formation would not adversely affect any fresh water aquifer (application sections J and K, and exhibits A through E of section K) Pennsylvania states:

> The Department has no independent data to substantiate that the described drilling and casing practices would prevent co-mingling of waters or pollution of fresh water aquifers, nor does it have data to indicate the degree of compliance with "industry practice."

In response to the requirement of § 271.703(c)(3)(iv) of the Commission's regulations, which requires "[a] report of the extent to which existing state and Federal regulations will assure development of the recommended tight formation will not adversely affect any fresh water aquifers (during both hydraulic fracturing and waste disposal operations) that are or are expected to be used as a domestic or agricultural water supply," Pennsylvania reports the following:

> Pennsylvania's Clean Streams Law of 1937 (35 P.S., Section 691.5 to 691.1001) prohibits the discharge of industrial waste or any substance which causes or contributes to pollution into surface or underground waters of the Commonwealth.
>
> Regulations promulgated under the Clean Streams Law (25 PA Code, Section 97.71 to 97.75) regulate disposal of waste into underground horizons.

However, Pennsylvania further states:

> These regulations however do not contain specific minimum well construction standards. The Commonwealth presently has no regulations specifically regarding well construction practices during drilling or development that are designed to protect fresh water aquifers.

Two written comments were received by Pennsylvania and submitted with the recommendation. One comment was received from the Honorable Joseph A. Petrarca, Member, House of Representatives, Commonwealth of Pennsylvania, who submitted comments on March 8, 1983, addressed primarily to this Commission, in opposition to the designation of the Bradford Group as a

[1] Piotrowski, R. G. and J. A. Harper, 1979, "Black Shale and Sandstone Facies of the Devonian 'Catskill' Clastic Wedge in the Subsurface of Western Pennsylvania," U.S. Department of Energy, Eastern Gas Shales Project, Series 13, Morgantown Energy Technology Center.

tight formation for economic reasons. Mr. Petrarca made the following arguments.

In view of the large number of gas wells (20,000 to 30,000) that have already been drilled in the geographic area encompassed by the Pennsylvania-2, -3, and -4 tight formation recommendations, and the fact that nearly all of the wells have been drilled into the recommended formations, a tight formation price is not now needed, if a tight formation incentive price was not needed in the past to encourage development in this area.

Mr. Petrarca further argued that since July 1979, 2,116 wells have been drilled in the area and are now receiving the NGPA section 103 price. These currently profitable producing wells will receive a price that is double the current price if the recommended area is designated a tight formation. Mr. Petrarca submits that there is no valid economic justification for increasing the price of gas from these wells.

Mr. Petrarca cites to language in Order No. 99:

> Jurisdictional agencies should be sensitive to the fact that some portions of tight formations have been developed to such an extent as to indicate that the incentive maximum lawful price is not necessary to encourage full production of that portion of the formation. If the agency has information which indicates that such portions can be developed without the incentive price, such portions should be excluded from the jurisdictional agency's recommendation.[3]

Mr. Petrarca finally argues that the areas excluded by Pennsylvania, where gas production rates exceed the maximum flow rates for tight formations provided in § 271.703(c)(2)(i)(B), are a "miniscule portion" of the recommended area, and that the exclusions do not take into account the 2,116 wells that are profitable at prices below the tight formation incentive price.

The Pennsylvania Natural Gas Associates (PNGA) also submitted comments, however, these comments support the Pennsylvania recommendation. PNGA suggested a minor technical revision to a section of the recommendation.

Pennsylvania responded to the two comments and its response is included in its recommendation. In response to the arguments made by Mr. Petrarca concerning the need for the incentive price, Pennsylvania stated:

> The Department feels that it has exercised its ability to limit the area of exclusions to the extent allowable by FERC Order 99. Since the department does not have information on the cost of exploration, drilling, and production, it has no method of economic evaluation of the previously drilled areas to judge whether or not incentive prices are needed for additional drilling in those areas * * *.
>
> [W]e note that the Department has eliminated 82 wells of the 2,116 wells drilled after July 16, 1979, using the same criteria used in delineating "sweet spots" in areas drilled prior to July 16, 1979.

Pennsylvania agreed with PNGA's comments and revised its recommendation accordingly.

Pursuant to the authority delegated to the Director of the Office of Pipeline and Producer Regulation by Commission Order No. 97 [Reg. Preambles 1977–1981] FERC Stats. and Regs. ¶ 30,180 (1980), notice is hereby given of the proposal submitted by Pennsylvania that the Bradford Group, as described and delineated in Pennsylvania's recommendation as filed with the Commission, be designated as a tight formation pursuant to § 271.703.

IV. Public Comment Procedures

Interested persons may comment on this proposed rulemaking by submitting written data, views or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before January 5, 1984. Each person submitting a comment should indicate that the comment is being submitted in Docket No. RM79–76–207 (Pennsylvania–3) and should give reasons including supporting data for any recommendations. Comments should include the name, title, mailing address, and telephone number of one person to whom communications concerning the proposal may be addressed. An original and 14 conformed copies should be filed with the Secretary of the Commission. Written comments will be available for public inspection at the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C., during business hours.

Any person wishing to present testimony, views, data, or otherwise participate at a public hearing should notify the Commission in writing of a desire to make an oral presentation and therefore request a public hearing. Such request shall specify the amount of time requested at the hearing. Requests should be filed with the Secretary of the Commission no later than December 6, 1983.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

Accordingly, the Commission proposes to amend the regulations in Part 271, Subchapter H, Chapter I, Title 18, Code of Federal Regulations, as set forth below, in the event Pennsylvania's recommendation is adopted.

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulation.

PART 271—[AMENDED]

Section 271.703 is amended as follows:

1. The authority citation for part 271 reads as follows:

Authority: Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*; Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432; Administrative Procedure Act, 5 U.S.C. 553.

2. Section 271.703 is amended by adding paragraph (d)(183) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.*

* * * * *

(154) through (182) [Reserved]

(183) *Bradford Group in Pennsylvania.* RM79–76–207 (Pennsylvania–3).

(i) *Delineation of formation.* The Bradford Group underlies Fayette, Westmoreland, and Indiana Counties, Jefferson County excluding the townships of Barnett and Heath, and eastern Armstrong County including the townships of Pine, Mahoning, Redbank, Wayne, Boggs, Rayburn, Valley, Cowanshannock, Plumcreek, Kittanning, Manor, Bethel, Burrell, South Bend, Kiskiminetas, Parks, and Gilpin. Excluded from the designated area are any known "sweet spots", and all areas identified on July 5, 1983, as gas storage areas or oil pools. The Bradford Group consists of a sequence of interbedded sandstones and shales of the Upper Devonian System. The Bradford Group is the older of two sand packages which are bounded by the overlying Mississippian Pocono Group and the underlying Upper Devonian Brallier Shale or its equivalent. The following sands are included in the Bradford Group: 1st and 2nd Warren, Speechley, Tiona, Balltown, Sheffield, 1st, 2nd, and 3rd Bradford, and Kane.

(ii) *Depth.* The average subsurface depth to the top of the Bradford Group is approximately 2,500 feet. The thickness of the formation ranges from near zero along the western edge of the

[3] 45 FR 56,034 (August 22, 1980) [Docket No. RM79–76] [Reg. Preambles 1977–1981] FERC Stat. and Regs. Regulations Preambles ¶ 30,183 (August 15, 1980), Order No. 99.

recommended area to approximately 1,300 feet along the eastern edge.

[FR Doc. 83-31715 Filed 11-25-83; 8:45 am]
BILLING CODE 6717-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 161

[Docket No. 83N-0349]

Quick-Frozen Fillets of Ocean Perch; Advance Notice of Proposed Rulemaking on the Possible Establishment of a Standard

AGENCY: Food and Drug Administration.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Food and Drug Administration (FDA) is offering to interested persons an opportunity to review the "Recommended International Standard for Quick-Frozen Fillets of Ocean Perch" (Codex Standard No. CAC/RS 51-1971) and to comment on the desirability of and need for a U.S. standard for this food. The Codex standard was submitted to the United States for consideration of acceptance by the Food and Agriculture Organization/World Health Organization's Codex Alimentarius Commission. If the comments received do not support the need for a U.S. standard for this food, FDA will not propose a standard.

DATE: Comments by January 27, 1984.

ADDRESS: Written comments, data, or other information to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Eugene T. McGarrahan, Bureau of Foods (HFF-206, Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-485-0116.

SUPPLEMENTARY INFORMATION: The Food and Agriculture Organization (FAO) and the World Health Organization (WHO) jointly sponsor the Codex Alimentarius Commission, which conducts a program for developing worldwide food standards. Under the FAO/WHO program, a large number of food standards have been developed and submitted to governments for acceptance, including a Codex standard for quick-frozen fillets of ocean perch.

As a member of the Codex Alimentarius Commission, the United States is under treaty obligation to consider all Codex standards for acceptance. The rules of procedure of the Codex Alimentarius Commission states that a Codex standard may be accepted by a participating country in one of three ways: Full acceptance, target acceptance, or acceptance with specified deviations. A commitment to accept at a designated future date constitutes target acceptance. A country's acceptance of a Codex standard signifies that, except as provided for by specified deviations, a product that complies with the Codex standard may be distributed freely within the accepting country. A participating country which concludes that it will accept a Codex standard is requested to inform the Codex Alimentarius Commission of this fact and the reasons therefor, the manner in which similar foods marketed in the country differ from the Codex standard, and whether the country will permit products complying with the Codex standard to move freely in that country's commerce.

For the United States to accept some or all of the provisions of a Codex standard for any food to which the Federal Food, Drug, and Cosmetic Act (the act) applies, it is necessary either to establish a U.S. standard under authority of section 401 of the act (21 U.S.C. 341), or to revise an existing standard to incorporate the provisions within the U.S. standard. At present, there are no U.S. standards for quick-frozen fillets of ocean perch.

Under the procedure prescribed in 21 CFR 130.6(b)(3), FDA is providing an opportunity for review and informal comment on: (1) The desirability of and need for a U.S. standard for quick-frozen fillets of ocean perch; (2) the specific provisions of the Codex standard; (3) additional or different requirements that should be in the U.S. standard, if established; and (4) any other pertinent points.

FDA advises that if the comments received do not support the need for a U.S. standard for this food, no U.S. standard will be proposed. If this decision is reached, the Codex Alimentarius Commission will be informed that an imported food that complies with the requirements of the Codex standard may move freely in interstate commerce in this country providing it complies with applicable U.S. laws and regulations.

Because of the large number of countries, often with diverse food regulations, that are associated with the development of Codex standards, certain provisions of the Codex standards may not be consistent with aspects of U.S. policy and regulations. Codex standards customarily include hygiene requirements, certain basic labeling requirements, such as declaration of the net quantity of contents, name of manufacturer, and country of origin, and other factors. These factors are not considered a part of U.S. food standards under section 401 of the act; rather, they are dealt with under the authority of other sections of the act.

The Codex standard for quick-frozen fillets of ocean perch specifies analytical methods by which compliance with certain provisions is to be determined. As stated in 21 CFR 2.19, FDA's policy is to employ the methods in the latest edition of "Official Methods of Analysis of the Association of Official Analytical Chemists," when these are available, in preference to other methods. FDA will adhere to this policy in any U.S. standard proposed under this notice.

Under § 130.6(c), all persons who wish to submit comments are encouraged and requested to consult with different interested groups (consumers, industry, academic commuity, professional organizations, and others) in formulating their comments, and to include a statement of any meetings or discussions that have been held with other groups.

List of Subjects in 21 CFR Part 161

Fish, Food standards, Seafood.

The Codex standard under consideration is as follows:
CAC/RS 51-1971

Recommended International Standard for Quick-Frozen Fillets of Ocean Perch

1. *Scope*

This standard shall apply to quick-frozen fillets of fish of the species as defined below and offered for direct consumption without further processing. It does not apply to the product indicated as intended for further processing or for other industrial purposes.

2. *Description*

2.1 *Product Definition*

(a) Quick-Frozen Fillets of Ocean Perch are obtained from fish of the following species: (a) *Sebastes marinus*, (b) *Sebastes mentella*, (c) *Sebastes viviparus*, (d) *Sebastodes alutus*, (e) *Scorpaena dactyloptera* Delaroche, or (f) *Helicolenus maculatus*.

(b) Fillets are slices of fish of irregular size and shape which are removed from the carcase by cuts made parallel to the backbone and sections of such fillets cut so as to facilitate packing.

2.2 *Process Definition*

The product shall be subjected to a freezing process and shall comply with the conditions laid down hereafter. The

freezing process shall be carried out in appropriate equipment in such a way that the range of temperature of maximum crystalization is passed quickly. The quick freezing process shall not be regarded as complete unless and until the product termperature has reached −18 °C (0°F) at the thermal centre after thermal stabilization. The product shall be maintained at a low termperature such as will maintain the quality during transportation, storage and distribution up to and including the time of final sale.

The recognized practice of repacking quick-frozen products under controlled conditions followed by the re-application of the quick freezing process as defined is permitted.

2.3 *Presentation*

Fillets may be presented as:

(a) skin-on, unscaled; or

(b) skin-on, scaled (scales removed); or

(c) skinless.

The fillets may be presented as boneless, provided that boning has been completed including the removal of pin bones.

3. *Essential Composition and Quality Factors*

3.1 *Raw Material*

Quick-frozen fillets of ocean perch shall be prepared from sound fish of the designated species which are of a quality such as to be fit to be sold fresh for human consumption.

3.2 *Final Product*

3.2.1 The fillets shall be free from foreign matter and all internal organs and shall be reasonably free from ragged edges, tears and flaps, fins, significantly discoloured flesh, blood clots, black membrane (belly wall), nematodes and copepodes and, where appropriate skin, scales and bones.

3.2.2 After cooking by steaming, baking or boiling as set out in sub-sections 7.1.2.1 to 7.1.2.3 the product shall have a flavour characteristic of the species and shall be free from any objectionable flavour and odour, and its texture shall be firm and not tough, soft or gelatinous.

3.2.3 The final product shall be reasonably free from undersirably small fillet pieces. A piece weighing less than 30 g is classed undesirably small. The maximum number of small fillet pieces permitted is one per pack weighing less than 250 g and no more than 4 per kg in packs of 250 g or more except as provided for in sub-section 6.1.1.

3.2.4 The final product shall be free from deep dehydration (freezerburn) which cannot easily be removed by scraping.

Note: A recommended table of physical defects for optional use with consignments of the final product, with an AQL of 6.5, is appended as Annex A.

4. *Food Additives*

	Maximum level of use
Monophosphate, monosodium or monopotassium (Na or K orthophosphate).	0.5% m/m of the final product expressed as P_2O_5, singly or in combination.
Diphosphate, tetrasodium or tetrapotassium (Na or K pyrophosphate).	Do.
Triphosphate, pentasodium or pentapotassium or calcium (Na, K or Ca tripolyphosphates.	Do.
Polyphosphate, sodium (Na hexametaphosphate).	Do.
Ascorbate, potassium or sodium.	0.1% m/m of the final product, expressed as ascorbic acid

5. *Hygiene* It is recommended that the product covered by the provisions of this standard be prepared in accordance with the appropriate Sections of the General Principles of Food Hygiene recommended by the Codex Alimentarius Commission (Ref. No. CAC/RCP 1–1969).

6. *Labelling* In addition to Sections 1, 2, 4 and 6 of the General Standard for the Labelling of Prepackaged Foods (Ref. No. CAC/RS 1–1969) the following specific provisions apply:

6.1 *The Name of the Food*

6.1.1 The name of the product as declared on the label shall be "fillets of ocean perch" or "ocean perch fillets", as appropriate. The terms "fillets of redfish" or "fillets of rosefish" are permitted in the countries where they are customarily used. The words "quick-frozen" shall also appear on the label, except that the term "frozen" [1] may be applied in countries where this term is customarily used for describing the product processed in accordance with sub-section 2.2 of the standard. Packs of fillets cut from blocks which may contain a number of small pieces in excess of the number permitted by sub-section 3.2.3 may be labelled as fillets of ocean perch provided that such labelling is customarily used in the country where the products are to be sold and provided the product is identified to the consumer so that he will not be mislead.

6.1.2 The label may, in addition, include reference to the presentation as skin-on or skinless and/or boneless, as appropriate. This shall be included if the omission of such labelling would mislead the consumer.

6.2 *List of Ingredients*

A complete list of ingredients shall be declared on the label in descending order of proportion. The provisions of sub-section 3.2(b) and 3.2(c) of the General Standard for the Labelling of Prepackaged Foods (Ref. No. CAC/RS 1–1969) shall also apply.

6.3 *Net Contents*

6.3.1 The net contents shall be declared by weight in either the metric system ("Systeme International" units) or avoirdupois or both systems as required by the country in which the food is sold.

6.3.2 Where products have been glazed the declaration of the net contents of the product shall be exclusive of the glaze.

6.4 *Name and Address*

The name and address of the manufacturer; packer, distributor, importer, exporter or vendor of the food shall be declared.

6.5 *Country of Origin*

6.5.1 The country of origin of the food shall be declared if its omission would mislead or deceive the consumer.

6.5.2 When the food undergoes processing in a second country which changes its nature, the country in which the processing is performed shall be considered to be the country of origin for the purposes of labelling.

6.6 *Lot Identification*

There may be an indication in code or in clear of the date of production, that is, the date the final product was packaged for final sale.

7. *Methods of Analysis, Sampling and Examination*

The methods of analysis, sampling and examination described hereunder are international referee methods.

7.1 *Thawing and Cooking Procedures* CAC/RM 40–1971 (To be used prior to examination, as appropriate)

7.1.1 Thawing Procedure

The sample is thawed by enclosing it in a film type bag and immersing in an agitated water bath held at approximately 20°C (68°F). The complete thawing of the product is determined by gently squeezing the bag occasionally so as not to damage the texture of the fish, until no hard core or ice crystals are felt.

7.1.2 Cooking Procedures

7.1.2.1 Steaming

Steam the sample in a closed dish of 18 cm (7 inches) diameter over boiling water for 35 minutes if frozen, or for 18 minutes after thawing the product.

The dish should be covered and should be kept in a water bath at 60°C (140°F) during testing.

7.1.2.2 Baking

A baking pan, approximately 30×20×6 cm (12"×8"×2½") is lined with aluminium foil. The sample is placed in the pan and a cover is made by crimping an additional sheet of aluminium foil around the edges of the top of the pan. The pan is placed in an oven that has been pre-heated to 230°C

[1] "frozen": This term is used as an alternative to "quick frozen" in some English speaking countries.

(450°F), for 20 minutes or until cooking has been completed.

7.1.2.3 Boiling in Bag

Place the thawed sample into a boilable film-type pouch and seal. Immerse the pouch and its contents into boiling water and cook until the internal temperature of the fillet sample reaches 70°C (160°F) which requires about 20 minutes.

7.2 Determination of Net Contents of Products covered by Glaze; CAC/RM 41–1971

As soon as a package is removed from low temperature storage open immediately and place the content under a gentle spray of cold water. Agitate carefully so that the product is not broken. Spray until all ice glaze that can be seen or felt is removed. Transfer the product to a circular No. 8 [1] sieve 20 cm (8 inches) in diameter for samples weighing less then 900 g (2 pounds) and 30 cm (12 inches) for those more than 900 g (2 pounds). Without shifting the product incline the sieve at an angle of approximately 17–20° to facilitate drainage, and drain exactly 2 minutes (stop watch). Immediately transfer the product to a tared pan and weigh (Methods of Analysis of AOAC (1965) 18.001).

Annex A

Recommended Defect Table—Ocean Perch

This table and the maximum allowable number of demerit points are based on an AQL of 6.5. The defect table is not to be applied to individual packs but to consignments in association with a suitable sampling plan.

Demerit points are awarded for *each* defect occurrence as listed below e.g.

One bone 5 mm or less = 2 points

Two bones 5 mm or less = 4 points

1. Bones:	
(a) Boneless Fillets:	
5 mm or less in any dimension	2
Greater than 5 mm up to and including 30 mm in any dimension	
Greater than 30 mm in any dimension	8
(b) Fillets not designated as boneless: Bones other than pin-bones greater than 10 mm in any dimension	4
2. Discolouration:	
Each significantly intense discolouration of the flesh over 3 cm^2 up to and including 10 cm^2	4
Over 10 cm^2, every additional complete 5 cm^2	2
3. Blood Clots: Each piece greater than 5 mm in any dimension	4
4. Nematodes and Copepodes: Each nematode or copepode with a capsular diameter greater than 3 mm or each worm not encapsulated greater than 1 cm in length, or each worm which is objectionable by virtue of its dark colour	4
5. Fins or Part Fins, including both internal and external bones:	
(a) Boneless Fillets:	
Each fin or part fin 3 cm^2 or less	8
Over 3 cm^2, every additional complete 3 cm^2	4
(b) Fillets not designated as boneless:	
Each fin or part fin 3 cm^2 or less	4
Over 3 cm^2, every additional complete 3 cm^2	2
6. Skin (Skinless Fillets):	
Each piece greater than 3 cm^2 up to and including 10 cm^2	4
Over 10 cm^2, every additional complete 5 cm^2	2
7. Black Membrane (Belly Wall):	
Each piece greater than 5 cm^2 up to and including 10 cm^2	4
Over 10 cm^2, every additional complete 5 cm^2	2

A sample of 1 kg will be considered defective if the demerit points total more than 32.

Interested persons may, on or before January 27, 1984, submit to the Dockets Management Branch (address above) written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Executive Order 12291 does not apply to regulations issued in accordance with the formal rulemaking provisions of the Administrative Procedure Act (5 U.S.C. 556, 557). Food standards promulgated under 21 U.S.C. 341 and 371(e) fall under this exemption. However, any comments submitted in support of establishing a U.S. standard for this food should be supported by appropriate information and data regarding impact on small business consistent with the requirements of the Regulatory Flexibility Act (Pub. L. 96–354).

Dated: November 15, 1983.

Richard J. Ronk

Acting Director, Bureau of Foods.

[FR Doc. 83-31679 Filed 11-25-83; 8:45 am]

BILLING CODE 4100-01-M

[1] Size of opening 2.38 mm: the nearest corresponding ISO sieve (Ref. ISO Recommendation R 565) is of 2.8 mm × 2.8 mm opening.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 805

[Docket No. R-83-1122]

Indian Housing

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

ACTION: Extension of comment period.

SUMMARY: On September 23, 1983 (48 FR 43345), the Department of Housing and Urban Development issued a Notice of Inquiry to determine whether revisions to its current Indian preference regulations in connection with contracts, subcontracts, employment and training under the Department's Indian Housing program would be appropriate. The Department requested that comments be submitted by November 22, 1983. Recently, the Department has received numerous requests from potential commenters for an extension of the comment period, because of the complexity of the issues and the necessity of consulting with tribal officials, some of whom are geographically scattered. In order to allow as much useful public comment as possible on this Notice of Inquiry, the Department is extending the comment period to December 15, 1983.

DATE: Comments are due December 15, 1983.

ADDRESS: Interested persons are invited to submit comments regarding this notice to the Office of the General Counsel, Rules Docket Clerk, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410. Communications should refer to the above docket number and title. A copy of each communication will be available for public inspection and copying during regular hours at the above address.

FOR FURTHER INFORMATION CONTACT: Patricia Arnaudo, Acting Director, Office of Indian Housing, telephone (202) 755-6522. (This is not a toll-free number.)

Dated: November 21, 1983.

Grady J. Norris,

Assistant General Counsel for Regulations.

[FR Doc. 83-31703 Filed 11-25-83; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF JUSTICE

Parole Commission

28 CFR Part 2

Paroling, Recommitting and Supervising Federal Prisoners

AGENCY: Parole Commission, Justice.

ACTION: Proposed rule with request for comment.

SUMMARY: To make the rescission guidelines more comprehensive the Parole Commission is proposing an addition to these guidelines establishing the offense severity for possession of a weapon other than a firearm in a prison facility or community treatment center as Category Two.

DATE: Comment must be received before January 27, 1984.

ADDRESS: James Beck, Deputy Director of Research and Program Development, U.S. Parole Commission, 5550 Friendship Blvd., Chevy Chase, Maryland 20815, Telephone (301) 492-5980.

FOR FURTHER INFORMATION CONTACT: James Beck, Telephone (301) 492-5980.

SUPPLEMENTARY INFORMATION: To make the guidelines more comprehensive, the Parole Commission is proposing an amendment to its Rescission Guidelines, 28 CFR 2.36, establishing the offense severity for possession of a weapon other than a firearm in a prison facility or a community treatment center as Category Two.

List of Subjects in 28 CFR Part 2

Administrative practice and procedures, Prisoners, Probation and parole.

PART 2—[AMENDED]

Accordingly, pursuant to 18 U.S.C. 4203(a)(1) and 4204(a)(6), the Commission proposes to amend 28 CFR 2036 by adding a note after the table to read as follows:

§ 2.36 Rescission guidelines.

(a) * * *

(2) * * *

(ii) * * *

Note.—Grade unlawful possession of a dangerous weapon other than a firearm or explosives (e.g., a knife) within a prison facility or community treatment center as Category Two.

* * * * *

I certify that this rule will not have a significant economic impact upon a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

Dated: November 14, 1983.

Benjamin F. Baer,

Chairman, Parole Commission.

[FR Doc. 83-31666 Filed 11-25-83; 8:45 am]

BILLING CODE 4410-01-M

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28 CFR Part 2

Paroling, Recommitting and Supervising Federal Prisoners

AGENCY: Parole Commission, Justice.

ACTION: Proposed rule with request for comment.

SUMMARY: To make the Paroling Policy Guidelines, 28 CFR 2.20, internally more consistent the Commission is proposing modification to the offense severity for perjury and tampering with evidence.

DATE: Public comment must be received by January 27, 1984.

ADDRESS: Comment should be sent to Peter Hoffman, Director of Research and Program Development, U.S. Parole Commision, 5550 Friendship Blvd., Chevy Chase, Maryland 20815.

FOR FURTHER INFORMATION CONTACT: Peter Hoffman, Telephone (301) 492-5980.

SUPPLEMENTARY INFORMATION: The Parole Commission is proposing admendments to its rules at 28 CFR 2.20 to make the severity rating for perjury concerning a criminal offense and tampering with evidence, witness, victim, or informant consistent with the severity rating for accessory after the fact, except that in no case may perjury or tampering be graded as less than Category Three. It is noted that neither the minimum severity rating for perjury or tampering (Category Three) nor other provisions governing tampering by threat of physical harm (Category Five) is affected by this revision. The guidelines on tampering with evidence, witness, victim or informant are also clarified to include tampering with a juror.

List of Subjects in 28 CFR Part 2

Administrative practice and procedures, Prisons, Probation and Parole.

PART 2—[AMENDED]

Accordingly, pursuant to 18 U.S.C. 4203(a)(1) and 4204(a)(6), the Commission proposes to amend 28 CFR 2.20 by revising sections 611(a) and 613(a) of Chapter Six, Subchapter B of the Offense Behavior Severity Index to read as follows:

§ 2.20 Paroling policy guidelines; statement of general policy.

* * * * *

611 *Perjury.*

(a) If the perjured testimony concerns a criminal offense, grade as accessory after the fact, but not less than Category Three;

* * * * *

613 *Tampering with Evidence or Witness, Victim, Informant or Juror.*

(a) If concerning a criminal offense, grade as accessory after the fact, but not less than Category Three.

* * * * *

I certify that this rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

Dated: November 14, 1983.

Benjamin F. Baer,

Chairman, U.S. Parole Commission.

[FR Doc. 83-31665 Filed 11-25-83; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD3 83-042]

Drawbridge Operation Regulations; Schuylkill River, Pa.

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: At the request of the City of Philadelphia, the Coast Guard is considering a change to the regulations governing the University Avenue drawbridge at Philadelphia, by requiring that notice of opening be given at all times. Additionally it is being proposed that an opening be provided as soon as possible at all times for a public vessel of the United States. This proposal is being made because of sporadic requests for opening of the draw. This action should relieve the bridge owner of the burden of having a person constantly available to open the draw and should still provide for the reasonable needs of navigation.

DATE: Comments must be received on or before January 12, 1984.

ADDRESS: Comments should be submitted to and are available for examination from 9 a.m. to 3 p.m., Monday through Friday, except holidays, at the office of the Commander (oan-br), Third Coast Guard District, Bldg. 135A, Governors Island, NY 10004. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: William C. Heming, Bridge Administrator, Third Coast Guard District (212)668-7994.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rulemaking by submitting written views, comments, data or arguments. Persons submitting comments should include their name and address, identify the bridge, and give reasons for concurrence with or for any recommended change in the proposal. Persons desiring acknowledgment that their comments have been received should enclose a stamped, self-addressed postcard or envelope.

The Commander, Third Coast Guard District, will evaluate all communications received and will determine a final course of action on this proposal. The proposed regulations may be changed in light of comments received.

Drafting Information

The drafters of this notice are Ernest J. Feemster, project manager, and Mary Ann Arisman, project attorney.

Discussion of Proposed Regulations

An analysis of bridge logs from 1978 through June 1982 shows that the bridge was required to open approximately 79 days per year. On the majority of these days only two openings were required; one for passage through and another for return back through the draw. Generally both openings occurred within an hour of each other. The bridge is presently required to open on signal Monday through Friday from 8 a.m.–4 p.m. and 8 p.m.–4 a.m. with two hours advance notice at all other times.

It is being proposed that two hours notice be required for all openings at all times, except that a public vessel shall be passed through the draw as soon as possible. Since there are only about 79 days per year that openings must be made and since multiple openings occur most of these days, this action does not appear to be restrictive to the commercial vessels that use the waterway. A draft economic evaluation has not been conducted since no detrimental effect on present marine operations is expected.

Economic Assessment and Certification

These proposed regulations have been reviewed under the provisions of Executive Order 12291 and have been determined not to be a major rule. In addition, these proposed regulations are considered to be nonsignificant in accordance with guidelines set out in the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of 5–22–80). As explained above, an economic evaluation has not been conducted since its impact is expected to be minimal. In accordance with § 605(b) of the Regulatory Flexibility Act (5 U.S.C. § 605(b)), it is certified that these rules, if promulgated, would not have a significant economic impact on a substantial number of small entities because none are expectd to be affected by this proposed action.

List of Subjects in 33 CFR Part 117

Bridges.

Proposed Regulations

PART 117—DRAWBRIDGE OPERATION REGULATIONS

In consideration of the foregoing, the Coast Guard proposes to amend Part 117 of Title 33, Code of Federal Regulations, by revising § 117.227(h)(3) and renumbering the existing § 117.227(h)(4) as § 117.227(h)(5) and adding a new § 117.227(h)(4), to read as follows:

§ 117.227 Schuylkill and Delaware Rivers.

* * * * * *

(h)* * *

(3) The draw of the railroad bridge at Grays Ferry Avenue, mile 5.5 shall open on signal from 8 a.m. to 4 p.m., and from 8 p.m. to 4 a.m. Monday through Friday. At all other times the draw shall open on signal if at least two hours notice is given.

(4) The draw of the University Avenue bridge, mile 6.2 at Philadelphia shall be required to open on signal at all times if at least two hours notice is given. The draw shall open as soon as possible at all times for a public vessel of the United States.

* * * * *

(33 U.S.C. 499; 49 U.S.C 1655(g)(2); 49 CFR 1.46(c)(5); 33 CFR 1.05–1(g)(3))

Dated: November 8, 1983.

W. E. Caldwell,

Vice Admiral, U.S. Coast Guard Commander, Third Coast Guard District.

[FR Doc. 83-31646 Filed 11-25-83; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Part 165

[CGD1-83-4R]

Boston Harbor, Boston, Ma; Safety Zone Regulations

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: The Coast Guard proposes to establish a safety zone around all loaded Liquified Natural Gas (LNG) vessels during transit of Boston Harbor and while moored to the DISTRIGAS waterfront facility transferring LNG. The safety zone will be discontinued when the LNG vessel is offloaded. This safety zone is proposed to minimize the risk of collision between loaded LNG carriers and other vessels. This precautionary measure is deemed necessary in consideration of the nature and quantity of the LNG cargo involved and the limited ability of these vessels to take evasive action when maneuvering through Boston Harbor or approaching the terminal. This proposed safety zone regulation would require persons to comply with the general safety zone regulations contained in 33 CFR 165.20 which prohibits persons from entering the safety zone without authorization of the Captain of the Port. The exact parameters of the safety zone are dependent on whether the loaded LNG vessel is transiting or moored. Mariners will be provided advance notice of scheduled arrivals of LNG vessels calling at the Port of Boston via Marine Radio Broadcast Notice to Mariners.

DATES: Comments must be received on or before January 12, 1984.

ADDRESSES: Comments should be submitted to the Captain of the Port of Boston, 447 Commercial Street, Boston, MA 02109. Comments will be available for examination between 7:30 A.M. and 4:00 P.M. Monday thru Friday at the Captain of the Port, Boston office at the above address.

FOR FURTHER INFORMATION CONTACT: Lieutenant Bradley N. Balch, Chief, Port Operations Department, Marine Safety Office, 447 Commercial Street, Boston, MA 02109, (Tel: 617–223–1470).

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rulemaking by submitting written views, data or arguments. Each person submitting a comment should include their name and address, identify the notice (CGD1—83—4R) and the specific section of the proposal to which the comment applies, and give reasons for the comment. Persons desiring acknowledgement of their comments should include a self-addressed post card or envelope. All comments received before the expiration of the comment period will be considered before final action is taken. The proposed rules may be changed in light of the comments received. No public hearing is planned, but one may be held if written requests for a hearing are received and it is determined that the opportunity to make oral presentations will aid the rulemaking process.

Drafting Information

The principal persons involved in drafting this proposal are: Lieutenant B. N. Balch, Port Operations Officer, Marine Safety Office, Boston and Lieutenant S. M. Krupanski of the Legal Office of the Commander, First Coast Guard District.

Discussion of the Proposed Rule

This proposed safety zone is part of an overall safety program implemented by the Captain of the Port Boston, MA to enhance the safety of liquified natural gas operations in the Port of Boston. The Coast Guard promulgated regulations which set forth the procedures for the establishment of safety zones for the protection of vessels, structures and water and shore areas. These regulations also provide for publishing specific safety zones when they have a continuing application (33 CFR Part 165, 42 FR 63369). This safety zone will be in effect whenever a loaded LNG carrier

transits Boston Main Ship Channel and while alongside the terminal till discharge of cargo is completed. All marine traffic would be prohibited from entering the safety zone without authorization from the Captain of the Port Boston. Mariners will be provided notice of scheduled arrivals of loaded LNG vessels via a Safety Marine Information Broadcast Notice to Mariners.

The safety zone during transit will be a "moving safety zone" bounded by the limits of the Boston Main Ship Channel extending two miles ahead and one mile astern of the LNG vessel. A Coast Guard vessel will escort the loaded LNG vessel and transmit a Safety Marine Information Broadcast on channel 13 VHF–FM during the transit, giving the LNG vessel's position at the end of each broadcast. When the LNG vessel is moored to the DISTRIGAS waterfront facility the proposed safety zone will become the area of water extending 150' in all directions from the LNG vessel.

The concept of a moving safety zone around the LNG vessel minimizes the chance of collision with another vessel by eliminating crossing or overtaking situations in Boston Harbor. It minimizes disruption to other vessel traffic as operators can schedule vessel movements ahead of the LNG tanker transit or just after the LNG vessel has passed. The safety zone at the facility will be patrolled by a Coast Guard vessel until the LNG vessel has completed the transfer of LNG. This 150' zone around the vessel covers a relatively small area and should not cause undue hadship to vessel or shoreside operations in the area.

The DISTRIGAS waterfront facility has been receiving LNG for many years. For each LNG vessel arrival the Captain of the Port, Boston has exercised his authority and established a temporary safety zone describing similar conditions as contained in ths notice of proposed rulemaking. Interested persons who have communicated with the COTP Boston have voiced approval of this "moving safety zone" concept during LNG vessel transits. The Coast Guard believes that establishing this safety zone as a formal rule will enhance its effectiveness through greater dissemination.

Economic Assessment and Certification

This proposed regualtion is considered to be non-significant in accordance with DOT Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5). Its economic impact is expected to be minimal since the theory and practice of establishing a safety zone around a loaded LNG vessel has been in effect for many years. Small and large companies with vessels operating in Boston Harbor are aware of scheduled LNG vessel harbor transits and adjust their vessel movements accordingly causing minimum economic impact. Based on this assessment it is certified in accordance with Section (b) of the Regulatory Flexibility Act (5 U.S.C. 605) that this regulation, if promulgated, will not have a significant economic impact on a substantial number of small entities. Also, the regulation has been reviewed in accordance with Executive Order 12291 of February 17, 1981, on Federal Regulation and has been determined not to be a major rule under the terms of that order.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Security measures, Waterways.

PART 165—[AMENDED]

In consideration of the foregoing, it is proposed to amend Part 165 of Title 33 Code of Federal Regulations by adding § 165.110 to read as follows:

§ 165.110 Boston Harbor, Boston Massachusetts

(a) The following areas are established as Safety Zones during the specified conditions:

(1) The waters bounded by the limits of the Boston Main Ship Channel and extending two miles ahead and one mile astern of a loaded Liquified Natural Gas Tank vessel while the vessel transits the Boston North Channel and Boston Harbor. The Safety Zone remains in effect until the LNG vessel is alongside the DISTRIGAS waterfront facility in the Mystic River.

(2) The waters and land area within 150' of a Liquified Natural Gas Tank vessel when the vessel is alongside the DISTRIGAS waterfront facility. This Safety Zone remains in effect while the LNG vessel remains in a loaded condition or is transferring liquified natural gas.

(b) The general regulations governing safety zones as contained in 33 CFR 165.20 apply.

(86 Stat. 427 [33 U.S.C. 1224]; 49 CFR 1.46), as amended by Section 2 of the Port and Tanker Safety Act of 1978 (Pub. L. 95–474).

Dated: November 9, 1983.

Stephen J. Masse,

Captain, U.S. Coast Guard, Captain of the Port, Boston, Massachusetts.

[FR Doc. 83-31643 Filed 11-25-83; 8:45 am]

BILLING CODE 4910-11-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

45 CFR Part 50

U.S. Exchange Visitor Program—Request for Waiver of the Two-Year Foreign Residence Requirement

AGENCY: Office of the Secretary, HHS.

ACTION: Proposed rule.

SUMMARY: The Department of Health and Human Services is proposing to revise its regulation on requests for waiver of the two-year foreign residence requirement of the U.S. Exchange Visitor Program. This amended regulation:

(1) Reflects the transfer of responsibility for the U.S. Exchange Visitor Program from the Department of State to the United States Information Agency;

(2) Changes the composition of the Exchange Visitor Waiver Review Board to reflect the transfer of responsibilities in the field of education to the Department of Education;

(3) Clarifies the definitions of the criteria that the Board applies; and

(4) Eliminates a provision that waivers will be requested for an exchange visitor based on the ability of the exchange visitor's citizen spouse to meet the Board's criteria.

DATE: Comments must be received on or before January 27, 1984.

ADDRESS: Comments should be mailed or delivered to the Director, Office of International Affairs, Department of Health and Human Services, Room 655–G, Hubert H. Humphrey Building, 200 Independence Avenue, S.W., Washington, D.C. 20201. Comments received may be inspected between 9:00 a.m. and 5:30 p.m. on regular business days by making arrangements with the contact person shown below.

FOR FURTHER INFORMATION CONTACT: David E. Hohman, Deputy Director, address as above. Telephone: (202) 245–6174.

SUPPLEMENTARY INFORMATION: Section 212(e) of the Immigration and Nationality Act, as amended, provides that exchange visitors may not change their status to that of permanent residents until they have returned to and been physically present in their country of origin or last residence for at least two years. The law further provides that this "foreign residence requirement" may be waived by the Attorney General in certain cases. One of these is when such a waiver is recommended by the Director of the U.S. Information Agency

pursuant to a request from an interested U.S. Government agency.

The Department of Health and Human Services, and its predecessor agency, the Department of Health, Education, and Welfare, has maintained an Exchange Visitor Waiver Review Board since 1958 to act on applications for favorable requests for waiver of the foreign residence requirement.

The proposed rule is generally similar to the old 45 CFR Part 50, and retains the Department's stringent and restrictive policy with respect to requesting waivers for foreign visitors. The new regulation changes references to the Department of State to the United States Information Agency; changes the composition of the membership of the Board to eliminate members appointed by the Assistant Secretary for Education, now a part of the Department of Education; clarifies the definitions of the criteria that Board applies; and eliminates a provision that waivers will be requested based on the ability of a citizen spouse to meet the Board's criteria.

Regulatory Impact

The proposed regulation does not meet the criteria for a major regulation, and therefore a regulatory impact analysis is not required. We certify that this regulation will not, if promulgated, have a significant economic impact on a substantial number of small entities.

List of Subjects in 45 CFR Part 50

Cultural Exchange Programs, Immigration.

Dated: September 7, 1983.

H. P. Thompson,

Director, Office of International Affairs.

Approved: November 2, 1983.

Margaret M. Heckler,

Secretary of Health and Human Services.

It is proposed that 45 CFR Part 50 be revised as follows:

PART 50—U.S. EXCHANGE VISITOR PROGRAM—REQUEST FOR WAIVER OF THE TWO-YEAR FOREIGN RESIDENCE REQUIREMENT

Sec.

50.1 Authority.
50.2 Exchange Visitor Waiver Review Board.
50.3 Policy.
50.4 Procedures for submission of application to HHS.
50.5 Personal hardship, persecution and visa extension considerations.
50.6 Release from foreign government.

Authority: 75 Stat. 527, 22 U.S.C. 2451 et seq.; 84 Stat. 116, 8 U.S.C. 1182(e).

§ 50.1 Authority.

Under the authority of Mutual Educational and Cultural Exchange Act of 1961 (75 Stat. 527) and the Immigration and Nationality Act as amended (84 Stat. 116), the Department of Health and Human Services is an "interested United States Government agency" with the authority to request the United States Information Agency to recommend to the Attorney General waiver of the two-year foreign residence requirement for exchange visitors under the Mutual Educational and Cultural Exchange Program.

§ 50.2 Exchange Visitor Waiver Review Board.

(a) *Establishment.* The Exchange Visitor Waiver Review Board is established to carry out the Department's responsibilities under the Exchange Visitor Program.

(b) *Functions.* The Exchange Visitor Waiver Review Board is responsible for making thorough and equitable evaluations of applications submitted by institutions, acting on behalf of exchange visitors, to the Department of HHS for a favorable recommendation to the United States Information Agency that the two-year foreign residence requirement for exchange visitors under the Exchanges Visitor Program be waived.

(c) *Membership.* The Exchange Visitor Waiver Review Board consists of no fewer than three members and two alternates, of whom no fewer than three shall consider any particular application. The Director of the Office of International Affairs, Office of the Secretary, is an ex officio member of the Board and serves as its Chairman. The Director may designate a staff member of the Office of the Secretary to serve as member and Chairman of the Board in the Director's absence. Two regularly assigned members and two alternates are appointed by the Assistant Secretary for Health to consider applications concerning health, biomedical research, and related fields. The Chairman may request the heads of operating divisions of the Department to appoint additional members to consider applications in other fields of interest to the Department (e.g. human services, social security). The Board may obtain expert advisory opinions from other sources.

(d) *Eligibility.* The Board will review applications submitted by private or non-federal institutions, organizations or agencies or by a component agency of HHS. The Board will not consider applications submitted by exchange visitors or, unless under extenuating and exceptional circumstances, other U.S. Government Agencies.

§ 50.3 Policy.

(a) *Criteria and information pertaining to waivers.* The Department of Health and Human Services endorses the philosophy of the Exchange Visitor Program that exchange visitors are committed to return home for at least two years after completing their program. This requirement was imposed to prevent the Program from becoming a stepping stone to immigration and to insure that exchange visitors make their new knowledge and skills available to their home countries. Accordingly, the Board carefully applies stringent and restrictive criteria to its consideration of requests that it support waivers for exchange visitors. Each application is evaluated individually on the basis of the facts available.

In determining whether to recommend and exemption for an exchange visitor from his/her obligation to the Exchange Visitor Program, the Board considers the following key factors:

(1) The program or activity at the applicant institution or organization in which the exchange visitor is employed must be of high priority and of national or international significance in an area of interest to the Department. The Board will not request a waiver when the application demonstrates that the exchange visitor is needed merely to provide services for a limited geographical area and/or to alleviate a local community or institutional manpower shortage, however serious.

(2) The exchange visitor must be needed as an integral part of the program or activity, or of an essential component thereof, so that loss of his/her services would necessitate discontinuance of the program, or a major phase of it. *Specific evidence* must be provided as to how the loss or unavailability of the individual's services would adversely affect the initiation, continuance, completion, or success of the program or activity. The applicant organization/institution must clearly demonstrate that a suitable replacement for the exchange visitor cannot be found through recruitment or any other means. The Board will not request a waiver when the principal problem appears to be one of administrative, budgetary, or program inconvenience to the institution or other employer.

(3) The exchange visitor must possess outstanding qualifications, training, and experience well beyond the usually expected accomplishments at the graduate, postgraduate, and residency

levels, and must clearly demonstrate the capability to make original and significant contributions to the program. The Board will not request a waiver simply because an individual has specialized training or experience or is occupying a senior staff position in a university, hospital, or other institution.

(b) *Waiver for members of exchange visitor's family.* Where a decision is made to request a waiver for an exchange visitor, a waiver will also be requested for the spouse and children, if any, if they have J–2 visa status. When both members of a married couple are exchange visitors in their own right (i.e., each has J–1 visa status), separate applications must be submitted for each of them.

§ 50.4 Procedures for submission of application to HHS.

(a) The applicant institution (educational institution, hospital, laboratory, corporation, etc.) should send a completed application (HHS Form 426; O.M.B. No. 0990–0001) to the Executive Secretary, Exchange Visitor Waiver Review Board, Room 655–G, Humphrey Building, Department of Health and Human Services, 200 Independence Avenue, S.W., Washington, D.C. 20201. Application forms, instruction sheets, and information may be obtained from the Executive Secretary (202/245–6174). The application must be filled out completely and signed by an authorized official of the applicant institution. The application and accompanying materials should include information that describes in detail the circumstances of the case involved.

(b) Since the formal filing of an application for waiver with the Immigration and Naturalization Service automatically terminates the applicant's exchange visitor status, it is permissible to obtain the decision of the Exchange Visitor Waiver Review Board before filing with the Immigration and Naturalization Service.

§ 50.5 Personal hardship, persecution and visa extension considerations.

(a) It is *not* within the Department's jurisdiction to consider applications for waiver based on:

(1) Exceptional hardship to the exchange visitor's American or legally resident alien spouse or child; or

(2) The alien's unwillingness to return to the country of his/her nationality or last residence on the grounds that he/she or family members would be subject to persecution on account of race, religion or political opinion.

(b) Likewise, this Department is not responsible for considering requests to extend visas.

(c) Inquiries concerning the above should be directed to the District Office of the Immigration and Naturalization Service which has jurisdiction over the exchange visitor's place of residence in the United States.

§ 50.6 Release from foreign government.

The United States Information Agency has the responsibility to consider applications for waivers that are based solely on a notification from the exchange visitor's country that it has no objection to a waiver (22 CFR 63.31).

[FR Doc. 83-31761 Filed 11-25-83; 8:45 am]
BILLING CODE 4150-04-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 80-06; Notice 2]

Federal Motor Vehicle Safety Standards; Seat Belt Assemblies

AGENCY: National Highway Traffic Safety Administration (NHTSA).

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend Safety Standard No. 209, *Seat Belt Assemblies*, to alter the test procedure specified under the "resistance to light" requirements of the standard. This proposed amendment is intended to set out an equivalent strength test for both nylon and polyester webbing materials used in seat belt assemblies. This proposal would change the test apparatus for polyester fibers by replacing the currently required "Corex D" filter with a chemically strengthened or tempered soda-lime glass filter. The "Corex D" filter would still be utilized in testing nylon webbing, since it offers the best correlation with actual outdoor results when dealing with nylon webbing material.

DATES: Proposed effective date: One year after issuance of a final rule. Comment closing date February 27, 1984.

ADDRESS: Comments should refer to the docket number and notice number and be submitted to: Docket Section, Room 5109, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590 (Docket hours: 8:00 a.m. to 4:00 p.m.)

FOR FURTHER INFORMATION CONTACT: Mr. William Smith, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, D.C. 20590 (202–426–2242).

SUPPLEMENTARY INFORMATION: Under Safety Standard No. 209, *Seat Belt Assemblies* (49 CFR 571.209), seat belts must pass a "resistance to light" test (paragraph S4.2 (e)). This test measures the strength and durability of the seat belt webbing material after exposure to sunlight. The "resistance to light" test represents an accelerated determination of outdoor exposure or aging. A rapid form of testing is needed so that webbing may be certified in accordance with Standard No. 209 and automotive companies' specifications prior to shipment.

On May 1, 1980, a Notice of Proposed Rulemaking (45 FR 29102) was issued, amending the procedure to be used in "resistance to light" tests. The original standard called for a "Corex D" filter in testing webbing material. The "Corex D" filter was an adequate test apparatus prior to the introduction of polyester webbing material for seat belts. Research had shown that although the specified test apparatus of a carbon arc light source combined with a "Corex D" filter, in general, was an effective method of simulating the effects of sunlight, it did result in the emission of certain radiations that were unrepresentative of the actual effects of natural sunlight. These peculiar radiations, which destroyed polyester but not nylon fibers, made the "Corex D" test procedure inappropriate for measuring the "resistance to light" requirements of seat belts containing polyester webbing material.

The proposed procedure substituted the required "Corex D" filter with a plain soda-lime glass filter in an attempt to create a similar, adequate testing for both nylon and polyester webbing material used in seat belt assemblies. Responses to this notice indicated that the proposed plain soda-lime glass filters were cracking either during the test cycle, due to the intense heat emitted during the 100 hours of test time, or after the test period, during the cool down of the equipment.

The Narrow Fabrics Institute, Inc. requested a delay in the rulemaking process in order to locate a less heat sensitive substitute. On September 16, 1980, the agency informed the Narrow Fabrics Institute, Inc. that the rulemaking process would be delayed until the development of a filter more resistant to thermal shock.

Upon completion of a two-year search and a one-year period of evaluation, the Narrow Fabrics Institute submitted a revised test apparatus. The improved

filter was a chemically strengthened or tempered soda-lime glass. Testing done by the agency under Contract No. DTNH-22-83-P-02016 confirmed that the new filter maintained the same light transmittance characteristics of the untreated soda-lime glass filter originally proposed, but was free of the previous thermal shock problems. The agency has placed a copy of the test report in the docket. The treated soda-lime glass filter produces and excellent correlation with actual outdoor results, for the proper accelerated degradation of polyester webbing, without the prior breakage difficulties.

A careful evaluation of data compiled over the past few years demonstrates that as to nylon webbing material, the "Corex D" filter still affords the best correlation with actual outdoor results. In light of these various findings, this notice proposes to amend the test procedure to reflect these results.

Update References

As a part of the agency action to change the "resistance to light" test procedures for polyester webbing in May 1980 (45 FR 29102), the agency proposed to change the one American Society for Testing and Materials (ASTM) recommended practice already incorporated in the resistance to light requirements from E42-64 to G23-69. In addition, the agency proposed adding a reference to the plain glass filter used in another ASTM practice (G24-66). In a NPRM, issued on July 22, 1982 (47 FR 31712), the agency proposed to update the other referenced ASTM and American Association of Textile Chemists and Colorists specifications in Standard No. 209. The agency stated that if the revised "resistance to light" test procedure, proposed in 1980, was adopted, the most recent versions of ASTM Recommended Practices G23 and G24 would be incorporated.

In May 1981, the ASTM published G23-81 as a combination of G23-69 (1975) and G25-70 (1975), Standard Recommended Practice for Operating Enclosed Carbon Arc Type Apparatus for Light Exposure of Nonmetallic Materials. Excluding the editorial combination of similar requirements in G23-69 and G25-70, there is no difference between G-23-69 and those portions of G23-81 that describe the testing process for seat belt assemblies in a Type E Carbon-Arc Light Exposure Apparatus. The agency is therefore proposing to incorporate ASTM G23-81 in the standard. Since the test procedure proposed in this notice will use a chemically strengthened or tempered soda-lime glass filter instead of a plain glass filter, there is no need to adopt ASTM G24-66 as proposed in the May 1, 1980, notice.

Economic Impacts

The agency has determined that the testing costs under this proposal would have minimal economic impact. Therefore, the proposal, is neither major within the meaning of Executive Order 12291 nor significant within the meaning of the Department of Transportation's regulatory policies and procedures, and a full regulatory evaluation has not been prepared.

Furthermore, under the Regulatory Flexibility Act, the agency has reviewed the effects of this proposal on small entities. Based on this evaluation, I certify that the proposed amendment will not have a significant economic impact on a substantial number of small entities. In accordance with this evaluation, no regulatory flexibility analysis has been prepared.

In addition, the agency has evaluated this action for purposes of the National Environmental Policy Act and has determined that the proposal will not have a significant impact on the quality of the human environment.

The proposed amendment would be effective one year after the issuance of a final rule. This one-year period should give manufacturers sufficient time to procure the filters and to adjust established schedules to accommodate the additional testing process.

Interested persons are invited to submit comments on the proposal. It is requested but not required that 10 copies be submitted.

All comments must be limited not to exceed 15 pages in length. (49 CFR 553.21) Necessary attachments may be appended to these submissions without regard to the 15-page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulation (49 CFR Part 512).

All comments received before the close of business on the comment closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. However, the rulemaking action may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rulemaking. The NHTSA will continue to file relevant material as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose, in the envelope with their comments, a self-addressed stamped postcard. Upon receiving the comments, the docket supervisor will return the postcard by mail.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles, Rubber and rubber products, Tires.

PART 571—[AMENDED]

In consideration of the foregoing, it is proposed that paragraph S5.1(e) of Safety Standard No. 209, *Seat Belt Assemblies* (49 CFR 571.209), be amended by revising paragraph (e) to read as follows:

§ 571.209 Standard No. 209; seat belt assemblies.

* * * * *

S5.1 * * *

(e) *Resistance to Light.* Webbing at least 20 inches or 50 centimeters in length from three seat belt assemblies shall be suspended vertically on the inside of the specimen rack in a Type E carbon-arc light-exposure apparatus described in Standard Practice for Operating Light-Exposure Apparatus (Carbon-Arc Type) With and Without Water for Exposure of Nonmetallic Materials, ASTM Designation: G23-81, published by the American Society for Testing and Materials, except that the filter used for 100 percent polyester yarns shall be chemically strengthened soda-lime glass capable of attenuating the ultraviolet radiation from the carbon-arc light source to 0.5 watts per square meter. The apparatus shall be operated without water spray at an air temperature of 60±2 degrees Celsius or 140±3.6 degrees Fahrenheit measured at a point 1.0±0.2 inch or 25±5 millimeters outside the specimen rack and midway in height. The temperature sensing element shall be shielded from

radiation. The specimens shall be exposed to light from the carbon-arc for 100 hours and then conditioned as prescribed in paragraph (a) of this section. The colorfastness of the exposed and conditioned specimens shall be determined on the Geometric Gray Scale issued by the American Association of Textile Chemists and Colorists. The breaking strength of the specimens shall be determined by the procedure prescribed in paragraph (b) of this section. The median values for the breaking strengths determined on exposed and unexposed specimens shall be used to calculate the percentage of breaking strength retained.

* * * * *

(Secs. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegations of authority at 49 CFR 1.50 and 501.8)

Issued: November 21, 1983.

Kennerly H. Digges,

Acting Associate Administrator for Rulemaking.

[FR Doc. 83-31768 Filed 11-25-83; 8:45 am]

BILLING CODE 4910-59-M

Notices

Federal Register
Vol. 48, No. 229
Monday, November 28, 1983

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

Office of the Secretary

Declaration of Extraordinary Emergency Because of Highly Pathogenic Avian Influenza

A serious outbreak of highly pathogenic avian influenza is occurring in poultry in New Jersey. Influenza virus isolates from this outbreak in Salem County, New Jersey, produced more than 75 percent mortality within 8 days when inoculated in healthy susceptible chickens at the National Veterinary Services Laboratories, Ames, Iowa. This disease, which has also recently been found in areas in Pennsylvania, has not otherwise occurred in the United States since 1929.

Highly pathogenic avian influenza is a dangerous communicable disease of poultry and it is hereby determined that an extraordinary emergency exists because of outbreaks of the disease in New Jersey, and that such outbreaks threaten the poultry of the United States, constitute a real danger to the national economy, and seriously burden interstate and foreign commerce. It is further determined that adequate measures to control such outbreaks cannot be taken by New Jersey. This declaration of extraordinary emergency authorizes the Secretary to seize, quarantine, and dispose of, in such manner as he deems necessary, any animals which he finds are or have been affected with or exposed to such disease, and carcasses of any such animals and any products and articles which he finds were so related to such animals as to be likely to be a means of disseminating such disease and otherwise to carry out the provisions and purposes of the Act of July 2, 1962 (21 U.S.C. 134–134h). The Secretary of Agriculture of New Jersey has been informed of these facts.

Further, in accordance with the provisions of the Act of September 25, 1981, 95 Stat. 953 (7 U.S.C. 147b); section 11 of the Act of May 29, 1884, 23 Stat. 33, as amended (21 U.S.C. 114a); and the provisions of the appropriation items for the Animal and Plant Health Inspection Service in the Agriculture, Rural Development, and Related Agencies Appropriation Act, 1983 (Pub. L. 97–370), as extended by House Joint Resolution, H.J. Res. 368, 98th Cong., 1st Sess. (97 Stat. 733) (1983), and any additional appropriations enacted into law, I authorize the use of the funds available under the said appropriation items for all proper purposes in a program conducted independently or in cooperation with States and political subdivisions thereof, farmers' associations, and similar organizations and individuals, to control and eradicate the disease wherever found in fully developed stages or in precursor stages.

Dated: November 23, 1983.

Richard E. Lyng,

Acting Secretary of Agriculture.

[FR Doc. 83-31813 Filed 11-23-83; 12:16 pm]

BILLING CODE 3410-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

[A-583-081]

Polyvinyl Chloride Sheet and Film From Taiwan; Preliminary Results of Administrative Review of Antidumping Finding and Intent To Revoke in Part

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of preliminary results of administrative review and intent to revoke in part.

SUMMARY: The Department of Commerce has conducted an administrative review of the antidumping finding on polyvinyl chloride sheet and film from Taiwan. The review covers the 32 known manufacturers and/or exporters and two known third-country resellers of this merchandise to the United States currently covered by the finding. The review covers varying periods from January 1, 1980 through November 10, 1982. The review indicates the existence of dumping margins in particular periods for certain firms.

As a result of the review, the Department has preliminarily determined to assess dumping duties equal to the calculated differences between United States price and foreign market value on each of their sales during the periods involved.

Where company-supplied information was inadequate or firms failed to respond to our questionnaire, we used the best information available for assessment and estimated antidumping duty cash deposit purposes.

The Department intends to revoke the finding with respect to Cathay Plastic Industry Co., Ltd. and three firms that export polyvinyl chloride sheet and film manufactured by Cathay and five firms that export polyvinyl chloride sheet and film manufactured by Nan Ya Plastics Corp.

Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: November 28, 1983.

FOR FURTHER INFORMATION CONTACT: Betty H. Laxague or Susan M. Crawford, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone: (202) 377–1130.

SUPPLEMENTARY INFORMATION:

Background

On May 6, 1983, the Department of Commerce ("the Department") published in the **Federal Register** (48 FR 20462–4) the final results of its last administrative review of the antidumping finding on polyvinyl chloride sheet and film from Taiwan (43 FR 28457, June 30, 1978) and announced its intent to immediately conduct the next administrative review. As required by section 751 of the Tariff Act of 1930 ("the Tariff Act"), the Department has now conducted that administrative review.

Scope of the Review

Imports covered by the review are shipments of unsupported flexible, calendered polyvinyl chloride ("PVC") sheet, film, and strips, over 6 inches in width and over 18 inches in length, and at least 0.002 inch but not over 0.020 inch in thickness, currently classifiable under item numbers 771.4312 and 774.5590 of the Tariff Schedules of the United States Annotated.

The review covers the 32 known exporters and two known third-country

resellers of Taiwanese PVC sheet and film to the United States currently covered by the finding. The review covers varying periods from January 1, 1980 through November 10, 1982.

Fourteen firms did not ship Taiwanese PVC sheet and film to the United States during the periods reviewed. The estimated antidumping duty cash deposit rates for those firms will be the most recent rate for each firm. Thirteen firms failed to respond to our questionnaire. For those non-responsive firms we used to the best information available to determine the assessment and estimated antidumping duty cash deposit rates. The best information available is the most recent rate for each firm or the fair value rate.

The Department has preliminarily determined not to cover Taiwan Upholstery Furniture Export Supplies Ltd. in this or future 751 reviews. That firm is no longer in business.

United States Price

In calculating United States price the Department used purchase price, as defined in section 772 of the Tariff Act. Purchase price was based on the packed delivered price either to an unrelated purchaser in the United States or to an unrelated Taiwanese trading company for export to the United States, as appropriate. Where applicable, deductions were made for ocean freight, insurance, U.S. and foreign inland freight, currency conversion expenses, and export license fees. Additions were made for harbor dues and customs duties on imported raw materials not collected by reason of subsequent exportation in a finished product. When comparing to home market prices, we accounted for taxes imposed in Taiwan but rebated or not collected by reason of the exportation of the merchandise to the United States. No other adjustments were claimed or allowed.

Foreign Market Value

In calculating foreign market value the Department used home market price, as defined in section 773 of the Tariff Act. Home market price was based on the packed delivered price with adjustments, where applicable, for inland freight, quantity and other discounts, differences in packing costs, credit costs, sales returns and allowances, technical assistance, certain advertising and sales promotions, and write-off for uncollectable accounts. We denied an adjustment claimed for certain advertising and certain sales promotion expenses that involved advertising in technical magazines. The Department believes that product advertising by the manufacturer in trade journals (as opposed to newspapers and general public magazines) is not directly related to the sale of that product to the ultimate customer. No other adjustments were claimed or allowed.

Preliminary Results of Review and Intent To Revoke in Part

As a result of our comparison of United States price to foreign market value, we preliminarily determine that the following margins exist:

Manufacturer/exporter	Time period	Margin (percent)
Asiam Informational Inc.	06/01/81-05/31/82	11.37
Brave Dragon Industry Ltd.	06/01/81-05/31/82	5.9
Bueno Manufacturing Co.	07/01/81-06/30/82	[1] 0
Cathay Plastic Industry Co., Ltd.	07/01/81-11/10/82	0
Chien YW Enterprises Corp.	07/01/81-05/31/82	[1] 0
Clopay Corporation	01/01/81-05/31/82	11.37
Collins Co., Ltd.	06/01/81-05/31/82	5.9
Diamond Shamrock Trading Corp.	06/01/81-05/31/82	[1] 0
Essex Sporting Goods Corp.	06/01/81-05/31/82	[1] 5.9
Fashion Plastics Fabrication Co., Ltd.	06/01/81-05/31/82	[1] 5.9
Formosa Shoe Industry	06/01/81-11/10/82	[1] 0
Jamecle Corp.	06/01/81-05/31/82	[1] 0
Kangel Enterprise, Inc.	01/01/82-05/31/82	11.37
Key Sheen Industry Co., Ltd.	06/01/81-05/31/82	11.37
Le Yang Inc.	06/01/81-05/31/82	0
Long Joy Enterprise Co. Ltd.	06/01/81-05/31/82	[1] 5.9
Long-Prosper Enterprise Co., Ltd.	06/01/81-05/31/82	11.37
Nan Lung Plastic Co., Ltd.	06/01/81-05/31/82	11.37
Odin Industries Co., Ltd.	06/01/81-05/31/82	[1] 11.37
Orchard Corp. of Taiwan Ltd.	01/01/81-05/31/82	0
Progress Plastic Co., Ltd.	06/01/81-05/31/82	0
Resy Plastic Co., Ltd.	01/01/81-05/31/82	0
San Ching Plastics	06/01/81-05/31/82	[1] 11.37
Sequence Co., Ltd.	06/01/81-05/31/82	[1] 0
Tarner Enterprises Co.	07/01/81-05/31/82	[1] 0
Taur Yang Enterprise Co., Ltd.	06/01/81-05/31/82	11.37
Truly Enterprises Co., Ltd.	06/01/81-05/31/82	11.37
Union Industries Ltd.	06/01/81-05/31/82	11.37
Wan Chang Lung Trading Co. Ltd.	06/01/81-05/31/82	5.9
Wen Fung Industries Co. Ltd.	06/01/81-05/31/82	[1] 0
Winport Marketing Ltd.	01/01/80-05/31/81	0
Yung Chieh Enterprises Co., Ltd.	06/01/81-05/31/82	0
Third-Country Reseller/ Country		
Hop Kee Hong/Hong Kong	06/01/81-05/31/82	11.37
Lot Heng (PVC Co.), Ltd./Hong Kong	06/01/81-05/31/82	[1] 0

[1] No shipments during the period.

As a result of our review we intend to revoke the finding on PVC sheet and film from Taiwan with respect to Cathay Plastic Industry Co., Ltd. and three firms that ship only PVC sheet and film manufactured by Cathay and that only market the merchandise to the U.S. These three firms are: Formosa Shoe Industry, Le Yang Inc., Lot Heng (PVC Co.), Ltd./Hong Kong.

Cathay and Le Yang made all sales at not less than fair value during the period up to November 10, 1982, the date of our tentative determination to revoke with regard to Cathay. The other two firms did not ship during the period. As provided for in section 353.54(e) of the Commerce Regulations, the four firms have agreed in writing to an immediate suspension of liquidation and reinstatement in the finding if circumstances develop which indicate that PVC sheet and film produced by Cathay and exported directly or indirectly to the United States is being sold by them at less than fair value. If the finding is revoked with regard to the four firms, it shall apply to PVC sheet and film produced and sold by Cathay, exported to the United States by Cathay or by the above three trading companies, and entered, or withdrawn from warehouse, for consumption on or after November 10, 1982.

The Department also intends to revoke the finding with respect to the following five firms. Revocation for these firms was deferred from our last administrative review. The Department has since verified that they had no shipments of PVC sheet and film to the United States during the periods in which the Department used best evidence. The five firms previously only shipped PVC sheet and film manufactured by Nan Ya Plastics Corp. and only marketed the merchandise to the U.S. We revoked the finding with respect to Nan Ya in our last administrative review.

Bueno Manufacturing Co.
Chien YW Enterprises Corp.
Jamecle Corp.
Tarner Enterprises Co.
Wen Fung Industries Co., Ltd.

As provided for in section 353.54(e) of the Commerce Regulations, the five firms have agreed in writing to an immediate suspension of liquidation and reinstatement in the finding if circumstances develop which indicate that PVC sheet and film produced by Nan Ya and exported directly or indirectly to the United States is being sold by them at less than fair value. If the finding is revoked with regard to those five firms, it shall apply to PVC sheet and film produced and sold by Nan Ya, exported to the United States by those five firms, and entered, or withdrawn from warehouse, for consumption on or after June 26, 1981, the date of publication of our tentative determination to revoke with respect to Nan Ya.

Interested parties may submit written comments on those preliminary results and intent to revoke in part within 30 days of the date of publication of this notice and may request disclosure and/

or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 45 days after the date of publication or the first workday thereafter. Any request for an administrative protective order must be made no later than 5 days after the date of publication. The Department will publish the final results of the administrative review including the results of its analysis of any such comments or hearing.

The Department shall determine, and the U.S. Customs Service shall assess, dumping duties on all appropriate entries with purchase dates during the periods involved. Individual differences between United States price and foreign market value may vary from the percentages stated above. The Department shall issue appraisement instructions on each exporter directly to the Customs Service.

Further, as provided for in section 353.48(b) of the Commerce Regulations, a cash deposit of estimated antidumping duties based on the above margins shall be required. For any future entries from a new exporter not covered in this or prior reviews, whose first shipments occurred after November 10, 1982 and who is unrelated to any reviewed firm, no cash deposit shall be required. These deposit requirements are effective for all shipments of Taiwanese PVC sheet and film entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this review.

This administrative review, intent to revoke in part, and notice are in accordance with sections 751 (a)(1) and (c) of the Tariff Act of 1930 (19 U.S.C. 1675(a)(1), (c)) and §§ 353.53 and 353.54 of the Commerce Regulations (19 CFR 353.53, 353.54).

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

November 17, 1983.

[FR Doc. 83-31747 Filed 11-25-83; 8:45 am]

BILLING CODE 3510-DS-M

[A-580-011]

Carbon Steel Plate From the Republic of Korea; Initiation of Antidumping Duty Investigation

AGENCY: International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: On the basis of a petition filed in proper form with the United States Department of Commerce, we are initiating an antidumping duty investigation to determine whether carbon steel plate from the Republic of Korea (Korea) is being, or is likely to be, sold in the United States at less than fair value. We are notifying the United States International Trade Commission (ITC) of this action so that it may determine whether imports of these products are materially injuring, or are threatening to materially injure, a United States industry. If this investigation proceeds normally, the ITC will make its preliminary determination on or before December 15, 1983, and we will make ours on or before April 9, 1984.

EFFECTIVE DATE: November 28, 1983.

FOR FURTHER INFORMATION CONTACT: Loc Nguyen, Office of Investigations, Import Administration, International Trade Administration, United States Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone (202) 377-1785.

SUPPLEMENTARY INFORMATION:

The Petition

On October 31, 1983, we received a petition from counsel for Gilmore Steel Corporation on behalf of the domestic carbon steel plate products industry. In compliance with the filing requirements of section 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleges that imports of the subject merchandise from Korea are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (19 U.S.C. 1673) (the Act), and that these imports are materially injuring or are threatening to materially injure a United States industry. The allegation of sales at less than fair value is supported by comparisons of the Korean steel prices published by the Korean Iron and Steel Association, with the 1983 average f.a.s. Korea port value of carbon steel plate imported into the United States (as provided by U.S. Department of Commerce statistics).

Initiation of Investigation

Under section 732(c) of the Act, we must determine, within 20 days after the petition is filed, whether it sets forth the allegations necessary for the initiation of an antidumping duty investigation and whether it contains information reasonably available to the petitioner supporting the allegations. We have examined the petition on carbon steel plate and we have found that it meets the requirements of section 732(b) of the Act. Therefore, we are initiating an antidumping investigation to determine whether carbon steel plate from Korea is being, or is likely to be, sold at less than fair value in the United States. If our investigation proceeds normally, we will make our preliminary determination by April 9, 1984.

Scope of Investigation

The merchandise covered by this investigation is carbon steel plate. The term "carbon steel plate" covers hot-rolled carbon steel products, whether or not corrugated or crimped; not pickled; not cold rolled; not in coils; not cut, not pressed, and not stamped to non-rectangular shape; not coated or plated with metal and not clad, 0.1875 inch or more in thickness and over 8 inches in width; as currently provided for in item 607.6615 of the *Tariff Schedules of the United States Annotated.*

Semifinished products of solid rectangular cross sections with a width at least four times the thickness in the cast condition or processed only through primary mill hot-rolling are not included.

Carbon steel plate is used in the construction of bridges, mining equipment, pressure vessels, railroad freight and passenger cars, ships, line pipe, industrial machinery, machine parts, and a large variety of other products.

Notification to ITC

Section 732(d) of the Act requires us to notify the ITC of this action and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonconfidential information. We will also allow the ITC access to all privileged and confidential information in our files, provided it confirms that it will not disclose such information either publicly or under an administrative protective order without the consent of the Deputy Assistant Secretary for Import Administration.

Preliminary Determination by ITC

The ITC will determine by December 15, 1983, whether there is a reasonable indication that imports of carbon steel plate from Korea are materially injuring, or are likely to materially injure, a United States industry. If its determination is negative, this investigation will terminate; otherwise, it will proceed according to the statutory procedures.

Dated: November 19, 1983.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 83-31745 Filed 11-25-83; 8:45 am]

BILLING CODE 3510-DS-M

Applications for Duty-Free Entry of Scientific Instruments; Los Alamos National Laboratory et al.

Pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651; 80 Stat. 897; 15 CFR Part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with § 301.5(a)(3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, D.C. 20230. Applications may be examined between 8:30 a.m. and 5:00 p.m. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C.

Docket No. 83–347. Applicant: Los Alamos National Laboratory, P.O. Box 1663, Los Alamos, NM 87545. Instrument: Soft X-ray Streak Camera with Demountable Photocathode Manipulator and Accessories. Manufacturer: John Hadland Photonics Ltd., United Kingdom. Intended use: Observation of fast transient X-ray emission from hot dense plasmas, to determine fundamental plasma physical characteristics. This knowledge is in turn used to design more successful laser fusion efforts. Application received by Commissioner of Customs: November 10, 1983.

Docket No. 83–350. Applicant: Harvard University, Purchasing Department, 1350 Massachusetts Avenue, Cambridge, MA 02138. Instrument: Patch Clamp System, Model "L/M-EPC-5". Manufacturer: List Electronics, West Germany. Intended Use: Studies of the ionic currents in nerve cells and the ionic current through individual channels or pores in the cell membrane. Experiments will include measuring these ionic currents studying their kinetic properties, and determining the effects of medicinal agents on the channel currents. Education: Instruction of post-doctoral and pre-doctoral students in the new technique of patch-clamping. Application received by Commissioner of Customs: November 10, 1983.

Docket No. 83–110. Applicant: National Bureau of Standards, B268 Physics Building, Washington, D.C. 20234. Instrument: Fourier Transform Spectrophotometer System, Model DA3.002I with Accessories. Manufacturer: Bomem, Inc., Canada. Intended use: High resolution studies on hydrogen bonded systems, metal cluster, cluster ions, and other complexes that are intermediate between the well established phases of the dilute gas and the condensed phases of the liquid or solid. Also studies of unstable molecules, free radicals and ions to provide data and results for the requirement of other agency programs will be conducted. Application received by Commissioner of Customs: March 17, 1983.

(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. 83-31746 Filed 11-25-83; 8:45 am]

BILLING CODE 3510-DS-M

[A469–007]

Potassium Permanganate From Spain; Final Determination of Sales at Less Than Fair Value

AGENCY: International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: We have determined that potassium permanganate from Spain is being sold in the United States at less than fair value. Therefore, we have notified the U.S. International Trade Commission (ITC) of our determination, and the ITC will determine, within 45 days of publication of this notice, whether these imports are materially injuring, or are threatening to materially injure, a U.S. industry. We have directed the U.S. Customs Service to continue to suspend the liquidation of entries of the subject merchandise which are entered, or withdrawn from warehouse, for consumption, on or after August 9, 1983.

EFFECTIVE DATE: November 28, 1983.

FOR FURTHER INFORMATION CONTACT: Loc Nguyen, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, D.C. 20230; telephone: (202) 377–1785.

SUPPLEMENTARY INFORMATION:

Final Determination

We have determined that potassium permanganate from Spain is being sold in the United States at less than fair value, as provided in section 735 of the Tariff Act of 1930, as amended (19 U.S.C. 1673) (the Act).

We found that the foreign market value of potassium permanganate from Spain exceeded the United States price on 72.59 percent of sales. These margins ranged from 2.81 percent to 12.31 percent. The overall weighted-average margin on all sales compared is *5.49 percent ad valorem.*

Case History

On February 22, 1983, we received a petition from counsel for Carus Chemical Company on behalf of the potassium permanganate industry. In accordance with the filing requirements of 353.36 of the Commerce Regulations (19 CFR 353.36), the petitioner alleged that imports of potassium permanganate from Spain are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act and that these imports are materially injuring, or threaten to injure, a United States industry.

A questionnaire was presented to Asturquimica on March 25, 1983. The response was received on May 9, 1983, and a supplemental response was received on June 1, 1983.

On August 2, 1983, we made a preliminary determination that potassium permanganate from Spain was being sold in the United States at less than fair value (48 FR 36,177). We held a hearing on August 31, 1983, to allow the parties an opportunity to address the issues. On August 17 through 19, 1983, we verified the responses of Asturquimica at its offices in Oviedo, Spain. On September 9, 1983, we received a letter from counsel for the Spanish manufacturer and the exporter of potassium permanganate requesting that the final determination be extended until November 22, 1983. We extended our final determination until that date.

Scope of Investigation

The merchandise covered by this investigation is potassium permanganate, an inorganic chemical produced in free flowing, technical and pharmaceutical grades. Potassium permanganate is currently classifiable under item 420.2800 of the *Tariff Schedules of the United States Annotated* (TSUSA).

This investigation covers the period from July 1 to December 31, 1982. Asturquimica is the only known Spanish producer who exports the subject merchandise to the United States. We examined 100 percent of United States sales made during the period of investigation.

Fair Value Comparison

To determine whether sales of the subject merchandise in the United States were made at less than fair value, we compared the United States price with the foreign market value.

United States Price

As provided in section 772(b) of the Act, we used the purchase price of the subject merchandise to represent the United States price because the merchandise was sold to unrelated purchasers prior to its importation into the United States. We calculated the purchase price for Asturquimica based on the c.i.f. price to United States purchasers and in one case on an f.o.b. price. We made deductions for Spanish inland freight, ocean freight, marine insurance, port costs, foreign exchange commissions, a tax on these commissions, and price rebates, as appropriate. We added the amount of indirect taxes on exported merchandise which was rebated at the time of export under the provisions of Degravacion Fiscal a la Exportacion. We also added the amount of sales tax which the Spanish government exempts on expert sales. This sales tax amount was computed on the basis of the f.o.b. value of the merchandise.

Foreign Market Value

In accordance with section 773(a)(1) of the Act, we calculated foreign market value based on home market sales of Asturquimica. In calculating foreign market value, we made currency conversions from Spanish pesetas to United States dollars in accordance with § 353.56(a)(1) of the Commerce Regulations using the quarterly or daily exchange rates as appropriate during the period.

All home market sales reported by Asturquimica were to unrelated companies. Since all U.S. sales reported by Asturquimica were made to distributors, in our calculation of fair market value we used only those sales in the home market that were made to wholesalers. We calculated the foreign market value by deducting the cost of loading trucks and a discount for prompt payment where appropriate from the f.o.b. plant price. An adjustment was made for differences in credit costs in accordance with § 353.15 of the Commerce Regulations. The credit costs for both markets were computed on the basis of actual interest expense incurred on each sale. Asturquimica requested that U.S. credit expenses be adjusted for revenue gains or losses resulting from fluctuations in the currency exchange rates. The Department did not allow this exchange rate adjustment for reasons described in the respondent's comments section of this notice. We deducted the home market packing cost and added the U.S. packing cost.

We did not make an adjustment for quantity discounts as requested by Asturquimica. The respondent's reported quantity discounts are not linked directly to individual sales, but are instead based on the customer's past and anticipated aggregate purchases. The price levels granted on the basis of aggregate purchases may vary depending on the specific customer relationship. Therefore, the Department determined that the discounts were not the type of discount referred to in 19 CFR 353.14(b)(1). In accordance with 19 CFR 353.14(b)(3), the Department would reduce the home market price of sales under consideration to the extent that this discount was granted on the individual sales. Since no such discounts were granted on the sales to wholesalers which were used as the basis of our determination of fair value, no deduction was made.

We did not make a level of trade adjustment as requested by Asturquimica in the calculation of foreign market value because we used only home market sales to customers which we determined to be at the same level of trade as those in the United States.

We did not allow the respondent's claim for a technical services adjustment because the expenses claimed were not linked directly to the sales under consideration as required in 19 CFR 353.15(a).

We did not allow the respondent's claim for an adjustment for bad debts in the home market because the bad debts were incurred in relation to sales outside the period of investigation. See the "Respondent's Comments" section of this notice for further discussion of this claim.

Verification

In accordance with section 776(a) of the Act, we verified data used in making this determination in this investigation, by using verification procedures, which included on-site inspection of manufacturer's facilities and examination of company records and selected original source documentation containing relevant information.

Petitioner's Comments

Comment 1

The claim for a quantity adjustment under 19 CFR 353.14(b)(1) should be disallowed because the discounts are "turnover" discounts designed to reward customers for continued sales and not discounts for quantities purchased pursuant to individual sales.

DOC Position

The claim was rejected because the Department did not find evidence that the price differentials were due to differences in quantities involved in specific sales. Any discounts granted were based on past sales and anticipated future sales regardless of quantities for individual sales.

Comment 2

The claim for an adjustment due to differences in level of trade should be rejected since the respondent made sufficient sales to wholesalers in the home market to form a proper basis for comparison with the sales to distributors in the United States.

DOC Position

We compared sales to wholesalers in the home market to sales to distributors in the United States, since these were sales at the same level of trade. Therefore, no adjustment was required.

Comment 3

Any adjustment to the United States price for currency fluctuation gains should be in the form of a deduction in order to accurately reflect the artificially low price which is made possible by this gain.

DOC Position

We determined that there is no basis in the Act or regulations for such an adjustment. A further discussion of currency fluctuation gain is contained in the Respodent's Comment section of this notice.

Respondent's Comments

Comment 1

The Department erred in using quarterly exchange rates for the conversion of currency rather than daily exchange rates.

DOC Response

Section 353.56(a) mandates the conversion of foreign currency in accordance with the provisions of section 522 of the Tariff Act of 1930, as amended (19 U.S.C. 372) in making fair value comparisons. This requires the use of the certified quarterly rates where the daily rate has not varied by more than 5 percent from the quarterly rate. There were no variations of over 5 percent during the first quarter of the period of investigation. Therefore, we used the quarterly rate for the first quarter of the period of investigation. Because there were some variations of over 5 percent during the second quarter of the period of investigation, for this quarter we applied quarterly and daily rates wherever appropriate.

Comment 2

The credit expenses in the United States price should be adjusted to account for home market currency revenue gains attributable to currency exchange fluctuations. These gains accured because payment was received at least 90 days after shipment. Since the value of the peseta was falling relative to the U.S. dollar, the company received additional revenue in pesetas.

DOC Response

Section 353.56(a)(1) stipulates that "any necessary conversion of a foreign currency into its equivalent in United States currency" will be "as of the date of purchase or agreement to purchase, if the purchase price is an element of the comparison". Therefore, it is not DOC policy to take into account differences in home market currency revenue based on currency fluctuations in calculating credit expenses whether the fluctuations are favorable or unfavorable.

Comment 3

The Department should allow an adjustment for differences in quantities based on § 353.14(b) (1) and (3).

DOC Response

The respondent's reported quantity discounts are based on past and anticipated aggregate purchase levels. The discounts also appear to be based on the respondent's relationship with specific customers. Therefore, we determined that these discounts are not the type of quantity discount referred to in 19 CFR 353.14(b)(1). In accordance with 19 CFR 353.14(b)(3), the Department would reduce the home market price of sales under consideration to the extent that this discount was granted on the individual sales. Since no such discounts were granted on the sales to wholesalers which were used as the basis of our determination of fair value, no deduction was made.

Comment 4

The respondent claims that a circumstances of sale adjustment should be made for technical services provided in the home market.

DOC Response

The respondent claims that technical services are provided only with respect to home market sales. The services were described as consisting of consultation with customers on technical uses of the product and discussions concerning problems the customer may be having using the product. The provision of these services is considered as useful selling point by the respondent. As such, the provision of these services is considered to be of a public relations nature in establishing the buyer/seller relationship rather than services provided pursuant to the specific sales under consideration. In addition, the provision of these services was not tied to the sales to wholesalers which we used to determine fair value. Therefore, no adjustment was allowed.

Comment 5

The respondent claims that an adjustment should be made for differences in circumstances of sale for bad debts incurred in the home market. In its agruments, the respondent states its belief that the fact that the bad debts were incurred on sales during a prior period should not preclude their consideration since there is normally a substantial period of time between the completion of sale and the realization that payment will not be made. The respondent claims that an internal memorandum prepared in June 1982 recommending consideration of increasing domestic price by the end of the year to recover its loss from the bad debt provides a direct relationship between the bad debts and the sales under consideration since prices were increased on July 1, 1983.

DOC Response

We reviewed all the information in the record concerning this claim and determined that an internal memorandum recommending a price increase to recover the bad debt loss did not constitute evidence that the price increase was actually promulgated for this purpose either in whole or in part. Therefore, we determined that the bad debt loss was not directly related to the sale under consideration and rejected the claim.

Comment 6

The allowance for differences in circumstances of sale for credit terms should be recalculated on the basis of the actual credit costs which were verified.

DOC Response

This adjustment was recalculated on the basis of the verified costs. The actual credit costs on home market and U.S. sales under consideration were compared and the adjustment was based on the cost differences.

Suspension of Liquidation

In accordance with section 733(d) of the Act, on August 9, 1983, we instructed the U.S. Customs Service to suspend liquidation of all entries of potassium permanganate from Spain. As of the date of publication of this notice in the **Federal Register**, the liquidation for consumption of all entries or withdrawals from warehouse for consumption of this merchandise will continue to be suspended. The Customs Service shall require a cash deposit or the posting of a bond equal to the estimated weighted-average margin amount by which the foreign market value of the merchandise subject to this investigation exceeds the United States price. The suspension of liquidation will remain in effect until further notice. The weighted-average margins are as follows:

Manufacturers/producers/exporters	Weighted-average margins (percent)
Asturquimica	5.49
All other manufacturers/producers/exporters	5.49

ITC Notification

In accordance with section 735(d) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonconfidential information relating to this investigation. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration.

The ITC will make its determination whether these imports are materially injuring, or threatening to materially injure, a U.S. industry within 45 days of the publication of this notice.

If the ITC determines that material injury or the threat of material injury does not exist, this proceeding will be terminated and all securities posted as a result of the suspension of liquidation will be refunded or cancelled. If, however, the ITC determines that such injury does exist, we will issue an antidumping order, directing Customs officers to assess an antidumping duty on potassium permanganate from Spain entered, or withdrawn, for consumption after the suspension of liquidation, equal to the amount by which the foreign market value of the merchandise exceeds the U.S. prices.

This determination is being published pursuant to section 735(d) of the Act (19 U.S.C. 1673(d)).

Dated: November 22, 1983.

William T. Archey,

Acting Assistant Secretary for Trade Administration.

[FR Doc. 83-31782 Filed 11-25-83; 8:45 am]

BILLING CODE 3510-05-M

[A-122-047]

Elemental Sulphur From Canada; Final Results of Administrative Review of Antidumping Finding

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of final results of administrative review of antidumping finding.

SUMMARY: On December 27, 1982, the Department of Commerce published the preliminary results of its administrative review of the antidumping finding on elemental sulphur from Canada. The review covered 43 of the 49 manufacturers and/or exporters of this merchandise to the United States currently covered by the finding and generally the period December 1, 1980 through November 30, 1981.

Interested parties were given an opportunity to submit oral or written comments on the preliminary results. At the request of one exporter, the Department held a public hearing on January 27, 1983. Based on our analysis of the comments received, we are deferring review of entries made by Cities Service Company, Ltd. The final results for all other firms remain unchanged from those presented in our preliminary results.

EFFECTIVE DATE: November 28, 1983.

FOR FURTHER INFORMATION CONTACT: Joseph A. Fargo or Robert J. Marenick, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 377-5255.

SUPPLEMENTARY INFORMATION:

Background

On December 17, 1973, the Treasury Department published in the **Federal Register** (38 FR 34655) an antidumping finding with respect to elemental sulphur from Canada. On December 27, 1982, the Department of Commerce ("the Department") published in the **Federal Register** (47 FR 57544) the preliminary results of its last administrative review of the finding. The Department has now completed that administrative review.

Scope of the Review

Imports covered by the review are shipments of elemental sulphur, currently classifiable under item 415.4500 of the Tariff Schedules of the United States Annotated. The review covers 42 of the 49 manufacturers and/or exporters of Canadian elemental sulphur to the United States currently covered by the finding and generally the period December 1, 1980 through November 30, 1981.

We are deferring review of entries made by Cities Service Company, Ltd. in order to obtain more specific information concerning its operating costs during the review period. These entries will be covered in our next administrative review.

Analysis of Comments Received

We invited interested parties to comment on our preliminary results. At the request of one exporter, Canamex Commodity Corporation (Canamex), we held a public hearing on January 27, 1983.

Comment 1: Canamex, First Mississippi Corporation, BP Canada Ltd., and Beker Industries argued that the Department erred when it used the sale price from Canadian manufacturers to Canamex to establish the U.S. price for Canamex sales. Canamex sought to distinguish itself from the situation in *Voss International v. United States*, 473 F. Supp. 327 (1979), and the resultant legislative amendments in the Trade Agreements Act of 1979. First Canamex pointed out that the Department, in promulgating its regulations for antidumping cases, did not mandate use of the price from the purchaser to the exporter. Second, the Department recognizes that, if the non-producer exporter sells in two or more markets, then it is appropriate to compare the exporter's price to the U.S. with its price to another market. Canamex maintained that its sales patterns differ from those in Voss. For instance, Canamex's contracts with its manufacturer suppliers permit it to sell in both the U.S. and Canada. While Canamex "traditionally sold Canadian sulphur solely in the United States market," it could have sold and began to sell in Canada in 1982. Since sulphur is a homogeneous product, there would be no way for a producer to be able to track the ultimate destination of its sales to Canamex. Accordingly, since the circumstances surrounding producer sales to Canamex indicate ignorance of the eventual destination on the part of the producer, his price should not be used to establish United States price. Rather, Canamex's price to its unrelated U.S. customer should be used.

Department's Position: The Department established U.S. price by using purchase price, as defined in section 772 of the Tariff Act. We believe that, as long as the manufacturer knew at the time of the sale to Canamex, that the merchandise was destined for the United States it is appropriate under the statute to use the manufacturer's price to Canamex for purchase price.

The Department considers it unlikely that the producer would be unaware of the historical pattern of Canamex's sulphur sales. In view of the fact that, since 1973, Canamex has sold exclusively to the U.S., it is reasonable to expect that the producer would have knowledge that his sales to Canamex would be destined for the U.S. market.

The legislative history of the 1979 amendment clearly reveals the explicit intent to overrule Voss. The amendment permits use of the manufacturer's price to a middleman in the country of exportation if the manufacturer knew the destination at the time of its sale to the exporter.

We have determined that the Canadian manufacturers were aware at the time of their sales to Canamex that those sales were destined for the United States. Therefore, the manufacturer's sales to Canamex are properly used to establish purchase price.

Comment 2: Canamex, Beker, and First Mississippi Corporation claimed that the Department should not use the best information available to determine foreign market value for certain sales by Canamex for which a Canamex supplier failed to respond to our questionnaire. Canamex argued that such an approach was unfair since Canamex had no control over whether the supplier did or did not respond to our questionnaire, and also because the information was nearly ten years old in some instances.

Department's Position: The Department will use the best information available for any non-responsive firm. That information is a prior rate for the firm or the highest current rate for any responding firm with shipments, whichever is higher. The rate used as best information available in this case was the highest current rate, based on shipments by Canamex of material manufactured by Canterra Energy, Ltd. For previous years, we used the highest current respondent rate for the particular calendar year.

Comment 3: Delta Marketing and Shipping Corporation claimed that the Department erroneously identified Sulmar Canada Ltd., a wholly-owned subsidiary of Delta, as a manufacturer and exporter of sulphur and assigned to it a margin of 5.51 percent. Delta claimed that Sulmar Canada acted solely as an administrative agent for Delta in connection with its Canadian/

U.S. operations. Delta requested that the 5.51 percent margin be assigned to Delta and that Sulmar Canada's name be deleted from our list of manufacturers and/or exporters of Canadian elemental sulphur for this and future section 751 reviews.

Department's Position: The Department remains convinced that Sulmar Canada acts as a Canadian exporting agent for Delta and is therefore a Canadian exporter for the purposes of our review.

Comment 4: Cities Service argued that margins on its sales were improperly calculated because the Department, in constructing a U.S. price for sulphur from the U.S. price for sulphuric acid, used monthly operating cost figures rather than averaging them over a longer period. Since these costs fluctuated greatly from month to month and reflect extraordinary operating costs for certain months, an average (e.g. 6 month) figure would be more appropriate.

Department's Position: Section 772(e)(3) of the Tariff Act requires that the U.S. price be reduced by "any increased value resulting from a process of manufacture". We used the actual expenses incurred in the manufacturing process to reduce United States price. We used monthly expense figures supplied by Cities Service as the best indicator of the actual expenses incurred. However, we are deferring review of entries made by Cities Service during the period in question, pending further explanation concerning unusual month-to-month variations in operating expenses.

Comment 5: Cities Service claims that the Department incorrectly calculated a margin on one of its sales because that sale involved a product shipped in a defective rail car on which Cities Service incurred unusually high freight charges. Thus, the ex-factory price was unusually low.

Department's Position: Cities Service has not shown that this sale was outside the ordinary course of trade, nor has it suggested a quantitative figure which might be used to adjust for the unusual circumstances surrounding it. Accordingly, the Department does not believe it advisable to further adjust U.S. price for this sale.

Comment 6: Cities Service contended that the margin percentages listed for it in our preliminary results are in error. Cities Service claimed that the Department failed to make an adjustment for the fact that there is only 0.35 tons of sulphur in one ton of sulphuric acid, the product Cities Service sells to unrelated parties in the U.S., and therefore, the Department's per ton prices should be multiplied by approximately 2.85 to obtain accurate United States prices.

Department's Position: We agree and have made the appropriate adjustment.

Comment 7: Cities Service argued that the Department erred in comparing a U.S. sale made in April 1981 with a home market sale made in July 1981. It asserted that the U.S. sale should be compared with a third-country sale (Brazil) made in December 1980.

Department's Position: It is ordinarily our policy, in instances where we are using individual sales for foreign market value, to use for comparison the most recent sale preceding a given U.S. sale date, up to a maximum of 90 days. If no such sale occurred, we use for comparison the first sale following the given U.S. sale date, up to a maximum of 45 days. Both the December 1980 and July 1981 sales fall outside of these categories. In view of our preference for home market sales as the basis of comparison, and because the July 1981 price was not different than the home market price in earlier months where there were sales, we chose the July 1981 sale.

Comment 8: Beker objected to the retroactive application of our change in policy for Canamex. Beker stated that fairness dictated that margins for prior years be calculated on the basis of prior methodology.

Department's Position: We fail to see the logic in applying an incorrect methodology to a backlog of unliquidated entries. On the contrary, the correct methodology should be applied to any outstanding entries.

Comment 9: Canamex asserted that, if the Department continues to examine the pricing behavior for Canamex's suppliers, the Department should adjust the supplier's foreign market values, where applicable, for the costs of converting liquid (molten) sulphur to dry (slated) sulphur.

Department's Position: Where the supplier was responsive, and where the adjustment was applicable, we have made the adjustment.

Comment 10: First Mississippi argued that, for each period where we were unable to obtain adequate information, we should have used as best information available a weighted-average dumping margin for all firms with shipments during the period, rather than the highest rate for a responding shipping firm. Averaging is permissible under the 1979 amendments to the Tariff Act.

Department's Position: We believe here that the highest rate for firms with shipments during the period in question represents the best evidence of non-responsive firm's capacity to dump goods on the U.S. market. Insofar as we have discretion to average, we have used it, for example, in developing a weighted-average figure for each seller based on sales across all of its customers, in order to develop a rate for cash deposit of estimated antidumping duties. However, that discretion does not extend to developing a weighted-average margin across sellers for assessment purposes on past entries.

Final Results of the Review

The margin for West Decalta Petroleum was erroneously listed, because of a typographical error, as 8.90 percent. The correct rate is 28.90 percent. Based on our analysis of the comments received, we have deferred review of entries made by Cities Service Company, Ltd. As a result of this change, the highest current rate for a responding firm with shipments is 5.56 percent (Canterra/Canamex). We, therefore, have changed the rate for two non-responding firms, BP/Canamex and Union Texas, from 6.96 percent to 5.56 percent. The results for all other firms remain unchanged from those presented in our preliminary results. We therefore determine that the following margins exist:

Manufacturer/exporter	Time period	Margin (percent)
Amerada Minerals	12/01/80-11/30/81	[1] 28.90
Amoco Canada	12/01/80-11/30/81	0
BP/Canamex	01/01/73-12/31/73	87.65
	01/01/74-12/31/74	0.54
	01/01/75-12/31/75	20.28
	01/01/76-12/31/76	84.56
	01/01/77-12/31/77	15.50
	01/01/78-12/31/78	18.66
	01/01/79-05/31/79	15.24
	12/01/80-11/30/81	5.56
Canterra Energy (formerly Aquitaine Co. of Canada Ltd.)	12/01/80-11/30/81	[1] 0
Canterra/Canamex	12/01/80-11/30/81	5.56
Canterra/Brimstone	01/01/73-12/31/73	87.65
	01/01/74-12/31/74	0.54
	01/01/75-12/31/75	20.28
	01/01/76-12/31/76	84.56
	01/01/77-12/31/77	15.50
	01/01/78-12/31/78	18.66
	12/01/80-11/30/81	[1] 26.95
All other manufacturers/ Brimstone	01/01/73-12/31/73	87.65
	01/01/74-12/31/74	0.54
	01/01/75-12/31/75	20.28
	01/01/76-12/31/76	84.56
	01/01/77-12/31/77	15.50
	01/01/78-12/31/78	18.66
	01/01/79-05/31/79	15.24
	12/01/80-11/30/81	0.46
Canadian Bright	12/01/80-11/30/81	26.95
Canadian Reserve	12/01/80-11/30/81	[1] 19.06
Canadian Reserve-Canamex	04/01/73-12/31/73	87.65
	01/01/74-12/31/74	0.54
	01/01/75-12/31/75	20.28
	01/01/76-12/31/76	84.56
	01/01/77-12/31/77	15.50
	01/01/78-10/31/78	18.66
	11/01/78-05/31/79	15.24
12/01/80-11/30/81	[1] 15.24	
CDC Oil & Gas	12/01/80-11/30/81	[1] 0
Cornwall Chemicals	12/01/80-11/30/81	[1] 3.84
Delta/Canamex	12/01/80-11/30/81	4.64
Dome Petroleum	12/01/80-11/30/81	0
Fanchem	01/01/78-12/31/79	0

Manufacturer/exporter	Time period	Margin (percent)
	01/01/80-12/31/80	1.19
	01/01/81-11/30/81	0
Home Oil-Canamex	01/01/78-12/31/78	2.86
	01/01/79-05/31/79	15.54
	12/01/80-11/30/81	[1] 15.54
Hudson's Bay/Sulbow Minerals	12/01/80-11/30/81	0
Hudson's Bay/Canamex	06/01/74-04/30/76	0
	05/01/76-05/31/79	[1] 0
	12/01/80-11/30/81	0
Imperial Oil	12/01/80-11/30/81	2.36
Imperial Oil/Exxon Chemical	12/01/80-11/30/81	0
Koch Hydrocarbons	12/01/80-11/30/81	[1] 26.95
Marathon Oil	12/01/80-11/30/81	28.90
Marathon/Canamex	11/01/78-05/31/79	15.24
	12/01/80-11/30/81	[1] 15.24
Pacific-Canamex	10/01/74-10/31/75	20.28
	11/01/75-05/31/79	[1] 20.28
	12/01/80-11/30/81	[1] 20.28
Pan Canadian	12/01/80-11/30/81	0.35
Pan Canadian/Canamex	12/01/80-11/30/81	0
Petro-Canada Exploration	08/01/76-06/30/78	0
	12/01/80-11/30/81	0.49
Petrofina	12/01/80-11/30/81	28.90
Petrofina/Canamex	12/01/80-11/30/81	0.05
Petrogas Processing	12/01/73-02/28/74	0
	03/01/74-06/30/78	[1] 0
	12/01/80-11/30/81	[1] 28.90
Petrosul	05/01/78-11/30/81	0
Rampart Resources/Sulbow Minerals	12/01/80-11/30/81	0
Real International	12/01/80-11/30/81	0.61
Sulmar Canada	12/01/80-11/30/81	5.51
Sulpetro (formerly Candel Oil, Ltd.)	12/01/80-11/30/81	[1] 28.90
Suncor, Inc.	12/01/80-11/30/81	26.95
Suncor/Canamex	06/01/75-12/31/75	20.28
	01/01/76-05/31/79	[1] 20.28
	12/01/80-11/30/81	[1] 20.28
Texaco Canada	12/01/80-11/30/81	[1] 28.90
Tiger Chemicals	12/01/80-11/30/81	0
Union Texas	12/01/80-11/30/81	5.56
West Delcalta Petroleum	12/01/80-11/30/81	[1] 28.90
Westcoast Transmission	12/01/80-11/30/81	[1] 28.90

[1] No shipments during the period.

The Department shall determine, and the U.S. Customs Service shall assess, dumping duties on all appropriate entries made with purchase dates during the time periods involved. Individual differences between United States price and foreign market value may vary from the percentages stated above. The Department will issue appraisement instructions on each exporter directly to the Customs Service.

Further, as provided for in § 353.48(b) of the Commerce Regulations, a cash deposit of estimated antidumping duties based on the most recent of the above margins shall be required on all shipments of Canadian elemental sulphur from these firms entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. The Department also intends to waive the cash deposit requirement for future entries for Pan Canadian, Petro-Canada Exploration, Brimstone (except for elemental sulphur produced by Canterra Energy), and Petrofina/Canamex since the weighted-average margins for these firms are less than 0.5 percent and therefore *de minimis* for cash deposit purposes. For any shipment from a new exporter not covered in this or prior administrative reviews, whose first shipments occurred after November 30, 1981 and who is unrelated to any covered firm, a cash deposit of 5.56 percent shall be required on future entries.

These deposit requirements and waivers shall remain in effect until publication of the final results of the next administrative review. The Department intends to conduct the next administrative review immediately.

The Department encourages interested parties to review the public record and submit applications for protective orders, if desired, as early as possible after the Department's receipt of the information during the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act of 1930 (19 U.S.C. 1675(a)(1)) and § 353.53 of the Commerce Regulations (19 CFR 353.53).

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

November 17, 1983.

[FR Doc. 83-31752 Filed 11-25-83; 8:45 am]

BILLING CODE 3510-DS-M

[A-588-028]

Expanded Metal of Base Metal From Japan; Preliminary Results of Administrative Review of Antidumping Finding

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of preliminary results of administrative review of antidumping finding.

SUMMARY: The Department of Commerce has conducted an administrative review of the antidumping finding on expanded metal of base metal from Japan. The review covers the 27 known manufacturers and/or exporters of this merchandise to the United States and the period January 1, 1982 through December 31, 1982. The review indicates the existence of dumping margins for certain firms during the period.

As a result of the review, the Department has preliminarily determined to assess dumping duties equal to the calculated differences between United States price and foreign market value on each of their sales during the period of review.

Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: November 28, 1983.

FOR FURTHER INFORMATION CONTACT: Cynthia Connell or Susan M. Crawford, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone: (202) 377-2923/1130.

SUPPLEMENTARY INFORMATION:

Background

On October 22, 1982, the Department of Commerce ("the Department") published in the **Federal Register** (47 FR 47047-8) the final results of its last administrative review of the antidumping finding on expanded metal of base metal from Japan (39 FR 1979, January 16, 1974) and announced its intent to conduct the next administrative review. As required by section 751 of the Tariff Act of 1930 ("the Tariff Act"), the Department has now conducted that administrative review.

Scope of the Review

Imports covered by the review are shipments of expanded metal of base metal manufactured in three types (standard, flattended, and grating) and various thicknesses. Such merchandise is currently classifiable under item 652.8000 of the Tarif Schedules of the United States Annotated.

The review covers the 27 known manufacturers and/or exporters of Japanese expanded metal of base metal to the United States and the period January 1, 1982 through December 31, 1982. Twenty firms did not export Japanese expanded metal of base metal to the United States during the period. The estimated antidumping duties cash deposit rate for each of these firms will be the most recent rate for each firm.

The Department has preliminarily determined that Allis-Chalmers Corporation does not export merchandise to the United States that is within the scope of the finding. The only expanded metal of base metal exported to the U.S. by Allis-Chalmers is sold to a related purchaser who incorporates the expanded metal of base metal into magnetic filter systems. The costs of acquisition of expanded metal of base metal used in the production of magnetic filter systems is less than 1% of the sales price of magnetic filter systems to the first unrelated purchaser in the United States. Thus, magnetic filter systems do not contain a significant amount of expanded metal of base metal. If Allis-Chalmers begins exporting the covered merchandise to the United States, we shall treat it as a new exporter.

United States Price

In calculating United States price the

Department used purchase price, as defined in section 772 of the Tariff Act. Purchase price was based on the packed c.i.f. or f.o.b. price to the first unrelated purchaser in the United States, or to an unrelated Japanese trading company for export to the United States, as appropriate. Where applicable, deductions were made for ocean freight, insurance, U.S. and foreign inland freight, borkerage, storage, terminal, wharfage, and handling charges. No other adjustments were claimed or allowed.

Foreign Market Value

In calculating foreign market value the Department used home market price, as defined in section 773 of the Tariff Act, since sufficient quantities of such or similar merchandise were sold in the home market to provide a basis for comparison. Home market price was based on the packed, delivered price with adjustments, where applicable, for inland freight, differences in packing costs, and differences in credit costs. Further adjustments were made for differences in the physical characteristics of the merchandise, in accordance with § 353.16 of the Commerce Regulations. No other adjustments were claimed or allowed.

Preliminary Results of the Review

As a result of our comparison of United States price to foreign market value, we preliminarily determine that the following margins exist for the period January 1, 1982 through December 31, 1982:

Manufacturer/exporter	Margin (percent)
Alton Trading Co	[1]0
Daitoku Trading Co., Ltd	[1]4.00
Eiko Co., Ltd	[1]3.80
Hanwa Co., Ltd	[1]0
Kanematsu-Gosho, Ltd	[1]3.80
Kansai Tekko/Fuji Shoko Co., Ltd	0.84
Kansai Tekko/Mitsubishi Corp./Kawamoto & Co. Ltd	0.48
Kansai Tekko/Nissho Iwai & Co./Friends Union Enterprises, Ltd	0
Kansai Tekko/Nichimen Co., Ltd	3.59
Kansai Tekko/Okura & Co., Ltd	0.07
Kawamoto Co., Ltd	0.48
Kawashige Kozai Co	[1]4.90
Kawatetsu Steel/Kawasho Corporation/Taisei International	[1]1.02
Kawatetsu Steel/Okura & Co	1.25
Kobayashi Metals Ltd	[1]3.80
Marubeni Corp	[1]0
Midorigaoka Co., Ltd	[1]4.90
Mitsui & Co., Ltd	[1]4.90
Nakaumi Kogyo, Ltd	[1]4.90
Nippon Steel Products Co., Ltd	[1]0.33
Nittetsu Shoji Co., Ltd	[1]0
Ogawa & Co., Ltd	[1]0.30
Okaya & Co., Ltd	[1]0.33
Shibamoto & Co., Ltd	[1]0
Sumitomo Corp. (Sumitomo Shoji Kaisha)	[1]3.80
Tomiyasu & Co., Ltd	[1]4.90
Toyo Menka Kaisha, Ltd	[1]0

[1] No shipments during the period.

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 45 days after the date of publication or the first workday thereafter. Any request for an administrative protective order must be made no later than 5 days after the date of publication. The Department will publish the final results of the administrative review including the results of its analysis of any such comments or hearing.

The Department shall determine, and the Customs Service shall assess, dumping duties on all appropriate entries with purchase dates during the period involved. Individual differences between United States price and foreign market value may vary from the percentages stated above. The Department will issue appraisement instructions on each exporter directly to the Customs Service.

Further, as provided for by § 353.48(b) of the Commerce Regulations, a cash deposit of estimated antidumping duties based upon the above margins shall be required. Since the margins for Kansai Tekko/Mitsubishi Corp./Kawamoto & Co. Ltd., Kansai Tekko/Okura & Co., Kawamoto Co., Ltd., Nippon Steel Products Co., Ltd., Ogawa & Co., Ltd., and Okaya & Co., Ltd. are less than 0.5 percent and therefore *de minimis* for cash deposit purposes, the Department shall waive the deposit requirement for shipments of expanded metal of base metal from these firms. For any future entries from a new exporter not covered in this or prior reviews, whose first shipments of expanded metal of base metal occurred after December 31, 1982 and who is unrelated to any reviewed firm, a cash deposit of 3.59 percent shall be required. These deposit requirements and waivers are effective for all shipments of expanded metal of base metal entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.53 of the Commerce Regulations (19 CFR 353.53).

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

November 17, 1983.

[FR Doc. 83-31753 Filed 11-25-83; 8:45 am]

BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

Salmon and Steelhead Advisory Commission; Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

ACTION: Notice of public meeting.

SUMMARY: The Salmon and Steelhead Advisory Commission will meet December 19 and 20, 1983, to approve a final report to the Secretary of Commerce on a coordinated approach to the management of salmon in the Washington and Columbia River salmon fishing areas.

DATES: On December 19, 1983, the meeting will be held from 8:30 a.m. To 5:00 p.m., and on December 20, 1983, from 8:00 a.m. to 3:00 p.m. The meeting will be open to interested members of the public; a public comment period will be scheduled for 11:00 a.m. on December 20.

ADDRESS: Sea-Tac Hyatt Hotel, 17001 Pacific Highway South, Seattle, Washington 98118, (202) 244-6000.

FOR FURTHER INFORMATION CONTACT: H.A. Larkins, Regional Director, National Marine Fisheries Service, 7600 Sand Point Way N.E., BIN C15700, Seattle, Washington 98115, (206) 527-6150.

Dated: November 22, 1983.

William G. Gordon,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 83-31709 Filed 11-25-83; 8:45 am]

BILLING CODE 3510-22-M

COMMISSION ON CIVIL RIGHTS

Illinois Advisory Committee; Agenda and Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Illinois Advisory Committee to the Commission will convene at 10:00 a.m. and will end at 2:00 p.m. on December 9, 1983, at the John C. Klucaynski Building, Room 3883, 230 South Dearborn Street, Chicago, Illinois. The purpose of the meeting is to discuss the status of projects on contract compliance and industrial revenue bonds.

Persons desiring additional information or planning a presentation to the Committee should contact the Chairperson, Mr. Thomas J. Pugh, 500 West Melbourne Avenue, Peoria, Illinois 61604, (309) 686-3121; or the Midwestern Regional Office, 230 South Dearborn

Street, 32nd Floor, Chicago, Illinois 60604, (312) 353–7371.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., November 21, 1983.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 83-31665 Filed 11-25-83; 8:45 am]

BILLING CODE 6335-01-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Soliciting Public Comment on Bilateral Negotiations During 1984

November 22, 1983.

The U.S. Government anticipates holding negotiations during 1984 concerning expiring bilateral agreements covering certain cotton, wool, and man-made fiber textile and apparel products from Haiti, Malaysia, Poland, and Romania (wool and man-made fibers only).

The purpose of this notice is to invite any party wishing to comment or provide data or information regarding these agreements, or to comment on domestic production or availability of textiles and apparel affected by these agreements, to submit such comments or information in ten copies to Mr. Walter C. Lenahan, Chairman, Committee for the Implementation of Textile Agreements, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230. Because the exact timing of the negotiations is not yet established, comments should be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, Room 3001, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C. 20230. Further comment may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding the bilateral agreements, or the implementation thereof, is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc 83-31783 Filed 11-25-83; 8:45 am]

BILLING CODE 3510-DR-M

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

Intent to Prepare a Draft Environmental Impact Statement (DEIS) for the Proposed Controlling of Water Elevations at Spirit Lake Near Mount St. Helens, Wash.

AGENCY: Army Corps of Engineers, Department of Defense.

ACTION: Notice of Intent to prepare a DEIS.

SUMMARY: The Corps of Engineers, Portland District is currently investigating alternative long-term methods for lowering and controlling the water elevation of Spirit Lake to prevent catastrophic flooding which could occur from failure of the volcanic debris dam which contains Spirit Lake.

The following alternatives are being considered: a. An open channel across the debris avalanche to the North Fork Toutle River (NFTR); b. a gravity-fed conduit buried in a trench through the debris avalanche to the NFTR; c. a permanent pumping facility with a buried pipe across the debris avalanche to the NFTR; d. a tunnel excavated through rock to the NFTR; e. a tunnel excavated through rock to South Coldwater Creek (tributary to NFTR); f. a tunnel through rock to Smith Creek in the Lewis River drainage basin.

The scoping process is being initiated at this time with the issuance of a scoping letter containing a description of the alternatives being considered and a list of significant issues that have been identified to be analyzed in depth in the DEIS. Federal, State, and local agencies, Indian tribes, and interested organizations and individuals are being asked to comment on the proposed scope of alternatives and significant issues. The DEIS is scheduled for agency and public review in January 1984.

ADDRESS: Questions about the proposed action and DEIS can be answered by Mr. David Kurkoski, telephone (503) 221–6094 (FTS 423–6094), U.S. Army Corps of Engineers, Natural Resources Branch, P.O. Box 2946, Portland, Oregon 97208.

Dated: November 8, 1983.

Patrick J. Keough, P.E.,

Chief, Planning Division.

[FR Doc. 83-31725 Filed 11-25-83; 8:45 am]

BILLING CODE 3710-AR-M

DEPARTMENT OF EDUCATION

National Advisory Council on Indian Education; Meeting

AGENCY: National Advisory Council on Indian Education, Education.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the Annual Report Committee. Notice of the meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend.

DATE: December 12, 1983, 9:00 a.m. to 5:00 p.m.

ADDRESS: Denver Airport Hilton, 4411 Peoria Street, Denver, CO 80239; 303/373–5730.

FOR FURTHER INFORMATION CONTACT: Mr. Lncoln C. White, Acting Executive Director, National Advisory Council on Indian Education, 425 13th Street, NW., Suite 326, Washington, D.C. 20004; 202/376–8882.

SUPPLEMENTARY INFORMATION: The National Advisory Council on Indian Education is established under Section 442 of the Indian Education Act (2) U.S.C. 1221(g). The Council is established to assist the Secretary in carrying out responsibilities under Section 441(a) of the Indian Education Act (Title IV of Pub. L. 92–318), through advising Congress, the Secretary of Education, the Under Secretary of Education and the Assistant Secretary of Elementary and Secondary Education with regard to programs benefiting Indian children and adults.

The meeting will be open to the public. This meeting will be held at the Denver Airport Hilton, 4411 Peoria Street, Denver, Colorado 80239, 303/373-5730.

The proposed agenda includes:

(1) Development of the 10th Annual Report.

Records shall be kept of all Council proceedings and shall be available for public inspection at the office of the National Advisory Council on Indian Education located at 425 13th Street, N.W., Suite 326, Washington, D.C. 20004.

Date: November 21, 1983. Signed at Washington, D.C.

Mr. Lincoln C. White,

Acting Executive Director, National Advisory Council on Indian Education.

[FR Doc. 83-31702 Filed 11-25-83; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TA83-2-31-000; PGA83-2, IPR83-2]

Arkansas Louisiana Gas Co., a Division of Arkla, Inc.; Filing of Joint Motion of Arkansas Louisiana Gas Co. and City of Winfield, Kansas to Terminate Section 601(c)(2) Inquiry

November 22, 1983.

Take notice that on November 4, 1983, Arkansas Louisiana Gas Company (Arkla) and the City of Winfield, Kansas (Winfield), pursuant to Rule 212 of the Commission's Rules of Practice and Procedure, 18 CFR 385.212, tendered for filing a joint motion for an order terminating further proceedings concerning the complianace of Arkla's purchasing practices with Section 601(c)(2) of the Natural Gas Policy Act.

On February 28, 1983, Arkla filed revised tariff sheets reflecting its semi-annual PGA increase. On March 17, 1983, Winfield filed the "Motion To Intervene, Protest, And Request For Rejection, Or, In The Alternative, For Summary Disposition By The City of Winfield, Kansas", raising certain questions regarding Arkla's projected purchased gas costs. Winfield was the only party challenging those costs.

On March 31, 1983, the Commission issued its "Order Accepting For Filing and Suspending Proposed Tariff Sheets, Subject To Conditions And Initiating Hearing". Among other things the Commission established a new proceeding in Docket No. RP83-67-000 for the purpose of reviewing the prudence of Arkla's gas purchasing practices and directed Arkla to respond to Winfield's allegations regarding Arkla's purchases from "affiliated entities". The Commission deferred further proceedings on the "affiliated entities" issue, as well as a request by Winfield to examine Arkla's purchasing policies for compliance with Section 601(c)(2) of the NGPA. *Arkansas Louisiana Gas Co.*, 22 FERC ¶ 61,354 (1983).

Following the submission of Arkla's application for rehearing and answer, Arkla and Winfield submitted a joint motion requesting "an order terminating and concluding the proceedings in Docket No. RP83-67-000 and any further proceedings in Docket No. TA83-2-31-000 concerning Arkla's purchases from 'affiliated entities' ". The Commission granted this motion by order issued May 19, 1983. *Arkansas Louisiana Gas Company*, 23 FERC ¶ 61,253 (1983).

Arkla and Winfield state that although they intended that the Commission terminate all matters involving Arkla's gas purchasing practices, they did not specifically request termination of the deferred inquiry into Arkla's compliance with Section 601(c)(2) of the NGPA. Therefore, Arkla and Winfield request, without prejudice to the rights of any parties to raise these or similar issues in future proceedings, that the Commission terminate further proceedings concerning the compliance of Arkla's purchasing practices with Section 601(c)(2) of the NGPA.

Any person desiring to be heard or to protest said filing 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 Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before December 2, 1983. Protest 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. 83-31729 Filed 11-25-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-82-000]

Iowa Power and Light Co.; Filing

November 22, 1983.

The filing Company submits the following:

Take notice that on November 10, 1983, Iowa Power and Light Company (Iowa) tendered for filing proposed changes in its FERC Electric Service Tariff, submitting proposed changes in its rate schedule No. 811, under which wholesale electric service for resale is provided to the Cities of Carlisle and Neola, Iowa. The proposed changes would have increased revenue from jurisdictional sales and service by $103,937.96 based on the 12 month period ending December 31, 1982.

Iowa states that the proposed increase is necessary in order for the Company to properly earn a reasonable return on its investment dedicated to serving its customers. Iowa further states that the proposed increase is designed to offset increased cost-of-service, primarily the costs associated with placing the Louisa Generating Station into service.

Iowa requests an effective date of January 9, 1984

Copies of this filing have been served upon Iowa's Jurisdictional customers, the Cities of Carlisle and Neola, Iowa, and the Iowa State Commerce Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before December 5, 1983. 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 motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-31730 Filed 11-25-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-79-000]

Kansas Power and Light Co.; Filing

November 22, 1983.

The filing Company submits the following:

Take notice that on November 10, 1983, Kansas Power and Light Company (KPL) tendered for filing a newly executed contract dated November 2, 1983 with Kaw Valley Electric Cooperative Association, Inc., for wholesale service to that Cooperative. KPL states that this contract permits Kaw Valley Electric Cooperative Association, Inc., to receive service under rate schedule RCW-83 designated Supplement No. 11 to R.S. FERC No. 156 and SWPA/WRCP-83. The proposed change provides essentially for a fifteen year contract in which KPL will provide power and energy to the Cooperative and transmission service of hydroelectric power and energy from Southwestern Power Administration.

KPL requests an effective date of June 1, 1983, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing have been served upon Kaw Valley Electric Cooperative Association, Inc., and the State Corporation Commission of Kansas.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before December 5, 1983. Protests will be considered by the Commission in determining the appropriate action to the taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-31731 Filed 11-25-83, 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-80-000]

Kansas Power and Light Co.; Filing

November 22, 1983.

The filing Company submits the following:

Take notice that on November 10, 1983, Kansas Power and Light Company (KPL) tendered for filing a newly executed contract dated November 2, 1983 with Nemaha-Marshall Electric Cooperative Association, Inc., for wholesale service to that Cooperative. KPL states that this contract permits Nemaha-Marshall Electric Cooperative Association, Inc., to receive service under rate schedule RCW-83 designated Supplement No. 10 to R.S. FERC No. 159 and SWPA/WRC-83. The proposed change provides essentially for a fifteen year contract in which KPL will provide power and energy the Cooperative and transmission service of hydroelectric power and energy from Southwestern Power Administration.

KPL requests an effective date of June 1, 1983, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing have been served upon Nemaha-Marshall Electric Cooperative Association, Inc., and the State Corporation Commission of Kansas.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before December 5, 1983. 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 motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-31732 Filed 11-25-83, 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-81-000]

Kansas Power and Light Co.; Filing

November 22, 1983.

The filing Company submits the following:

Take notice that on November 10, 1983, Kansas Power and Light Company (KPL tendered for filing a newly executed contract dated November 2, 1983 with Doniphan Electric Cooperative Association, Inc., for wholesale service to that Cooperative. KPL states that this contract permits Doniphan Electric Cooperative Association, Inc., to receive service under rate schedule RCW-83 designated Supplement No. 10 to R.S. FERC No. 154 and SWPA/WRC-83. KPL further states that the proposed change provides essentially for a fifteen year contract in which KPL will provide power and energy to the Cooperative and transmission service of hydroelectric power and energy from Southwestern Power Administration.

KPL requests an effective date of June 1, 1983, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing have been served upon Doniphan Electric Cooperative Association, Inc., and the State Corporation Commission of Kansas.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before December 5, 1983. 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 motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-31733 Filed 11-25-83, 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-35-000]

National Fuel Gas Supply Corp.; Request Under Blanket Authorization

November 21, 1983.

Take notice that on October 27, 1983, as supplemented November 14, 1983, National Fuel Gas Supply Corporation (Supply), 10 Lafayette Square, Buffalo, New York 14203, filed in Docket No. CP84-35-000 a request pursuant to §§ 157.205 and 157.209 of the Regulations under the National Gas Act (18 CFR 157.205 and 18 CFR 157.209) that Supply proposes to transport natural gas for an eligible end user under the authorization issued in Docket No. CP83-4-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth on the request which is on file with the Commission and open to public inspection.

Supply proposes to transport 1,333 Mcf of gas per day and 486,545 Mcf of gas per year for the account of National Forge Company (Forge) to National Fuel Gas Distribution Corporation which, in turn, would deliver the gas to Forge at Forge's facilities in Erie and Irvine, Pennsylvania, pursuant to the terms of two gas transportation agreements, dated August 25, 1983, one agreement covering each Forge facility. It is stated that the current transportation rate is 29.14 cents per Mcf plus two percent of the gas retained for shrinkage, which is in accordance with Supply's Rate Schedule T-1. Supply states that while neither agreement currently provides for an added incentive charge (AIC), an AIC of five cents per Mcf would be assessed during the term covered by this notice filing. Further, it is indicated that the rate charged by Supply for the proposed transportation service would be in accordance with its Rate Schedule T-2. This rate is currently 34.14 cents per Mcf, including 5 cents per Mcf for an AIC, plus two percent of the gas retained for shrinkage, it is stated. The natural gas which Supply proposes to transport was not dedicated to interstate commerce on or before November 8, 1978, it is averred.

Forge would use the gas transported by Supply for any eligible end use as set

forth in § 157.209(e)(2), it is asserted. Supply states that no new facilities are necessary to effectuate the proposed transportation. It is stated that the proposed transportation would commence on December 22, 1983, and terminate on June 30, 1985, or upon termination of the agreements, which terms are for three months, effective August 25, 1983, and month to month thereafter.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-31734 Filed 11-25-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-000]

National Fuel Gas Supply Corp.; Request Under Blanket Authorization

November 21, 1983.

Take notice that on November 7, 1983, National Fuel Gas Supply Corporation (Supply), 10 Lafayette Square, Buffalo, New York 14203, filed in Docket No. CP84-48-000, as supplemented, a request pursuant to sections 157.205 and 157.209 of the Regulations under the Natural Gas Act (18 CFR 157.205 and 18 CFR 157.209) that Supply proposes to transport natural gas for an eligible end user under the authorization issued in Deoket No. CP83-4-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Supply proposes to transport up to 1,400 Mcf of gas per day and up to 511,000 Mcf of gas per year for the account of Spaulding Fibre Company, Inc. (Spaulding), to National Fuel Gas Distribution Corporation which, in turn, would deliver the gas to Spaulding at Spaulding's facilities in Tonawanda, New York, pursuant to a Gas Transportation Agreement (Transportation Agreement) dated as of September 1, 1983. Supply states that while the Transportation Agreement currently does not provide for an added incentive charge (AIC), an AIC of five cents per Mcf would be assessed during the term covered by this Transportation Agreement. Further, it is indicated that the rate to be charged by Supply would be in accordance with its Rate Schedule T-2. This rate is currently 34.14 cents per Mcf, including a 5-cent per Mcf AIC, plus 2 percent of the gas retained for shrinkage, it is stated.

Spaulding would use the gas transported by Supply for any eligible end use as set forth in § 157.209(e)(2) of the Regulations, it is asserted. Supply states that no new facilities are necessary to effectuate the proposed transportation. It is stated that the proposed transportation would commence on December 30, 1983, and terminate at 11:59 p.m. on June 30, 1985, or upon termination of the contract which term is for 3 months, effective September 1, 1983, and month to month thereafter, which ever occurs first.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-31735 Filed 11-25-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA84-1-28-000]

Panhandle Eastern Pipe Line Co.; Change in Tariff

November 22, 1983.

Take notice that on November 15, 1983 Panhandle Eastern Pipe Line Company (Panhandle) tendered for filing the following revised sheets to its FERC Gas Tariff, Original Volume No. 1:

Forty-Seventh Revised Sheet No. 3-A
Twenty-Fourth Revised Sheet No. 3-B

An effective date of January 1, 1984 is proposed.

Panhandle states that such filing reflects a rate adjustment pursuant to Opinion No. 195 issued October 28, 1983 in Docket No. RP83-95-000. Ordering Paragraph (B) of that Opinion provides that jurisdictional members of Gas Research Institute (GRI), such as Panhandle, may file a general R&D cost adjustment to be effective January 1, 1984. This adjustment will permit the collection of 12.5 mills per Mcf (12.4 mills when adjusted to Panhandle's pressure base and dekatherm commodity sales unit) of Program Funding Services for payment to GRI.

Panhandle states that copies of its filing have been served on all customers subject to the tariff sheets and applicable state regulatory agencies.

Any person desiring to be heard or to protest said filing 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 Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such petitions or protests should be filed on or before December 12, 1983. 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. 83-31736 Filed 11-25-83; 8:45 am]

BILLING CODE 6710-01-M

[Docket No. ER84-44-000]

Sierra Pacific Power Co., Filing

November 22, 1983.

The filing Company submits the following:

Take notice that on October 21, 1983, Sierra Pacific Power Company (Sierra) tendered for filing its fourth energy charge revision to reflect increases in the cost of power purchased from Utah Power & Light (Utah).

Sierra states that the revised rate will become effective on or after November 1, 1983.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of

Practice and Procedure (18 CFR 385–211, 385.214). All such motions or protests should be filed on or before December 1, 1983. 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 motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–31737 Filed 11–25–83; 8:45 am]

BILLING CODE 6710–01–M

[Docket No. TA84–1–30–000]

Trunkline Gas Co.; Change in Tariff

November 22, 1983.

Take notice that on November 15, 1983 Trunkline Gas Company (Trunkline) tendered for filing the following revised sheet to its FERC Gas Tariff, Original Volume No. 1:

Forty-Fourth Revised Sheet No. 3–A

An effective date of January 1, 1984 is proposed.

Trunkline states that such filing reflects a rate adjustment pursuant to Opinion No. 195 issued October 28, 1983 in Docket No. RP83–95–000. Ordering Paragraph (B) of that Opinion provides that jurisdictional members of Gas Research Institute (GRI), such as Trunkline, may file a general R&D cost adjustment to be effective January 1, 1984. This adjustment will permit the collection of 12.5 mills per Mcf (11.7 mills when adjusted to Trunkline's pressure base and dekatherm commodity sales unit) of Program Funding Services for payment to GRI.

Trunkline states that copies of its filling have been served on all customers subject to the tariff sheet and applicable state regulatory agencies.

Any person desiring to be heard or to protest said filing 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 Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such petitions or protests should be filed on or before December 12, 1983. 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. 83–31738 Filed 11–25–83; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[SA FRL 2478–7]

Science Advisory Committee; Open Meeting

Under Public Law 92–463, notice is hereby given that a two-day meeting of the Environmental Health Committee of the Science Advisory Board will be held on December 14–15, 1983, in Conference Room 3906–3908, Waterside Mall, U.S. Environmental Protection Agency, 401 M Street, Southwest, Washington, D.C. The meeting will start at 9:00 a.m. on December 14 and adjourn not later than 4:00 p.m. on December 15, 1983.

The principal purpose of the meeting will be (1) to provide consultation on EPA's Health Advisory Program for unregulated contaminants in drinking water; and (2) to brief the Committee and discuss upcoming issues for Environmental Health Committee review including the use of risk assessment in the Superfund program and the use of structure-activity relationships in the Office of Toxic Substances.

The agenda will also include (3) brief reports and informational items of current interest to the members.

Pertinent background information relating to the consultation on EPA's Health Advisory Program is as follows. EPA's Office of Drinking Water has prepared five draft papers dealing with major scientific issues pertaining to this program. They are titled:

—"The Protected Individual,"
—"Use of Inhalation Data for Estimating Acceptable Exposure Levels in Drinking Water,"
—"Use of Pharmacokinetic Data in Health Advisory Development,"
—"Use of Uncertainty/Safety Factors in Health Advisory Development" and
—"Multiple Chemicals in Drinking Water."

At the December 14–15, meeting the Committee will review and comment on the scientific adequacy of these draft papers. For information on how to obtain copies of materials related to the Health Advisory Program please call or write Dr. William Lappenbusch, Chief, Health Assessment Branch, Criteria and Standards Division, ODW, WH–550, U.S. EPA, 401 M Street, S.W. Washington, D.C. 20460 (202) 382–7571.

The meeting will be open to the public. Any member of the public wishing to attend, participate, submit a paper, or wishing further information should contact the Executive Secretary, Environmental Health Committee, Science Advisory Board (A–101), U.S. Environmental Protection Agency, Washington, D.C. 20460 by c.o.b. December 7, 1983. Please ask for Mrs. Patti Howard or Mr. Ernst Linde. The telephone number is (202) 382–2552.

Dated: November 17, 1983.

Terry F. Yosie,

Staff Director, Science Advisory Board.

[FR Doc. 83–31719 Filed 11–25–83; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL HOME LOAN BANK BOARD

Hacienda Federal Savings & Loan Association Oxnard, Calif.; Appointment of Conservator

Notice is hereby given that pursuant to the authority contained in section 5(d)(6)(A) of the Home Owners Loan Act, as amended, 12 U.S.C. 1464(d)(6)(A) (1982), the Federal Home Loan Bank Board appointed Albert Avila as conservator for Hacienda Federal Savings and Loan Association, Oxnard, California, effective November 19, 1983.

Dated: November 22, 1983.

J. J. Finn,

Secretary.

[FR Doc. 83–31739 Filed 11–25–83; 8:45 am]

BILLING CODE 6720–01–M

FEDERAL MARITIME COMMISSION

Security for the Protection of the Public Financial Responsibility To Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages; Issuance of Certificate [Casualty]

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages pursuant to the provisions of Section 2, Public Law 89–777 (80 Stat. 1356, 1357) and Federal Maritime Commission General Order 20, as amended (46 CFR Part 540): Phaidon Navegacion S.A. c/o Chandris Incorporated, 666 Fifth Avenue, New York, N.Y. 10019.

Dated: November 22, 1983.

Francis C. Hurney,

Secretary.

[FR Doc. 83-31744 Filed 11-25-83; 8:45 am]

BILLING CODE 6730-01-M

Security for the Protection of the Public; Indemnification of Passengers for Nonperformance of Transportation; Issuance of Certificate (Performance); Bahama Cruise Line, Inc.

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation pursuant to the provisions of Section 3, Pub. L. 89-777 (80 Stat. 1357, 1358) and Federal Maritime Commission General Order 20, as amended (46 CFR Part 540):

Bahama Cruise Line, Inc.
Challenge Shipping Limited &
Billingshurst Shipping Ltd.
C/O Bahama Cruise Line, Inc.
61 Broadway — Suite 2518
New York, New York 10006

Dated: November 22, 1983.

Francis C. Hurney,

Secretary.

[FR Doc. 83-31742 Filed 11-25-83; 8:45 am]

BILLING CODE 6730-01-M

Security for the Protection of the Public; Indemnification of Passengers for Nonperformance of Transportation; Issuance of Certificate (Performance) Phaidon Navegacion S.A.

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation pursuant to the provisions of Section 3, Public Law 89-777 (80 Stat. 1357, 1358) and Federal Maritime Commission General Order 20, as amended (46 CFR Part 540):

Phaidon Navegacion S.A.
C/O Chandris Incorporated
666 Fifth Avenue
New York, New York 10019

Dated: November 22, 1983.

Francis C. Hurney,

Secretary.

[FR Doc. 83-31743 Filed 11-25-83; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

BankAmerica Corp.; Proposed de Novo Nonbank Activities by Bank Holding Company

The organization identified in this notice has 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 this application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits 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 interests, or unsound banking practices." Any comment 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.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated. Comments and requests for hearing 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 the date indicated.

Federal Reserve Bank of San Francisco (Harry W. Green, Vice President) 101 Market Street, San Francicso, California 94105:

BankAmerica Corporation, San Francisco, California (executing and clearing futures contracts and incidental activities; the United States and abroad): To engage through BA Futures, Incorporated, a wholly-owned subsidiary of BankAmerica Corporation, in the execution and clearing of financial futures contracts on major commodity exchanges for unaffiliated persons. This activity will be conducted from *de novo* offices located in Seattle, Washington, and the Republic of Singapore. The geographic area to be served by each of these offices will be all fifty (50) States, the District of Columbia, and abroad. Comments on this application must be received not later than December 9, 1983.

Board of Governors of the Federal Reserve System, November 21, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-31679 Filed 11-25-83; 8:45 am]

BILLING CODE 6210-01-M

Citicorp, et al.; Proposed De Novo Nonbank Activities by Bank Holding Companies

The organizations identified 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 these applications, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits 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 interests, or unsound banking practices." Any comment 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.

The applications may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated. Comments and requests for hearing 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 the date indicated.

A. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Citicorp,* New York, New York (consumer finance and credit-related insurance activities; Florida): To establish a *de novo* office of Citicorp Person-to-Person Financial Center of Florida, Inc. and a *de novo* office of

Citicorp Homeowners, Inc. at a shared location in Tampa, Florida. The activities in which the *de novo* offices propose to engage are: the making or acquiring of loans and other extensions of credit, secured or unsecured, for consumer and other purposes; the sale of credit related life and accident and health insurance by licensed agents or brokers, as required; the sale of consumer oriented financial management courses; the servicing, for any person, of loans and other extensions of credit; the making, acquiring, and servicing, for its own account and for the account of others, of extensions of credit to individuals secured by liens on residential or non-residential real estate; and the sale of mortgage life and mortgage disability insurance directly related to extensions of mortgage loans. The proposed service area for the *de novo* offices will comprise the entire State of Florida for all the aforementioned proposed activities. Comments on this application must be received not later than December 21, 1983.

B. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *The Magnolia State Corporation,* Bay Springs, Mississippi, (credit life insurance; Mississippi): To engage in acting as agent in providing credit life insurance which is directly related to extensions of credit by its subsidiary, Jasper County Bank. These activities would be conducted from an office in Bay Springs, Mississippi, serving the market area including Bay Springs and the surrounding rural area within Jasper County. Comments on this application must be received not later than December 12, 1983.

Board of Governors of the Federal Reserve System, November 21, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-31683 Filed 11-25-83; 8:45 am]

BILLING CODE 6210-01-M

Citicorp, et al.; Proposed de Novo Nonbank Activities by Bank Holding Companies

The organizations identified 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 these applications, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits 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 interests, or unsound banking practices." Any comment 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.

The applications may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated. Comments and requests for hearing 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 that the date indicated.

A. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Citicorp,* New York, New York (consumer finance and credit-related insurance activities; Florida): To establish a *de novo* office of Citicorp Person-to-Person Financial Center of Florida, Inc. and a *de novo* office of Citicorp Homeowners, Inc. at a shared location in Lakeland, Florida. The activities in which the *de novo* offices propose to engage are: the making or acquiring of loans and other extensions of credit, secured or unsecured, for consumer and other purposes; the sale of credit related life and accident and health insurance by licensed agents or brokers, as required; the sale of consumer oriented financial management courses; the servicing, for any person, of loans and other extensions of credit; the making, acquiring, and servicing, for its own account and for the account of others, of extensions of credit to individuals secured by liens on residential or non-residential real estate; and the sale of mortgage life and mortgage disability insurance directly related to extensions of mortgage loans. The proposed service area for the *de novo* offices will comprise the entire State of Florida for all the aforementioned proposed activities. Comments on this application must be received not later than December 19, 1983.

B. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Cabot Bankshares, Inc.,* Cabot, Arkansas (real estate appraisal and the sale, as agent, of general insurance; Arkansas): To engage directly in real estate appraisal and the sale, as agent, of general insurance. The appraisal activity would be performed in Lonoke, Pulaski, Faulkner, White and Prairie Counties in the State of Arkansas. The sale, as agent, of insurance would be from Cabot Bankshares' main office building in Cabot, Lonoke County, Arkansas, a community with a population under 5,000. Comments on this application must be received not later than December 9, 1983.

C. **Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Norwest Corporation,* Minneapolis, Minnesota (financing, insurance and travelers checks activities; South Carolina): To engage through its subsidiary, Norwest Financial South Carolina, Inc., in the activities of consumer finance, sales finance and commercial finance, the sale of credit life, credit accident and health and property and credit-related casualty insurance related to extensions of credit by that company (such sale of credit-related insurance being a permissible activity under Subparagraph D of Title VI of the Garn-St. Germain Depository Institutions Act of 1982) and the offering for sale and selling of travelers checks. These activities will be conducted from an office in Spartanburg, South Carolina, serving Spartanburg, South Carolina. Comments on this application must be received not later than December 19, 1983.

D. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco 94105:

1. *Valley National Corporation,* Phoenix, Arizona (consumer and commercial lending, leasing and insurance agency activities; Oklahoma): To engage through Valley National Financial Services Company of Oklahoma, an indirect subsidiary, in making or acquiring for its own account and for the account of others, loans and other extensions of credit to consumers and automobile dealers; to lease personal property or act as agent or broker in the leasing of such property; and to act as insurance agent or broker for credit life and credit disability insurance related to an extension of

credit. These activities would be performed from offices of Valley National Financial Services Company of Oklahoma in Oklahoma City, Oklahoma; the area to be served is the State of Oklahoma. Comments on this application must be received not later than December 19, 1983.

Board of Governors of the Federal Reserve System, November 21, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-31682 Filed 11-25-83; 8:45 am]

BILLING CODE 6210-01-M

First Midwest Corporation of Delaware, et al.; Formation of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842 (a)(1)) to become bank holding companies by acquiring voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, indentifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *First Midwest Corporation of Delaware*, Elmwood Park, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of Midwest Bank and Trust Company, Elmwood Park, Illinois. Comments on this application must be received not later than December 20, 1983.

B. **Board of Governors of the Federal Reserve System** (William W. Wiles, Secretary) Washington, D.C. 20551:

1. *Continental Bancshares, Inc.*, Dallas, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of Mockingbird Bancshares, Inc., Dallas, Texas (Bank of Texas, Dallas, Texas); Wynnewood Bancshares, Inc., Dallas, Texas (Wynnewood Bank & Trust, Dallas, Texas); and Bank of Arlington, Arlington, Texas. This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Dallas. Comments on this application must be received not later than December 21, 1983.

Board of Governors of the Federal Reserve System, November 21, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-31681 Filed 11-25-83; 8:45 am]

BILLING CODE 6210-01-M

Harris Bankcorp, Inc., et al.; Acquisition of Bank Shares by Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act 12 U.S.C. 1842(a)(3)) to acquire voting shares or assets or a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Board of Governors of the Federal Reserve System** (William W. Wiles, Secretay) Washington, D.C. 20551:

1. *Harris Bankcorp, Inc.*, Chicago, Illinois; to acquire up to 100 percent of the voting shares or assets of The Hinsdale Capital Corporation, Hinsdale, Illinois, and its subsidiary The First National Bank of Hinsdale, Hinsdale, Illinois; Firstwin Corporation, Winnetka, Illinois, and its subsidiary The First National Bank of Winnetka, Winnetka, Illinois; The Glencoe Capital Corporation, Glencoe, Illinois, and its subsidiary Glencoe National Bank, Glencoe, Illinois; and First National Bank of Wilmette, Wilmette, Illionois. This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Chicago. Comments on this application must be received not later than December 14, 1983.

2. *Texas Commerce Bancshares, Inc.*, Houston, Texas; to acquire 100 percent of the voting shares of Texas Commerce Bank-Brookhollow, N.A. Dallas, Texas. This application may be inspected at the offices of the Board of Governors or the Federal Resere Bank of Dallas. Comments on this application must be received not later than December 21, 1983.

Board of Governors of the Federal Reserve System, November 21, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 38-31680 Filed 11-25-83; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 83M-0374]

Med-Chem Products, Inc.; Premarket Approval of AMVISC™

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application for premarket approval under the Medical Device Amendments of 1976 of AMVISC™ sponsored by Med-Chem Products, Inc., Woburn, MA. After reviewing the recommendation of the Ophthalmic Device Section of the Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel, FDA notified the sponsor that the application was approved because the device had been shown to be safe and effective for use as recommended in the submitted labeling.

DATE: Petitions for administrative review by December 28, 1983.

ADDRESS: Requests for copies of the summary of safety and effectiveness data and petitions for administrative review may be sent to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Charles H. Kyper, National Center for Devices and Radiological Health (HFK-402), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7445.

SUPPLEMENTARY INFORMATION: On May 28, 1981, Med-Chem Products, Inc., Woburn, MA, submitted to FDA an application for premarket approval of AMVISC™ (a viscoelastic preparation of purified high molecular fraction of sodium hyaluronate) for use as an aid in posterior and anterior chamber surgeries including glaucoma filtering surgery and surgical procedures to reattach the

retina, implant an intraocular lens, extract a cataract, and transplant the cornea. The application was reviewed by the Ophthalmic Device Section of the Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel, an FDA advisory committee, which recommended approval of the application. On October 31, 1983, FDA approved the application by a letter to the sponsor from the Associate Director for Device Evaluation of the Office of Medical Devices.

A summary of the safety and effectiveness data on which FDA's approval is based is on file with the Dockets Management Branch (address above), and is available upon request from that office. A copy of all approved final labeling is available for public inspection at the Office of Medical Devices—contact Charles H. Kyper (HFK–402), address above. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

Opportunity for Administrativve Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of FDA's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and FDA's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration of FDA action under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register**. If FDA grants the petition, the notice will state the issues to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before December 28, 1983, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 21, 1983.

Willian F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-31678 Filed 11-25-83; 8:45 am]

BILLING CODE 4160-01-M

Centers for Disease Control

National Institute for Occupational Safety and Health; Research Project Initiation

AGENCY: National Institute for Occupational Safety and health (NIOSH), centers for Disease Control (CDC), Public Health Service, HHS.

ACTION: Notice of Research Project Initiation.

SUMMARY: This notice announces a field research project involving the collection of information from the public. NIOSH is ready to begin data collection on a field research project entitled, "Reproductive and Cytogenetic Effects of Ethylene Dibromide." The purpose of this study is to determine the possible association between exposure to ethylene dibromide and cytogenetic or reproductive changes. This project is part of the NIOSH industrywide research effort conducted under the Occupational Safety and Health Act of 1970. This notice does not constitute a request for proposal.

DATE: Field work is scheduled to begin on or about December 1, 1983..

FOR FURTHER INFORMATION CONTACT: Ms. Ree Holstun, Program Analyst, Office of Program Planning and Evaluation, NIOSH, CDC, 1600 Clifton Road, N.E., Atlanta, Georgia 30333, Telephone: (404) 329–3794 or FTS 236–3794.

SUPPLEMENTARY INFORMATION: Field investigation and data collection on the following study will begin on or about December 1, 1983.

Title: Reproductive and Cytogenetic Effects of Ethylene dibromide (EDB).

Project Officer: Ryle Steenland, Ph.D., Division of Surveillance, Hazard Evaluations, and Field Studies, NIOSH, CDC, Robert A. Taft Laboratories, 4676 Columbia Parkway, Cincinnati, Ohio 45226, Telephone: (513) 684–2761 or FTS 684–2761.

Purpose: The purpose of this study is to determine the possible association between exposure to EDB and cytogenetic or reproductive changes.

Background: In recent years, several reports in the literature have indicated that EDB is a spermatotoxin, a carcinogen in rodents, and a cause of cytogenetic changes in the lymphocytes of hamsters. A review of the existing epidemiological and toxicological literature was conducted, and it was determined that insufficient data exist to assess whether exposure to EDB is associated with cytogenetic changes or reproductive damage in humans. There have been no studies of cytogenetic changes in humans, and the studies of reproductive damage are inconclusive. An ongoing review of current studies has not indicated that any other cytogenetic or reproductive studies of EDB are being conducted.

Study Description: The proposed study group will consist of approximately 50 workers exposed to EDB in the fumigation of fruit. The control group will consist of approximately 50 volunteers who work in a nearby plant and have not been exposed to EDB. Blood and sperm samples will be collected from both the exposed and nonexposed participants.

Each participant will complete a questionnaire covering demographic data, occupational history, and medical history. The method of handling this information will comply with the Privacy Act of 1974. The system of records is #09–20–0147, "Occupational Health Epidemiological Studies." The workers' participation will require a one-time only, 45-minute period.

The NIOSH field research project described will be conducted under the authority of section 20 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 669) and in accordance with the provision of Part 85a of Title 42, Code of Federal Regulations. The protocol for this type of project has been reviewed by the Office of Management and Budget and determined to be in compliance with the Paperwork Reduction Act.

Dated: November 18, 1983.

J. Donald Millar,

Director, National Institute for Occupational Safety and Health.

[FR Doc.83-31750-83 Filed 11-25-83; 8:45 am]

BILLING CODE 4160-19-M

Social Security Administration

Reallotment of Funds for FY 1983; Low Income Home Energy Assistance Program

AGENCY: Social Security Administration, HHS.

ACTION: Notice of final determination of funds available for reallotment.

SUMMARY: Section 2607 of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 8626) permits the Secretary of the Department of Health and Human Services to reallot unused Low-Income Home Energy Assistance Program (LIHEAP) funds among LIHEAP grantees. Procedures established by the Department at 45 CFR 96.81 require each grantee to report to us by August 1 of each year the amount of funds available for reallotment. Grantees reported that no FY 1983 funds are available for reallotment. Therefore, we have determined that no Fiscal year 1983 funds will remain unused in the fiscal year, with the exception of funds to be held available by grantees for use in Fiscal Year 1984, pursuant to Section 2607(b)(2) of the Omnibus Budget Reconciliation Act of 1981. Accordingly, we will not undertake the reallotment of Fiscal Year 1983 funds.

FOR FURTHER INFORMATION CONTACT: Norman L. Thompson, Director, Office of Energy Assistance, (202) 245–2030.

Dated: November 21, 1983.

Martha A. McSteen,

Acting Commissioner.

[FR Doc. 83-31765 Filed 11-25-83; 8:45 am]

BILLING CODE 4190-11-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[INT FEIS 83-60]

Availability of Final Environmental Impact Statement; Riley Ridge Natural Gas Project; Lincoln, Sublette, and Sweetwater Counties, Rock Springs District, Wyo.

AGENCIES: Wyoming State Office, Bureau of Land Management (BLM), Department of the Interior, Region 4; Forest Service (FS), Department of Agriculture.

ACTION: Notice of Availability of the Final Environmental Impact Statement (FEIS).

SUMMARY: Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969, the BLM and FS have prepared a FEIS for the proposed Riley Ridge Natural Gas Development Project. The FEIS will be available for public review on or about November 28, 1983.

DATE: Comments will be accepted until December 30, 1983.

ADDRESS: Comments should be sent to: Maxwell T. Lieurance, State Director, Wyoming State Office, 2515 Warren Avenue, P.O. Box 1828, Cheyenne, Wyoming 82003. (Commercial (307) 7872–2326 or FTS 328–2326.

A limited number of the final statements are available upon request at the following offices:

Big Piney Ranger District, Forest Service, P.O. Box 218, Big Piney, Wyoming 83113

Bridger-Teton National Forest, Forest Service, P.O. Box 1888, Jackson, Wyoming 83001

Kemmerer Resource Area, Bureau of Land Management, P.O. Box 632, Kemmerer, Wyoming 83101

Pinedale Resource Area, Bureau of Land Management, P.O. Box 768, Pinedale, Wyoming 82941

Division of Environmental Impact Statement Services, Bureau of Land Management, 555 Zang Street, 1st Floor East, Denver, Colorado 80228

Rock Springs District Office, Bureau of Land Management, P.O. Box 1869, Rock Springs, Wyoming 82091

Wyoming State Office, Bureau of Land Management, P.O. Box 1828, Cheyenne, Wyoming 82003

Office of Public Affairs, Bureau of Land Management, Department of the Interior, 18th & C Streets, NW., Washington, D.C. 20240

Intermountain Region, Forest Service, 324 25th Street, Ogden, Utah 84401

P. D. Leonard,

Acting State Director, Wyoming.

[FR Doc. 83-31000 Filed 11-25-83; 8:45 am]

BILLING CODE 4310-84-M

[W-57782, W-57785]

Proposed Reinstatement of Terminated Oil and Gas Leases; Wyoming

Pursuant to the provisions of Pub. L. 31–245 and Title 43 Code of Federal Regulations, § 3108.2–1(c), and Pub. L. 97–451, petitions for reinstatement of oil and gas leases W–57782 and W–57785 for lands in Sublette County, Wyoming, were timely filed and were accompanied by all the required rental accuring from their respective dates of termination.

The lessee has agreed to new lease terms for rentals and royalties at rates of $5.00 per acre, or fraction thereof, and 16⅔ percent, respectively.

The lessee has paid the required $500 administrative fee, per lease, and will reimburse the Department for the cost of this **Federal Register** notice.

The lessee having met all the requirements for reinstatement of the leases as set out in Section 31 (d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), the Bureau of Land Management is proposing to reinstate leases W–57782 and W–57785 effective March 1, 1983, subject to the original terms and conditions of the leases and the increased rental and royalty rates cited above.

Harold G. Stinchcomb,

Chief, Branch of Fluid Minerals.

[FR Doc. 83-31724 Filed 11-25-83; 8:45 am]

BILLING CODE 4310-84-M

[4–19952–I–LM–CA]

California; Proposed Reinstatement of Terminated Oil and Gas Leases

Petitions for reinstatement of oil and gas leases CA 3469 and CA 4843–B embracing lands in the State of California, County of Kings (CA 3469) and County of Monterey (CA 4843–B), were timely filed and were accompanied by all the required rentals and royalties accruing from March 1, 1982 (CA 3469), and March 3, 1980 (CA 4843–B), the dates of termination.

The lessees have agreed to new lease terms for rentals and royalties at the rates of $5.00 per acre or fraction thereof and 16⅔%, respectively.

The lessees having met all the requirements for reinstatement of the leases as set out in Section 31 (d) and (e) of the Mineral Leasing Act of 1920 (30 U.S.C. 188), the Bureau of Land Management is proposing to reinstate the leases, effective March 1, 1982 (CA 3469) and March 3, 1980 (CA 4843–B), subject to the original terms and conditions of the leases and the increased rental and royalty rates cited above.

Dated: November 15, 1983.

Joan B. Russell,

Chief, Leasable Minerals Section Branch of Lands and Minerals Operations.

[FR Doc. 83-31672 Filed 11-25-83; 8:45 am]

BILLING CODE 4310-84-M

Oregon; Filing of Plat of Survey

On November 16, 1983, the plat representing the metes and bounds survey of the following described land was accepted and officially filed in the Oregon State Office, Bureau of Land Management, Portland, Oregon.

Willamette Meridian

T. 21 S., R. 1 W.,

Sec. 31, Tract 38 including Lots 1 through 11.

The lottings and areas are based on the plat approved June 1, 1874 and accepted November 12, 1959 and March 3, 1965.

All inquiries concerning the land should be sent to the Oregon State Offices, Bureau of Land Management, 825 NE Multnomah, P.O. Box 2965 Portland, Oregon 97208.

Dated: November 18, 1983.

Champ C. Vaughan, Jr.,

Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 83-31671 Filed 11-25-83; 8:45 am]

BILLING CODE 4310-84-M

[M-57762 (SD)]

Realty Action—Competitive Sale of Public Land in Perkins County, South Dakota; Amendment

AGENCY: Bureau of Land Management, Mile City District, South Dakota Resource Area Office, Interior.

ACTION: Notice.

AMENDMENT: In **Federal Register** Page No. 50174 published October 31, 1983, amend second paragraph under subtitle Bid Standards under paragraph titled **SUPPLEMENTARY INFORMATION** to reflect the following:

Sealed bids will be received at the South Dakota Resource Area Office, 310 Roundup Street, Belle Fourche, South Dakota 57717, until 1:30 pm, M.S.T., January 10, 1984, or hand delivered to the Perkins County Courthouse, Bison, South Dakota, until 1:30 pm, M.S.T., on January 11, 1984. Oral bidding will follow the opening of sealed bids.

All other details of the competitive sale will remain the same as originally described in the **Federal Register.**

Dated: November 15, 1983.

Ray Brubaker,

District Manager.

[FR Doc. 83-31674 Filed 11-25-83; 8:45 am]

BILLING CODE 4310-84-M

[W-80955]

Wyoming; Intent To Issue Disclaimer

November 16, 1983.

Notice is hereby given that the United States of America, pursuant to the provisions of Section 315 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1745 (1976), does hereby give notice of its intention to disclaim and release to Jesse and Daisy B. Tucker all interests in the following decribed lands:

Sixth Principal Meridian, Wyoming

T. 41 N., R. 117 W.,

Those lands riparian to lot 3 of section 12 and lot 1 of section 13 lying between the meander lines shown on the Plat of Survey, approved April 2, 1902, and the thread of the Snake River.

The United States previously asserted title to the above Snake River, Wyoming, land contending the lands were omitted from the original survey. Pursuant to *Notice by Publication* published by the United States Attorney in the Jackson Hole Guide March 18, 1982, (United States of America v. Donald H. Albrecht et al—Civil No. C79-113, U.S. District Court, Wyoming), the authorized offjcer, Bureau of Land Management has determined the above described lands are not lands of the United States.

The disclaimer shall be subject to any rights the United States, Department of the Army, Corps of Engineers, may have acquired for the Jackson Hole Flood Control Project as a result of Right-of-Way Bureau of Land Management Serial Number W-0313722.

Comments or protests to the proposed disclaimer must be submitted in writing to the Wyoming State Director, Bureau of Land Management, P.O. Box 1828, 2515 Warren Avenue, Cheyenne, Wyoming 82003, within 90 days from the date of publication of this notice in the **Federal Register.** The disclaimer will be issued following the expiration of the 90-day period if no protests are received.

For further information, contact James L. Edlefsen, (307) 772-2087.

Maxwell T. Lieurance,

State Director, Wyoming.

[FR Doc. 83-31670 Filed 11-25-83; 8:45 am]

BILLING CODE 4310-84-M

Minerals Management Service

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Superior Oil Co.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that The Superior Oil Company has submitted a Development and Production Plan describing the activities its proposes to conduct on Leases OCS 0245 and OSC-G 5275, Blocks 72 and 73, West Cameron Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Cameron, Louisiana.

Purpose: The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review. Additionally, this Notice is to inform the public, pursuant to Section 930.61 of Title 15 of the Code of Federal Regulations, that the Coastal Management Section/Louisiana Department of Natural Resources is reviewing the Plan for consistency with the Louisiana Coastal Resources Program.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised Section 250.34 of Title 30 of the Code of Federal Regulations. Accordingly, a copy of the Plan is available for public review at the Office of the Regional Manager, Gulf of Mexico Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday).

A copy of the Consistency Certification and the Plan are also available for public review at the Coastal Management Section Office located on the 10th Floor of the State Lands and Natural Resources Building, 625 North 4th Street, Baton Rouge, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday). The public may submit comments to the Coastal Management Section, *Attention OCS Plans,* Post Office Box 44396, Baton Rouge, Louisiana 70804. Comments must be received within 15 days of the date of this Notice or 15 days after the Coastal Management Section receives a copy of the Plan from the Minerals Management Service.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 838-0519.

Dated: November 17, 1983.

John L. Rankin,

Regional Manager, Gulf of Mexico Region.

[FR Doc. 83-31669 Filed 11-25-83; 8:45 am]

BILLING CODE 4310-MR-M

Alaska Outer Continental Shelf; Availability of the Final Environmental Impact Statement for the Navarin Basin

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Minerals Management Service has prepared a final environmental impact statement (EIS) for the proposed March 1984 Oil and Gas Lease Offering in the Navarin Basin.

Single copies of the final EIS can be obtained from the Office of the Regional Manager, Minerals Management Service, Alaska OCS Region, P.O. Box 101159, Anchorage, Alaska 99510.

Copies of the final EIS will also be available for inspection in the following public libraries: Alaska Federation of Natives, Suite 304, 1577 O Street, Anchorage, AK 99501; Anchor Point Public Library, Anchor Point, AK 99556; Department of the Interior Resources Library, Box 36, 701 C Street, Anchorage, AK 99513; Cordova Public Library, Box 472, Cordova, AK 99574; Kenai Community Library, Box 157, Kenai, AK 99611; Elim Learning Center, Elim, AK 99739; Haines Public Library, P.O. Box 38, Haines, AK 99827; North Star Borough Library, Fairbanks, AK 99701; University of Alaska, Institute of Social and Economic Research Library, Fairbanks, AK 99801; Homer Public Library, Box 356, Homer, AK 99603; Z. J. Loussac Public Library, 427 F Street, Anchorage, AK 99801; Juneau Memorial Library, 114 W. 4th Street, Juneau, AK 99824; Alaska State Library, Documents Librarian, Pouch G, Juneau, AK 99811; Ketchikan Public Library, 629 Dock Street, Ketchikan, AK 99901; Department of Defense, Army Corps of Engineers Library, P.O. Box 7002, Anchorage, AK 99501; Kodiak Public Library, P.O. Box 985, Kodiak, AK 99615; Metlakatla Extension Center, Metlakatla, AK 99926; Department of the Interior, Bureau of Mines Library, AF-F.O. Center, P.O. Box 550, Juneau, 99802; Petersburg Extension Center, Box 289, Petersburg, AK 99833; Seldovia Public Library, Drawer D, Seldovia, AK 99663; Seward Community Library, Box 537, Seward, AK 99664; University of Alaska Juneau Library, P.O. Box 1447, Juneau, AK 91447; Sitka Community Library, Box 1090, Sitka, AK 99835; Douglas Public Library, Box 469, Douglas, AK 99824; University of Alaska Anchorage Library, 3211 Providence Drive, Anchorage, AK 99504; University of Alaska Elmer E. Rasmusson Library, Fairbanks, AK 99701; Wrangell Extension Center, Box 651, Wrangell, AK 99929.

Dated: November 15, 1983.

David C. Russell,

Acting Director, Minerals Management Service.

Approved:

Bruce Blanchard,

Director, Environmental Project Review.

[FR Doc. 83-31710 Filed 11-25-83; 8:45 am]

BILLING CODE 4310-MR-M

National Park Service

Intention To Negotiate Concession Contract; Gettysburg Tours Inc.

Pursuant to the provision of Section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that sixty (60) days after the date of publication of this notice the Department of the Interior, through the Director of the National Park Service, proposes to negotiate a concession contract with Gettysburg Tours Incorporated authorizing it to continue to provide shuttle bus services for the public between Eisenhower NHS and Gettysburg National Military Park for a period of approximately five (5) years from May 15, 1984.

This contract renewal has been determined to be categorically excluded from the procedural provisions of the National Environmental Policy Act and no environmental document will be prepared.

The foregoing concessioner has performed its obligations to the satisfaction of the Secretary under an existing contract which expires by limitation of time on May 14, 1984 and therefore, pursuant to the Act of October 9, 1965, as cited above, is entitled to be given preference in the renewal of the contract and in the negotiation of a new contract. This provision in effect grants Gettysburg Tours, an opportunity to meet the terms and conditions of any other proposal submitted in response to this Notice which the Secretary may consider better than the proposal submitted by the aforementioned Gettysburg Tours, Inc. If Gettysburg Tours, amends its proposal and the amended proposal is substantially equal to the better offer, then the proposed new contract will be negotiated with said Gettysburg Tours, Inc.

The Secretary will consider and evaluate all proposals received as a result of this notice. Any proposal, including that of the existing concessioner, must be post-marked or hand delivered on or before the sixtieth (60th) day following publication of this notice to be considered and evaluated.

Interested parties should contact Superintendent, Gettysburg National Military Park, Gettysburg, Penna. (717-334-1124) for information as to the requirements of the proposed contract. Zip 17325.

Dated: November 10, 1983.

James W. Coleman, Jr.,

Regional Director, Mid-Atlantic Region.

[FR Doc. 83-31740 Filed 11-25-83; 8:45 am]

BILLING CODE 4310-70-M

Women's Rights National Historical Park; Meeting Correction

AGENCY: Women's Rights NHP Advisory Commission, National Park Service, Interior.

ACTIONS: Correction.

This publication is to correct a meeting notice that appeared on Page 51866 in the **Federal Register** Volume 46 No. 220 of Monday, November 14, 1983. Paragraph 3, line 6 which read, "Management Plan: November 29, 7:00 p.m." should have read, "Management Plan, November 28, 7:00 p.m."

Dated: November 16, 1983.

Herbert S. Cables, Jr.,

Regional Director, North Atlantic Region.

[FR Doc. 83-31741 Filed 11-25-83; 8:45 am]

BILING CODE 4310-70-M

Southeast Regional Advisory Committee; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Southeast Regional Advisory Committee will be held at 9:00 a.m., c.s.t., on December 12, 1983, at the TVA Pride Building, 4100 Hatch Boulevard, Sheffield, Alabama 35660.

The purpose of the Southeast Regional Advisory Committee is to advise the Regional Director, National Park Service, on programs, policies, and such other matters as may be referred to it by the Regional Director. It also functions to provide closer communications with the public on such matters.

The members of the Advisory Committee are as follows:

Mrs. Betty Jo Williams, Chairperson
Mr. Jim R. Hicks
Mr. Forrestal W. Howell
Mr. John Lupton III

The agenda for the meeting will include: (1) National Park Service program emphasis for fiscal 1984 in the Southeast Region; (2) field trip to Colbert Ferry.

The meeting will be open to the public. However, facilities and space for accommodating members of the public are limited and it is expected that not

more than 10 persons will be able to attend. Any member of the public may file with the committee a written statement concerning the matters to be discussed.

Persons wishing further information concerning this meeting or who wish to submit written statements, may contact Paul C. Swartz, Chief, Planning and Compliance Division, Southeast Regional Office, FTS (404) 242-5465 or local (404) 221-5465.

Dated: November 17, 1983.

Frank A. Catroppa,

Acting Regional Director, Southeast Region.

[FR Doc. 83-31751 Filed 11-25-83; 8:45 am]

BILLING CODE 4310-70-M

Office of Surface Mining Reclamation and Enforcement

Availability of Draft Handbook on Procedures for Processing Application Packages

AGENCY: Office of Suface Mining Reclamation and Enforcement (OSM), Department of the Interior, Washington, D.C.

ACTION: Notice of availability of a draft handbook entitled "Federal Procedures for Processing Permit Application Packages" and request for comments and suggestions on the draft handbook.

SUMMARY: OSM has prepared a handbook addressing the procedures that OSM will follow in processing permit application packages (PAP) for surface coal mining and reclamation operations on Federal lands in States with and without cooperative agreements, and in preparing decision documents on mining plans for the Secretary of the Interior pursuant to the Mineral Leasing Act.

Copies of the draft handbook are being made available today. OSM is implementing this handbook as a working draft upon distribution.

The draft is subject to change as a result of both experience and comments. Comments and suggestions on this draft handbook are being solicited by OSM and must be received by February 10, 1984, at the address listed below. A final handbook will be available after consideration of comments.

DATE: Written comments on the draft handbook must be received by 5:00 p.m., February 10, 1984, at the address listed below.

Copies of the draft handbook can be obtained in limited quantities by writing the Western Technical Center, Office of Surface Mining, Attn: Librarian, 1020 15th Street, Denver, Colorado 80202.

ADDRESS: Written comments on the draft handbook may be mailed or handcarried to Mel Shilling, Western Technical Center, Office of Surface Mining, 1020 15th Street, Denver, Colorado 80202.

FOR FURTHER INFORMATION CONTACT: Mel Shilling, OSM, Western Technical Center (telephone 303-837-5656) at the address listed above.

SUPPLEMENTARY INFORMATION: This handbook sets forth the procedures OSM will follow in preparing documentation for Federal decisions required on permits and mining plans in (1) States with an approved State program and a Cooperative Agreement (Section 523(c) of the Surface Mining Control and Reclamation Act of 1977 (SMCRA) 30 U.S.C. 1273(c)); and (2) States with an approved State program and without a Cooperative Agreement. In particular, the handbook describes how State and Federal responsibilities for processing SMCRA permits and mining plans are to be coordinated.

The procedures in the handbook incorporate the requirements of SMCRA, the Mineral Leasing Act of 1920, as amended, the Federal Land Policy and Management Act of 1976, the National Environmental Policy Act (NEPA), and all other applicable Federal laws, regulations, and executive orders. The handbook was written to be consistent with the Federal Lands Program regulations published February 16, 1983 at 48 FR 6912.

The draft handbook is subject to change as a result of both experience and comments. A final handbook in a looseleaf notebook form will be available after consideration of comments. The looseleaf form is intended to allow materials to be added or revised as needed to reflect changes in regulations, or state specific revisions necessary to accommodate a specific State program.

Dated: November 15, 1983.

Lewis M. McNay,

Assistant Director, Technical Services and Research.

[FR Doc. 83-31754 Filed 11-25-83; 8:45 am]

BILLING CODE 4310-05-M

INTERSTATE COMMMERCE COMMISSION

[Section 5(a) Application No. 92;[1] Amdt. No. 3]

Maine Motor Rate Bureau Agreement

AGENCY: Interstate Commerce Commission.

ACTION: Notice of decision and request for comment.

SUMMARY: Maine Motor Rate Bureau has filed, pursuant to Section 14(e) of the Motor Carrier Act of 1980, an application for approval of its ratemaking agreement under 49 U.S.C. 10706(b). Because several modifications are required before the agreement receives final approval, and because of the new and complex questions involved in determining whether the agreement is consistent with the 1980 Act and the decision implementing it, the Commission has decided to solicit public comment on its interpretation and application of specific rate bureau provisions. Copies of MMRB's proposed amended agreement are available for public inspection and copying at the Office of the Secretary, Interstate Commerce Commission, 12th St. and Constitution Ave., NW., Washington, DC, 20423, and from MMRB's representatives:

Robert C. Bamford, Rice, Carpenter and Carraway, Suite 1301, 1600 Wilson Blvd., Arlington, VA 22209

Donald E. Martin, Maine Motor Rate Bureau, 94 Auburn Street, Portland, ME 04103

Copies of the complete Commission decision are available for inspection and copying at the Interstate Commerce Commission, or may be obtained from the Office of the Secretary, Room 2215, Interstate Commerce Commission Building, 12th St. and Constitution Ave., NW., Washington, DC, 20423 (202) 275-7428.

DATES: Comments from interested persons are due January 27, 1984.

ADDRESS: An original and fifteen copies, if possible, of comments should be sent to: S5M No. 92, Amendment No. 3, Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Robert G. Rothstein, (202) 275-7912; or Howell I. Sporn, (202 275-7691

SUPPLEMENTARY INFORMATION: Maine Motor Rate Bureau (MMRB) has filed an application for approval of its proposed amended collective ratemaking agreement as required by Section 14(e) of the Motor Carrier Act of 1980, Pub. L. 96-296 (1980). Since filing its application, MMRB has been obligated to observe the requirements of the Act and the standards set forth in our decision implementing Section 14, Ex Parte No. 297 (Sub-No. 5), *Motor Carrier Rate Bureaus—Implementation of P.L. 96-296*, 364 I.C.C. 464 (1980), and 364 I.C.C. 921 (1981). MMRB's collective activities

[1] Section 5 was recodified as Section 10706.

have enjoyed continuing antitrust immunity during the time the proposed amended agreement was prepared for, submitted to, and considered by the Commission, provided its operations have been consistent with the statute and our standards..

We have provisionally approved MMRB's agreement as being consistent with 49 U.S.C. 10706(b) and Ex Parte No. 297 (Sub-No. 5), *supra*, subject to certain modifications including the following subject areas: Identification and description of member carriers; right of independent action; rate bureau protests; employee docketing; open meetings; final disposition of cases; general standards for member carrier voting and discussion of collectively established rates; single-line rates; and general increases and decreases and changes in tariff structures. We have also offered comments and imposed requirements concerning the agreement generally. MMRB has been directed to file a revised agreement conforming to the imposed conditions by March 27, 1984.

In light of the complexity of interpretation involved in determining whether the agreement is consistent with the Act and Ex Parte No. 297 (Sub-No. 5), *supra*, we request applicant and other interested parties to comment on our interpretation of the controlling statutory and administrative criteria generally, and their application to MMRB's agreement in particular. A copy of any comments filed shall also be served on MMRB, which will have 20 days from the expiration of the comment period to reply. These comments will be considered in conjunction with our review of the modification which MMRB must submit to the Commission as a condidtion precedent to final approval of its agreement.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

This notice is issued pursuant to 49 U.S.C. 10321 and 10706 and 5 U.S.C. 554.

Decided: November 15, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Andre and Gradison.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-31691 Filed 11-25-83; 8:45 am]

BILLING CODE 7035-01-M

NATIONAL ADVISORY COMMITTEE ON OCEANS AND ATMOSPHERE

Meeting Addendum

November 22, 1983.

Additional changes have been made to the Agenda for December 5–7, 1983 that was published November 21, 1983 (48 FR 52653). The changes include title changes, changes in room numbers, and changes in meeting schedules. The revised agenda is as follows:

December 5, 1983

2001 Wisconsin Avenue, NW., Page Building #1, Rooms 416 and B–100, Washington, D.C. 20235.

Plenary

9:00 a.m.–12:30 p.m.
9:00 a.m.–9:30 a.m.
- Announcements, Room 416

9:30 a.m.–12:30 p.m.
- Wetlands, Room 416

Topic: Section 404, Clean Water Act
Speakers: Robert Dawson, Deputy Assistant Secretary for Civil Works, Department of the Army
Environmental Protection Agency (Invited)
Dr. William Brown, Senior Scientist, Environmental Defense Fund
David Litvin, Assistant Director of Federal Government Affairs, Standard Oil of Ohio
Mark Rey, Director, Water Quality Programs, National Forest Products Association

Lunch

12:30 p.m.–1:30 p.m.

Panel Meeting

1:30 p.m.–5:00 p.m.
- Wetlands, Chairman: Sharron Stewart, Room 416

Topic: Section 404, Clean Water Act
Speakers: None

Recess

5:00 p.m.

December 6, 1983

2001 Wisconsin Avenue, NW., Page Building #1, Rooms 416 and B–100, Washington, D.C. 20235.

Panel Meetings

8:30 a.m.–10:30 a.m.
- Weather Services, Chairman: Warren Washington, Room B–100

Topic: Panel Work Session
Speakers: None
- Shipbuilding, Chairman: Don Walsh, Room 416

Topic: Panel Work Session
Speakers: None

10:30 a.m.–12:30 p.m.
- Radioactive Waste panel, Chairman: John Knauss, Room 416

Topic: Panel Work Session
Speakers: None

Lunch

12:30 p.m.—1:30 p.m.

Plenary

Room 416
1:30 p.m.—3:30 p.m.
- Action Items

Position Statement on Underwater Technology
Weather Services Panel
Wetlands Panel
- Panel Reports

Adjourn Regular Meeting

3:30 p.m.

Panel Meeting

3:30 p.m.—5:30 p.m.
- Exclusive Economic Zone, Chairman: Don Walsh, Room 416

Topic: Panel Work Session
Speakers: Background Briefing by NACOA Staff

Recess

5:30 p.m.

December 7, 1983

2001 Wisconsin Avenue, NW., Page Building #1, Room 416, Washington, D.C. 20235.

Panel Meeting

8:30 a.m.—12:00 Noon
- Exclusive Economic Zone, Chairman: Don Walsh, Room 416

Topic: Overview
Speakers: Martin Belsky, Director and Associate Professor of Law, Center for Governmental Responsibility, University of Florida
Thomas Clingan (Invited), Professor of Ocean Law, University of Miami
James Curlin, Senior Associate, Office of Technology Assessment
Robert Knecht (Invited), Woods Hole Oceanographic Institution
John Norton Moore, Director, Center for Oceans Law, Law and Policy, University of Virginia
Bernard Oxman (Invited), Professor of Law, University of Miami

Lunch

12:30 p.m.—1:00 p.m.

Panel Meeting

1:00 p.m.—3:00 p.m.
- Exclusive Economic Zone, Chairman: Don Walsh, Room 416

Topic: National Security Issues
Speakers: TBA

Adjourn

3:00 p.m.

Additional information concerning this meeting may be obtained through the Committee's Executive Director, Steven N. Anastasion, whose mailing address is: National Advisory Committee on Oceans and Atmosphere, 3300 Whitehaven Street, NW., Washington, D.C. 20235.

Dated: November 23, 1983.

Steven N. Anastasion,

Executive Director.

[FR Doc. 83-31858 Filed 11-25-83; 8:45 am]

BILLING CODE 3510-12-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 83-93]

NASA Advisory Council, Aeronautics Advisory Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Aeronautics Advisory Committee, Subcommittee on Aviation Safety Reporting System (ASRS).

DATE AND TIME: December 14, 1983, 9 a.m. to 5 p.m.; December 15, 1983, 9 a.m. to 12 noon.

ADDRESS: National Aeronautics and Space Administration, Ames Research Center, Building 200, Moffett Field, CA.

FOR FURTHER INFORMATION CONTACT: Mr. Willian Reynard, National Aeronautics and Space Administration, Ames Research Center, Code LMS, Moffett Field, CA 94035 (415/965-6467).

SUPPLEMENTARY INFORMATION: The Subcommittee on ASRS Operations was established to review the ASRS Operations and NASA actions taken in response to Subcommittee recommendations. The Subcommittee, chaired by Mr. John Winant, is comprised of nine members. The meeting will be open to the public up to the seating capacity of the room (approximately 90 persons including the Subcommittee members and participants).

Type of meeting: Open.

Agenda

December 14, 1983

9 a.m.—Chairperson's Remarks.
9:30 a.m.—Operation's Report.
10:30 a.m.—Research Report.
1 p.m.—Research Workshop Report.
2 p.m.—Federal Aviation Administration's (FAA) Comments.
3 p.m.—Review New FAA/NASA Memorandum of Agreement.
4 p.m.—Review Proposed Advisory Circular 00-46C.
5 p.m.—Adjourn.

December 15, 1983

9 a.m.—Discussion of Proposed ASRS Reporting Form Revision.
10 a.m.—Review Dissemination of ASRS Program Information.
11 a.m.—Establish ASRS Advisory Subcommittee Program Evaluation Schedule.
12 noon—Adjourn.

Dated: November 17, 1983.

Richard L. Daniels,

Director, Management Support Office, Office of Management.

[FR Doc. 83-31684 Filed 11-25-83; 8:45 am]

BILLING CODE 7510-01-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Music Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), as amended, notice is hereby given that a meeting of the Music Advisory Panel (Orchestra Section) to the National Endowment on the Arts will be held on December 12, 1983, from 9:00 a.m.-6:00 p.m.; on December 13-14, 1983, from 9:00 a.m.-9:30 p.m.; and, on December 15, 1983, from 9:00 a.m.-4:30 p.m. in Room MO-7 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, N.W., Washington, D.C. 20506.

A portion of this meeting will be open to the public on December 15, 1983, from 10:30 a.m.-12:30 p.m. to discuss Guidelines and Policy.

The remaining sessions of this meeting on December 12 from 9:00 a.m.-6:00 p.m.; December 13-14 from 9:00 a.m.-9:30 p.m.; and, on December 15 from 9:00 a.m.-10:30 a.m. and 12:30 p.m.-4:30 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applications. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference of this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 682-5433.

Dated: November 18, 1983.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 83-31673 Filed 11-23-83; 8:45 am]

BILLING CODE 7537-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-358-0L; ASLBP No. 76-317-01-0L]

The Cincinnati Gas & Electric Co. et al. (Wm. H. Zimmer Nuclear Power Station, Unit 1); Conference of Counsel

November 18, 1983.

Please take notice that a conference of counsel will be held in the above captioned proceeding from 9:30 A.M. to 5:00 P.M., Thursday, December 15, 1983, in Courtroom 822, U.S. Post Office and Courthouse Building, 5th and Main Street, Cincinnati, Ohio 45202. At the conference the Board will hear oral argument on MVPP's October 3, 1983, petition for reconsideration of the Board's September 15, 1983, Memorandum and Order (LBP-83-58, 18 NRC——) denying MVPP's motion to reopen the record and NRC Staff's October 31, 1983, motion to defer ruling on MVPP's petition.

For The Atomic Safety and Licensing Board.

John H. Frye, III,

Chairman, Administrative Judge.

Bethesda, Maryland.

[FR Doc. 83-3171 Filed 11-25-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-358-0L; ASLBP No. 76-317-01]

The Cincinnati Gas & Electric Co., et al. (Wm. H. Zimmer Nuclear Power Station, Unit 1,); Order

November 18, 1983.

The Board wishes the response of Staff and MVPP to the arguments made by Applicants in their November 15 answer to Staff's October 31 motion to defer ruling on MVPP's October 5 petition for reconsideration. Staff and MVPP are to serve their responses no later than December 2, 1983.

Additionally, the Board wishes to hear the argument of counsel on the Staff's motion to defer as well as on MVPP's October 3, petition for reconsideration. A conference of counsel is hereby scheduled for Thursday, December 15, 1983, from 9:30 A.M. to 5:00 P.M., in Courtroom 822, U.S. Post Office and

Courthouse Building, 5th and Main Street, Cincinnati, Ohio 45202

It is ordered.[1]

For The Atomic Safety and Licensing Board.

John H. Frye, III,

Chairman, Administrative Judge.

Bethesda Maryland.

[FR Doc. 83-31712 Filed 11-25-83; 8:45 am]
BILLING CODE 7590-01-M

[Docket Nos. 50-245 and 50-336]

Northeast Nuclear Energy Co., et al.; Consideration of Issuance of Amendments to Operating Licenses and Proposed No Significant Hazards Consideration Determination and Opportunity For Hearing

The United States Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Operating License Nos. DPR-21 and DPR-65 issued to the licensees, The Connecticut Light and Power Company, Western Massachusetts Electric Company, and Northeast Nuclear Energy Company (NNECo), for operation of the Millstone Nuclear Power Station, Units 1 and 2 located in New London County, Connecticut.

The amendments would revise Section 6 of the Technical Specifications to clarify NNECo's intention to utilize qualified individuals in the dual rate of Senior Reactor Operator and Shift Technical Advisor. The action would also incorporate changes necessary to meet requirements of 10 CFR 50.54(m).

In addition the Technical Specification provisions would be revised to designate the Rediation Protection Manager as the individual who shall meet or exceed the qualifications of Regulatory Guide 1.8, Revision 1. This proposed change relates to I&E Inspection 50-366/83-07. The proposed changes would also reflect in the Technical Specifications Regulatory Guide 1.33, Revision 2, in place of Revision 1. The request for action is dated October 4, 1983.

Before issuance of the proposed license amendments, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The Commission has provided guidance for making a no significant hazards consideration determination (48 FR 14870, April 6, 1983). Example (vii) of this guidance is a change to make a license conform to changes in the regulations, where the license change results in very minor changes to facility operations clearly in keeping with the regulations. The changes proposed with respect to the Licensed Operator Staffing fall within example (vii). Example (i) of this guidance is a purely administrative change to technical specifications: for example, a change to achieve consistency throughout the technical specifications, corrections of an error, or a change in nomenclature. The proposed changes relating to Regulatory Guide Nos. 1.8 and 1.33 fall within example (i).

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of the notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Comments should be addressed to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attn: Docketing and Service Branch.

By December 28, 1983, the licensees may file a request for a hearing with respect to issuance of the amendments to the subject facility operating licenses and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspects of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to a least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendments and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendments.

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[1] Judge Hooper and Livingston concur.

If the final determination is that the amendments involve a significant hazards consideration, any hearing held would take place before the issuance of any amendment. Normally, the Commission will not issue the amendments until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facilities, the Commission may issue the license amendments before the expiration of the 30-day notice period, provided that is final determination is that the amendments involve no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, N.W. Washington, D.C. by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000 [in Missouri (800) 342–6700]. The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Dennis M. Crutchfield: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Executive legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to William H. Cuddy, Esquire, Day, Berry & Howard, One Constitution Plaza, Hartford, Connecticut 06103, attorney for the licensees.

Nontimely filings of petitions for leave to intervene, amended positions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and at the Waterford Public Library, Rope Ferry Road, Route 156, Waterford, Connecticut.

Dated at Bethesda, Maryland, this 17th day of November 1983.

For the Nuclear Regulatory Commission.

Dennis M. Crutchfield,

Chief, Operating Reactors Branch #3 Division of Licensing

[FR Doc. 83-31713 Filed 11-25-83; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Commodity Policy Advisory Committee; Meeting and Determination of Closing of Meeting

The meeting of the Commodity Policy Advisory Committee (the Advisory Committee) to be held Wednesday, January 25, 1984, from 2 p.m. to 5 p.m. at the Office of the United States Trade Representative, will involve a review and discussion of the current issues involving the trade policy of the United States. Pursuant to Section 2155(f)(2), I have determined that this meeting will be concerned with matters the disclosure of which would seriously compromise the Government's negotiating objectives or bargaining positions.

More detailed information can be obtained by contacting Phyllis O. Bonanno, Director, Office of Private Sector Liaison, Office of the United States Trade Representative, Executive Office of the President, Washington, D.C. 20506.

William E. Brock,

United States Trade Representative.

[FR Doc. 83-31694 Filed 11-25-83; 8:45 am]

BILLING CODE 3190-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-20392; File No. SR-Amex 83-28]

Self-Regulatory Organizations; Proposed Rule Change by American Stock Exchange, Inc.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on October 28, 1983, the American Stock Exchange filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The American Stock Exchange is proposing to amend (i) Section 125 of the Amex Company Guide so that the requirements set forth therein will apply only to those indentures which have not been, or will not be, qualified under the Trust Indenture Act of 1939 and (ii) Section 710 of the Guide to eliminate the special quorum requirement for approval of transaction set forth in Sections 711 – 714 of the Guide.

II. Self-Regulatory Organization's Statement of the Purpose of and Statutory Basis for the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule changes. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B) and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of and Statutory Basis for the Proposed Rule Change

(a) *Purpose.* The purpose of amending the indenture requirements of Section 125 is to conform them to the Trust Indenture Act of 1939 and present practice of bond counsel as evidenced by the Simplified Model Indenture and Model Debenture Indenture.

The purpose of amending Section 710 is to conform the Exchange's special quorum requirement with state corporate law and to remove the possibility, under revised proxy procedures, that the Section may be utilized to achieve an unforeseen result.

(b) *Basis.* The proposed amendments are consistent with Section 6(b) of the Exchange Act in general and further the objectives of Section 6(b)(5) of the Act in particular in that they are designed to protect investors and the public interest and are not designed to regulate matters

not related to the purposes of Section 6(b) or the administration of the Exchange.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange has determined that the proposed rule changes will have no impact on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule changes.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concering the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the rule changes that are filed with the Commission, and all written communications relating to the proposed rule changes between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: November 17, 1983.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-31780 Filed 11-25-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-20382; File No. SR-CSE-83-5]

Self-Regulatory Organizations; Proposed Rule Change by the Cincinnati Stock Exchange

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on October 21, 1983, The Cincinnati Stock Exchange (the "Exchange") filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. The Cincinnati Stock Exchange's Statement of the Terms of Substance of the Proposed Rule Change

Effective October 21, 1983, the Board of Trustees of The Cincinnati Stock Exchange revised the following charges: (Italics indicate additions; brackets indicate deletions)

National Securities Trading System Fees

(a) $0.025 per share will be charged non-members when acting as principal.

(b) $0.015 per share will be charged contributing dealer members when acting as principal.

(c) $0.01 per share will be charged designated dealer members when acting as principal, *except when acting as principal as described in (d) below.* [except when such designated dealer is executing a transaction against a public agency order of another CSE member.]

(d) [$0.005 per share will be charged designated dealer members when acting as principal against a public agency order of another CSE member.] *$0.005 will be charged designated dealer members when acting as principal against a public agency order guaranteed transaction.*

(e) $0.01 per share will be charged both [members] *Proprietary Members* and non-members on public agency transactions.

(f) Charge on any single transaction executed by an individual firm shall not exceed $150.00 per transaction (inclusive of both sides of the transaction).

(g) *Except for the first $0.005 per share charged designated dealer members when acting as principal against a public agency order of another CSE member, and the $0.005 per share charge described in (d) above,* discounts will be applied to both [members'] *Proprietary Members'* and non-members' total gross fees charged in any given month as follows:

Gross Fees	Discount (percent)
Up to $10,000	0
$10,000 to $20,000	10
$20,000 to $40,000	20
$40,000 and above	30

(h)(i) Each [NSTS User] *Proprietary Member* will be charged a minimum monthly fee based on the equipment and communication overhead costs associated with installation and operation of NSTS terminals and printers by the [User] *Proprietary Member.* Only if a [User's] *Proprietary Member's* monthly NSTS trading fees do not equal or exceed such equipment and communication overhead costs will the monthly minimum fee be charged the [User] *Proprietary Member.* The minimum monthly fee charged a [User] *Proprietary Member* is based upon the number of NSTS terminals and printers installed and operated by a [User] *Proprietary Member.* The lowest minimum monthly fee charged a [User] *Proprietary Member* is $821 which amount is the overhead cost for installation and operation of one NSTS terminal and one NSTS printer.

(ii) All [members] *Proprietary Members* or non-members who become NSTS Users on or after January 1, 1982 will be granted a three-month grace period during which time no minimum monthly fee will be charged such Users.

Access Fee Schedule

Access Participant Members shall pay to the Exchange an annual filing fee of $100.00. Upon request, at the end of one year such member may have the privilege of extending participation as an Access Participant Member on a yearly basis. Payment of renewal fee in the amount of $100.00 shall be made at the time renewal is requested.

Additionally, Access Participant Members for whom the Exchange transmits information to a clearing entity for the Access Participant Member's account shall be charged $50.00 per month, payable in advance of each calendar quarter.

Access Participant Transaction Fee

Access Participant Members whose orders are executed through facilities of the Exchange, and whose transactions are transmitted by the Exchange to a clearing entity of which the Access Participant Member is a member shall be charged the following:

Total gross dollars per month (in millions)	Rate (per $1,000)
0.0 to 5.0	.13
5.1 to 10.0	.12
10.1 to 15.0	.11
15.1 to 25.0	.10
25.1 to 50.0	.09
50.1 to 150.0	.085
150.1 to 300.0	.08
300.1 to 450.0	.075
450.1 to 550.0	.07
550.1 to 650.0	.065
650.1 and over	.06

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The Board of Trustees determined that administrative expenses and operational expenditures warrant an increase in the respective charges. Section 6(b)(4) of the Act is the basis for these charges since they are reasonable and equitably allocated to those who avail themselves of such Exchange services.

B. Self-Regulatory Organization's Statement of Burden on Competition

The Exchange believes that the Proposed Changes impose no burden on competition, charges are reasonable and equitably allocated.

C. Self-Regulatory Organization's Statement on Comments Received From Members, Participants or Others on Proposed Rule Change

The Exchange neither solicited nor received comments on the proposed changes.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective, pursuant to Section 19(b)(3) of the Securities Exchange Act of 1934 and subparagraph (e) of Securities Exchange Act Rule 19b–4. At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purpose of the Securities Exchange Act of 1934.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication. For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: November 16, 1983.

George A. Fitzsimmons

Secretary.

[FR Doc. 83-31772 Filed 11-25-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-20403; File No. SR-NASD-83-24]

Self-Regulatory Organizations; Proposed Rule Change by National Association of Securities Dealers, Inc.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on November 18, 1983 the National Association of Securities Dealers, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission has approved a proposed rule change submitted by the New York Stock Exchange, Inc. ("NYSE") that is substantively similar to this proposed rule change.[1] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Association is filing herewith a proposed rule change which will amend the application of the provisions of Appendix A to Section 30 of the Association's Rules of Fair Practice in the following manner. No changes to the language of Appendix A are contemplated.

Solely for the purposes of "when issued" trading in the stocks of American Telephone and Telegraph Company ("AT&T") and its regional holding companies and only until such trading has been terminated (1) the exception in Section 6 to the application of the margin requirements of Appendix A to "when issued" transactions in special cash accounts for special cash accounts of broker/dealers, bank, trust companies, investment companies, investment trusts, insurance companies, charitable or non-profit educational institutions and similar fiduciary type accounts shall be inapplicable and (2) the initial margin maintenance requirements under Section 4 for "when issued" transactions in special cash accounts of the institutions excepted by Section 6 shall be 10 percent and, after the initial transaction, the minimum margin maintenance requirement shall be 7 percent.

II. Self-Regulatory Organization's Statements Regarding the Proposed Change

In it filing with the Commission, the sefl-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Section

[1] *See* Securities Exchange Act Release No. 20401 (November 18, 1983).

(A), (B) and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The changes make temporary amendments to Appendix A for the purpose of dealing with net capital and related financial problems which members may experience in connection with the divestiture of American Telephone and Telegraph Company ("AT&T").

Under the AT&T divestiture program, for every ten shares of AT&T stock owned, shareholders of record on December 30, 1983 willl receive one share in each of seven newly-formed regional holding companies and ten shares of new AT&T stock. Beginning Monday, November 21, 1983, "when issued" trading will commence in the stock of AT&T and the stocks of the regional holding companies. It is expected that "when issued" trading will continue until mid-February 1984 or later.

It is anticipated that there will be heavy "when issued" trading volume in these new securities during the relatively lengthy time during which the securities will be traded on a "when issued" basis. The expected heavy volume of trading in the "when issued" stock of AT&T and the stock of the new regional holding companies and the absence of any margin requirements for cash accounts of institutional investors could result in serious cash flow and net capital problems for members. A substantial amount of "when issued" trading is anticipated from insitutional investors having special cash accounts which are presently exempt from the margin requirements of Appendix A to Section 30 of the Association's Rules of Fair Practice.

Accordingly, the Assocation believes that solely for the purposes of "when issued" trading in the stock of AT&T and the regional holding companies and only until termination of "when issued" trading in these stocks the exemption from the Assocation's margin requirements presently available to special cash accounts of institutional investors should be eliminated. The effect will be to place institutional investors on a parity with individual investors with respect to application of the Assocation's margin requirements. The percentage of required margin will, however, differ inasmuch as in lieu of the amount of minimum margin currently prescribed by section 4 of Appendix A the required initial minimum margin maintenance requirements for institutional investors will be 10 percent which must be maintained at a level of 7 percent following the initial transaction.

The Assocation believes that the AT&T divestiture and resulting "when issued" trading in its new stock and the stocks of the new regional holding companies creates unusual and extaordinary conditions which justifies special margin requirements for institutional special cash accounts dealing in such "when issued" securities until the period of "when issued" trading has terminated. In addition, the Assocation believes that application of the Assocation's margin requirements should be consistent with the special margin requirements of the New York Stock Exchange which is contemplating special margin requirements with respect to "when issued" trading in the stocks of AT&T and the regional holding companies.

The proposed rule change is consistent with, and in furtherance of, Sections 15A(b)(6) and 15A(g)(3)(A) of the Securities Exchange Act of 1934, as amended which provide for the protection of investors and the public interest and maintenance of standards of financial responsibility for Assocation members respectively.

B. Self-Regulatory Organization's Statement on Burden on Competiton

The Assocation believes that the proposed rule change imposes no burden upon competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Comments were neither solicited nor received in connection with the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective immediately pursuant to a request for accelerated effectiveness as provided for under Section 19(b)(2) of the Securities Exchange Act of 1934.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 5th Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 5th Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication. For the Commission by the Division of Market Regulation, pursuant to delegate authority.

Dated: November 21, 1983.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-31781 Filed 11-25-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 20385; (File No. 4-281)]

Approval of an Amendment to the Consolidated Quotation Plan Establishing Non-Professional Fees

November 17, 1983.

On July 18, 1983, the participants in the Plan ("CQ Plan") governing the operation of the consolidated quotation reporting system ("CQ Plan Participants") [1] submitted to the Commission an amendment [2] to the CQ Plan. This amendment establishes separate monthly subscriber fees for "non-professional" subscribers receiving quotation information from the consolidated quotation reporting system on a real-time basis. The fee portion of the amendment became effective upon filing and is now final. The remainder of the amendment was approved for a 60 day period, and again for a 45 day period.[3]

I. Description of Amendment

Under the amendment, non-professional subscribers [4] are charged

[1] The CQ Plan was approved in Securities Exchange Release No. 16518 (January 22, 1980), 45 FR 6521.

[2] This amendment was submitted pursuant Rule 11Aa3-2 under the Securities Exchange Act of 1934 ("Act").

[3] *See* Securities Exchange Act Release Nos. 20002 (July 22, 1983) and 20240 (September 30, 1983), 48 FR 34552; and 43638.

[4] The classification of "non-professional" will be governed by guidelines adopted by the CQ Plan Participants; generally, the non-professional" category is intended to apply to individual investors

Continued

substantially lower fees for current quotation information then are professional subscribers. Supplemental contract arrangements have been devised for vendors providing data services to non-professional subscribers, which allow these subscribers to contract solely with the vendor rather than with the vendor and the CQ Plan Participants as is required of other categories of subscribers.[3] The amendment also gives the CQ Plan administrators discretion regarding the timing of implementation of these contractual arrangements and fees. These new contractual arrangements and fees are intended to allow vendors to offer real-time information to investors through a variety of innovative information services.

II. Approval of Amendment

While the Commission supports the concept of lower fees for market information, the amendment was approved on a temporary basis in response to a comment received from a vendor, GTE Telenet Communications Corp. ("GTE"), arguing that the contractual provisions proposed by the CQ Plan Participants could in themselves deter use of the information by individual investors. The Commission encouraged the CQ Plan Participants and GTE, as well as any other vendors interested in this question, to discuss the contractual provisions during the period of temporary approval. After a meeting on this question, representatives of GTE and the New York Stock Exchange, Inc., ("NYSE") a CQ Plan administrator, agreed that experience with the proposed contract should be obtained and that modifications could be made to these contracts later, if necessary based on this experience.[4] The NYSE noted that the CQ Plan Participants' authority to use other fee arrangements and contracts on experimental basis could help address any problems that might arise from use of these contracts in unusual situations.

III. Approval of Amendment

The Commission believes that, although adjustments to the CQ Plan non-professional contracts may be necessary at some later point, the agreement of GTE and the NYSE to gain experience with the proposed contracts to be used initially is an appropriate means of determining whether the contracts will in fact result in problems. Therefore, in order to permit these non-professional fees and contracts to be implemented as soon as possible, the Commission believes thats the CQ Plan amendments should be approved. The Commission finds that approval of the amendment is in furtherance of the purposes of Act, in the public interest, and appropriate for the protection of investors.

In accordance with the above, it is ordered, pursuant to Section 11A of the Act, and paragraph (c)(2) of Rule 11Aa3–2 thereunder, that the amendment to the CQ Plan be, and hereby is, approved.

For the Commission by the Division of Market Regulation pursuant to delegated authority.[7]

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 83-31770 Filed 11-25-83; 8:45 am]

BILLING CODE 8010-01-M

[Relase No. 20386 (File No. S7-433)]

Approval of an Amendment to the Consolidated Tape Plan Establishing Non-Professional Fees

November 17, 1983.

On July 18, 1983, the participants in the Consolidated Tape Association ("CTA") submitted to the Commission an amendment[1] to the Restated Amended Plan governing the operation of the consolidated transaction reporting system ("CTA Plan").[2] This amendment establishes separate monthly subscriber fees for "non-professional" subscribers receiving last-sale information from the CTA on a real-time basis. The fee portion of the amendment became effective upon filing and is now final. The remainder of the amendment was approved for a 60 day period, and again for a 45 day period.[3]

I. Description of Amendment

Under the amendment, non-professional subscribers[4] are charged substantially lower fees for current last-sale information than are professional subscribers. Supplemental contract arrangements have been devised for vendors providing data services to non-professional subscribers, which allow these subscribers to contract solely with the vendor rather than with the vendor and the CTA as is required of other categories of subscribers.[5] The amendment also gives the Plan administrators discretion regarding the timing of implementation of these contractual arrangements and fees. These new contractual arrangements and fees are intended to allow vendors to offer real-time information to investors through a variety of innovative information services.

II. Approval of Amendment

While the Commission supports the concept of lower fees for market information, the amendment was approved on a temporary basis in response to a comment received from a vendor, GTE Telenet Communications Corp. ("GTE"), arguing that the contractual provisions proposed by the CTA could in themselves deter use of the information by individual investors. The Commission encouraged the CTA and GTE, as well as any other vendors interested in this question, to discuss the contractual provisions during the period of temporary approval. After a meeting on this question, representatives of GTE and the New York Stock Exchange, Inc., ("NYSE") a CTA Plan administrator, agreed that experience with the proposed contract should be obtained and that modifications could be made to these contracts later, if necessary based on this experience.[6] The NYSE noted that the CTA's authority to use other fee arrangements and contracts on an experimental basis could help address any problems that might arise from use of these contracts in unusual situations.

III. Approval of Amendment

The Commission believes that, although adjustments to the CTA non-professional contracts may be necessary at some later point, the agreement of GTE and the NYSE to gain experience with the proposed CTA contracts to be used initially is an appropriate means of determining whether the contracts will

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not using market information as part of their normal occupation.

[3] Thus, vendors can execute subscriber agreements with the their non-professional subscribers on behalf of the CQ Plan Participants, and pay the fees for those subscribers.

[4] Letter from Jack Greenberg, General Counsel and Secretary, GTE Telenet Communications Corp., to George Fitzsimmons, Secretary, SEC, dated November 9, 1983.

[7] 17 CFR 200.30-3(a)(29).

[1] This amendment was submitted pursuant to Rule 11Aa3-2 under the Securities Exchange Act of 1934 ("Act").

[2] The 1980 Restatement & Amendment of the CTA Plan was approved in Securities Exchange Release No. 16983 (July 18, 1980), 45 FR 49414.

[3] *See* Securities Exchange Act Release Nos. 20002 (July 22, 1983) and 20239 (September 30, 1983), 48 FR 34552 and 43637.

[4] The classification of "non-professional" will be governed by guidelines adopted by the CTA; generally, the "non-professional" category is intended to apply to individual investors not using market information as part of their normal occupation.

[5] Thus, vendors can execute subscriber agreements with their non-professional subscribers on behalf of the CTA, and pay the fees for those subscribers.

[6] Letter from Jack Greenberg, General Counsel and Secretary, GTE Telenet Communications Corp., to George Fitzsimmons, Secretary, SEC, dated November 9, 1983.

in fact result in problems. Therefore, in order to permit these non-professional fees and contracts to be implemented as soon as possible, the Commission believes that the CTA amendments should be approved. The Commission finds that approval of the amendment is in furtherance of the purposes of the Act, in the public interest, and appropriate for the protection of investors.

In accordance with the above, it is ordered, pursuant to Section 11A of the Act, and paragraph (c)(2) of Rule 11Aa3-2 thereunder, that the amendment to the CTA Plan be, and hereby is, approved.

For the Commission by the Division of Market Regulation pursuant to delegated authority.[7]

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 83-31774 Filed 11-25-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 23123 (70-6929)]

Columbia Gas System, Inc., et al.; Proposed Intrasystem Financing and Issuance and Sale of Commercial Paper and/or Notes to Banks by Holding Company

November 17, 1983.

In the matter of the Columbia Gas System, Inc., Columbia Gas System Service Corporation, Columbia Lng Corporation, Columbia Alaskan Gas Transmission Corporation, 20 Montchanin Road, Wilmington, Delaware 19807;

Columbia Gas Transmission Corporation, Big Marsh Oil Company, 1,700 MacCorkle Avenue, S.E. Charleston, West Virginia 25314;

Columbia Gas of Kentucky, Inc., Columbia Gas of Ohio, Inc., Columbia Gas of Maryland, Inc., Columbia Gas of New York, Inc., Columbia Gas of Pennsylvania, Inc., Columbia Gas of Virginia, Inc., Columbia Gas of West Virginia, Inc., 200 Civic Center Drive, Columbus, Ohio 43215;

Columbia Gulf Transmission Company, 3805 West Alabama Avenue, Houston, Texas 77027;

Columbia Gas Development of Canada Ltd., 639—5th Avenue, S.W., Calgary, Alberta, Canada T2P OM9;

Columbia Gas Development Corporation, 1700 West Loop, South, Houston, Texas 77207;

Commonwealth Gas Pipeline Corporation, Commonwealth Gas Services, Inc., Commonwealth Propane, Inc., 200 South Third Street, Richmond, Virginia 23219; and

Columbia Hydorcarbon Corporation, the Inland Gas Company, Inc., Columbia Coal Gasification Corporation, 340—17th Street, Ashland, Kentucky 41101.

The Columbia Gas System, Inc. ("Columbia"), a registered holding company, and its subsidiary companies named above have filed an application-declaration with this Commission pursuant to Sections 6(a), 6(b), 7, 9(a), 10, and 12(b) of the Public Utility Holding Company Act of 1935 ("Act") and Rules 45 and 50(a)(5) promulgated thereunder.

It is proposed that certain subsidiaries of Columbia listed below issue and sell to Columbia by December 31, 1984, common stock and installment promissory notes up to the amounts indicated:

	Equity			Installment notes: aggregate amount ($000)	Total ($000)
	No. of shares (000)	Par value ($)	Aggregate amount ($000)		
Columbia of Kentucky				2,800	2,800
Columbia of Ohio				16,000	16,000
Columbia of Maryland				1,000	1,000
Columbia of New York				800	800
Columbia of Pennsylvania				12,000	12,000
Columbia of Virginia	8	25	200	1,500	1,700
Columbia Transmission				30,000	30,000
Development Canada	640	25	12,800	1,600	14,400
Commonwealth Propane				1,300	1,300
Commonwealth Services				1,500	1,500
Commonwealth Pipeline				1,400	1,400
Inland	310	10	3,100	300	3,400
Total			16,100	70,200	86,300

The installment notes will be unsecured, dated the date of issuance, and will be payable in 15 equal annual installments on January 31 in each of the years 1986 through 2000 inclusive. The interest rate will be equal to the actual cost of money to Columbia for its most recent sale of long-term debt or preferred stock. Installment notes issued by Development Canada will have the same terms and provisions, except that their interest will be due and payable only if and to the extent that it is determined, as of the end of such period, that Columbia will be able to reduce its United States consolidated income tax liability for the taxable year by the full amount of any foreign taxes paid or payable by Columbia with respect to such interest. It is stated that the proceeds from the issuance and sale of the common stock and installment notes, together with funds generated from internal sources, will be used to finance these subsidiaries' 1984 capital expenditures programs.

It is also proposed that Columbia advance an open account to certain subsidiaries, and we have outstanding from time to time, up to an aggregate amount of $903.9 million to finance the purchase by such subsidiaries of underground storage gas inventories and liquid hydrocarbon inventories and to use for other short-term requirements. All of such advances are to be taken down by December 31, 1984. The funds are to be advanced, repaid, and reborrowed, as required from time to time, for periods not exceeding one year from the date of the advance. The subsidiaries' cost of money on all such short-term advances will be the average effective cost incurred by Columbia on its own short-term financing. The proposed advances will be limited to the amount of each subsidiary's estimated short-term financing requirements as shown below:

	Amounts ($000)
Columbia of Kentucky	36,000
Columbia of Ohio	280,000
Columbia of Maryland	3,000
Columbia of New York	10,000
Columbia of Pennsylvania	70,000
Columbia of Virginia	10,000
Columbia Transmission	450,000
Development	10,000
Development Canada	4,000
Commonwealth Propane	2,500
Commonwealth Services	8,000
Commonwealth Pipeline	2,000
Hydrocarbon	6,400
Inland	5,000
Coal Gasification	5,000
Service	2,000
Total	903,900

The above short-term requirements will be funded as follows: first, from temporary surplus cash from subsidiary companies through either the intra-system prepayments program or the intrasystem money pool, *infra;* and second, through short-term borrowings from Columbia which in turn are funded through the sale of commercial paper, bank borrowings, or by other means authorized by the Commission.

[7] 17 CFR 200.30-3(a)(29).

Columbia requests that, through December 31, 1984, the exemption from the provisions of 6(a) of the Act afforded it by the first sentence of 6(b), relative to the issuance and sale of short-term notes, be increased from 5% to approximately 27% and that Columbia be permitted to issue and sell through December 31, 1984, and/or have outstanding at any one time, up to $525 million principal amount of short-term notes. Generally, this is to enable Columbia to furnish funds to its subsidiaries for the purchase of gas for underground storage and liquid hydrocarbon inventories and for other short-term financing requirements as shown above. Columbia's proposed short-term notes will be in the form of either commercial paper or notes to banks.

Columbia proposes to issue and sell commercial paper to one or more commercial paper dealers and to continue to do so as long as the effective interest rate on such commercial paper is less than the effective cost which Columbia would have to pay on bank borrowings, except that, in order to obtain greater flexibility, commercial paper may be issued with an effective interest cost in excess of the effective interest cost on bank borrowings if the paper has a maturity of not more than 60 days from the date of issue. Commercial paper will be issued by Columbia in denominations of not less than $50,000 nor more than $5 million and will be reoffered by the dealer or dealers in such a manner as not to constitute a public offering. Such commercial paper will be sold by Columbia to a dealer or dealers at a discount rate which will not be in excess of the then prevailing discount rate for similar commercial paper. No commission or fee will be payable by Columbia in connection with the issuance and sale of such commercial paper. The purchasing dealer, however, will reoffer such notes at a discount rate of up to ⅛ of 1% per annum less than such discount rate to the issuer.

Columbia currently has $525 million of confirmed bank lines of credit and intends to maintain that amount. In no event will the proposed commercial paper and/or proposed short-term bank borrowings exceed an aggregate amount of $525 million. Borrowings under these lines of credit will be repaid within nine months from the date of issuance, and Columbia will have the right to prepay such borrowings, in whole or in part, without penalty. Borrowing costs will not exceed the prime rate in effect from time to time, adjusted for the effect of compensating balances or fees in lieu thereof. Assuming a 7.0% compensating balance requirement and a prime rate of 11%, the effective cost would be 11.8%. Assuming a fee in lieu of balances of ¼% and a prime rate of 11%, the effective cost would be 11¼%.

It is stated that during the winter heating season the distribution subsidiaries generate substantial amounts of cash in excess of their current requirements. During the same period, however, the transmission subsidiaries generate lesser amounts of cash, and their capital expenditures are generally larger, with the result that Columbia must advance such subsidiaries funds under Commission authorization while the distribution subsidiaries have cash considerably in excess of their current requirements. Also, there are considerable fluctuations in the subsidiaries' aggregate cash flow on a day-to-day basis during each month due to their normal receipt and disbursement patterns. Accordingly, it is proposed that the subsidiaries, from time to time during 1984, temporarily prepay outstanding installment promissory notes with excess cash in aggregate amounts not to exceed the aggregate amounts of such notes owing to Columbia or, with respect to state regulated companies, the amount authorized by their respective state regulatory commission having jurisdiction. Interest on such indebtedness will cease upon prepayment and recommence upon reinstatement.

As such funds are thereafter required for construction and other corporate purposes, it is proposed that advances be made on open account to such subsidiary by Columbia in such aggregate amounts not to exceed the amount of long-term indebtedness previously prepaid, less any current maturities applicable to notes which have matured subsequent to the date of prepayment. The open account loans will bear interest at the same rate or rates as borne by the equivalent principal amounts of indebtedness previously prepaid by such subsidiary during 1984. It is proposed that advances on open account to an individual subsidiary be increased or decreased from time to time in accordance with variations in the cash flow of the individual subsidiary; however, at no time will the advances outstanding under the authority requested be in excess of the indebtedness prepaid theretofore. Either at such time as the advances equal the aggregate amount of indebtedness prepaid or, in any event, not later than December 31, 1984, the indebtedness that was prepaid will be reinstated and accepted by Columbia in repayment of the outstanding open account loans.

It is stated that certain subsidiary companies ("Lenders") generate excess cash from time to time that exceeds their long-term debt obligations to Columbia. It is proposed that the intrasystem money pool be continued in 1984 for more efficient use of such cash within the system. Columbia would administer the money pool and coordinate loans to subsidiaries in need of such cash. Columbia would not utilize any of the money pool funds for its own account. Loans to any subsidiary company ("Borrower") through the money pool would be made through December 31, 1984, pursuant to open account advances which are to be returned upon demand to the Lender(s). Each Borrower's loans will be allocated to each Lender based on the proportion of the Borrower's short-term open account advances to the aggregate of such advances. The total available money pool funds on any one day are solely the product of excess cash deposited by the Lenders.

The daily interest on outstanding money pool loans will be the weighted average daily cost to Columbia for its external short-term borrowing or, if no such borrowings are outstanding, the daily rate published in "The Wall Street Journal" for 30-day commercial paper notes sold through dealers by major corporations. The Lenders would receive interest income from the Borrowers in accordance with the above-mentioned pricing mechanism for their proportionate contribution through the money pool's administrator. Certain Lenders are regulated by state commissions and require authorization from those commissions prior to the lending of funds. It is requested that loans and borrowings pursuant to the money pool be authorized to the extent of excess cash which may not be utilized in the prepayments program or, if there is a state regulatory commission with jurisdiction, to the extent authorized by such commission.

It is requested that the companies be authorized to file certificates under Rule 24 with respect to the proposed transactions on a quarterly basis.

The application-declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by December 13, 1983, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a

copy on the applicants-declarants at the addresses specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 83-31777 Filed 11-25-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 13630; (812-5690)]

Institutional Telephone Trust, First Exchange Series, and Subsequent Series, and SEI Financial Service Co.; Filing of Application

November 18, 1983.

Notice is hereby given that Institutional Telephone Trust, First Exchange Series and Subsequent Series ("Trust"), a registered unit investment trust, and SEI Financial Services Company ("Sponor") (collectively, the "Applicants"), 680 E. Swedesford Road, Wayne, PA 19087, a registered broker-dealer and investment adviser and the sole underwriter for the Trust, filed an application on October 28, 1983, for an order of the Commission, pursuant to Section 6(c) of the Investment Company Act of 1940 ("Act"), exempting Applicants from the provisions of Sections 7(c), 14(a), and 19(b) of the Act and Rule 19b–1 thereunder. All interested person are referred to the application on file with the Commission for a statement of the representations made therein, which are summarized below, and are referred to the Act and rules thereuder for the complete text of the provisions thereof which are relevant to any consideration of the application.

The Trust seeks to provide holders of common stock of American Telephone & Telegraph Company ("AT&T"), through and exchange of their AT&T common stock for units of the Trust, with a convenient method of maintaining their equity interests in AT&T and, after the implementation of the proposed plan of reorganization of AT&T, and the regional holding companies to be divested by AT&T. The Sponsor, on the day of exchange, will deposit AT&T common stock to form the Trust (and receive a certificate for units of beneficial interest representing the entire ownership of the Trust) and will issue Trust units in exchange, on the basis of one unit for each share of common stock validly tendered for exchange. To obtain Trust units, AT&T shareholders must place their shares of AT&T common stock in the custody of the Sponsor or the trustee, Bank of New England, N.A. ("Trustee"), at least two business days prior to the exchange date. The Sponsor will sell not more than .75% of the AT&T common stock tendered prior to the exchange date and will retain the proceeds as a sales charge on the sale of units.

Applicants request an exemption from the provisions of Section 7(c) of the Act to the extent that the Sponsor's acceptance of AT&T common stock prior to the exchange date may be considered as the offering or sale by the Sponsor of subscriptions or preorganization certificates in the Trust. Applicants argue that, but for the Trust's exchange of Trust units for AT&T common stock (which must be tendered at least two business days prior to the exchange date), the Trust resembles any other unit investment trust relying on the exemption provided in Rule 14a–3. Applicants assert that administrative constraints require the Sponsor to have the AT&T common stock in its custody prior to the exchange date.

Applicants request exemption from Section 14(a) of the Act, noting that, but for the definition of "eligible trust securities" in Rule 14a–3, the Trust could rely on Rule 14a–3 without seeking relief from Section 14(a). Applicants contend that the Commission determined to limit the exemptive relief in Rule 14a–3 to unit investment trusts investing solely in "eligible trust securities" not because it had determined that such relief was inappropriate for other unit investment trusts, but because it lacked experience with other trust. As a condition to the requested exemption, the Sponsor agrees that it will liquidate the underlying securities and distribute the proceeds thereof, on demand and without deduction of sales charges, to holders of units, if, within 90 days from the time of the registration statement relating to the units shall have become effective under the Securities Act of 1933, the net worth of the Trust shall be reduced to less than $100,000 or if such Trust shall have been terminated. The Sponsor further agrees to instruct the Trustee to terminate the Trust in the event redemption by the Sponsor of units which have not been sold in the initial distribution thereof, results in the Trust having a net worth of less than $1 million or 40% of the value on the exchange date of the securities initially deposited, and that, in the event of any such termination, the Sponsor will refund, on demand and without deduction, all sales charges to purchasers of units from the Sponsor. The Sponsor further agrees that any future sponsor will, as a condition to becoming a sponsor, agree to the same conditions. Applicants contend that the Trust will have a net worth, on the exchange date, far in excess of $100,000. Applicant argue that literal compliance with Section 14(a) is unnecessary for the protection of their unitholders.

Applicants request exemption from the provisions of Section 19(b) of the Act and Rule 19b–1 thereunder to permit the Trust to make more than one distribution of capital gains in any one taxable year. Applicants claim that, but for the definition of "eligible trust securities" in Rule 14a–3(b), the Trust would not need relief from Section 19(b) and could rely on the exception granted by Rule 19b–1(c). Applicants state that the Trust will distribute capital gains only when it sells portfolio securities to cover redemptions and expenses, and to maintian the Trust's investment stability. Applicants assert that the circumstances under which the Trust will distribute capital gains are substantially independent of any action by the Sponsor and the Trustee. Applicants state that the Trustee will clearly distinguish any capital gains distribution from income distribution in its report to unitholders. Applicants assert that literal compliance with Rule 19b–1 would force the Trust to retain any capital gains it received without being able to reinvest such cash in additional securities.

Notice is further given that any interested person wishing to request a hearing of the application may, not later than December 12, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for this request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchanges Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicants at the address stated above. Proof of services (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 83-31773 Filed 11-25-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 13631; (811-2407)]

Invesat Capital Corp. (Formerly Invesat Corporation); Filing of Application

November 21, 1983.

Notice is hereby given that Invesat Capital Corporation, formerly Invesat Corporation (the "Applicant") 126 East Amite Street (Suite 204), Jackson, Mississippi 39201; a Mississippi corporation registered as a closed-end, non-diversified management company under the Investment Company Act of 1940 (the "Act") and licensed as a small business investment company under the Small Business Investment Act of 1958 (the "1958 Act"), filed an application on September 20, 1983, and an amendment thereto on October 25, 1983, pursuant to Section 8(f) of the Act, for an order declaring that Applicant has ceased to be an investment company within the meaning of the Act. Applicant registered under the Act on September 10, 1973, and changed its name to Invesat Capital Corporation on May 4, 1982. All interested persons are referred to the application on file with the commission for a statement of the representations contained therein, which are summarized below, and such persons are referred to the Act for the text of Section 8(f) thereof and the other provisions of the Act which may be pertinent to a consideration of the application.

The application represents that on December 31, 1982, Applicant's outstanding shares were held by 143 shareholders. Subsequently, in privately negotiated transactions, 9,532, or 4.9% of the outstanding shares were purchased for investment purposes by a Mississippi company. Applicant's 195,076 presently outstanding shares of common stock are beneficially owned by 91 shareholders. Of such shareholders, 35 are banks owning 18.9% 24 are corporations owning 79.5%, and the balance are 32 individuals owning 1.6% of the outstanding shares, respectively. Two corporate shareholders, VGS Company ("VGS") and its 80.72% owned subsidary, Lamar Life Corporation ("Lamar"), each own more than 10% of Applicant's outstanding shares, but it is contended that because the value of all securities of small business investment companies owned by VGS and Lamar does not exceed 5% of the value of each such company's total assets, their ownership of shares of Applicant's common stock is deemed to be ownership by two holders for purposes of Section 3(c)(1) of the Act.

Prior to October 1980, Applicant had a wholly-owned minority enterprise small business investment company subsidiary named Invesat Capital Corporation (the "MESBIC") which registered under the Act in September 1974 (File No. 811-2529). On October 29, 1980, Applicnt sold the MESBIC to the National Business League of Washington, D.C. and the MESBIC changed its name to NBL Capital Corporation in November 1980.

Applicant intends to continue to operate as a small business investment company, focusing primarily on the financing of smaller companies in low technology industries and the furnishing of management assistance thereto. Applicant provides funds directly to small business concerns by making collateralized loans and through the purchase of notes accompanied by warrants or options, convertible debentures, common stock, preferred stock and/or limited partnership interests. Applicant's current portfolio is comprised of 24 companies. Applicant's total assets and liabilities at August 31, 1983 amounted to $7,609,788 and $4,194,895, respectively.

Applicant states that it is not a party to any litigation or administrative proceeding. It further states that it does not now propose to engage in any business activities other than those related to the continuation of its business as a small business investment company licensed and regulated by the Small Business Administration under the 1958 Act.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than December 15, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 83-31775 Filed 11-25-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 20401; (SR-NYSE-83-56)]

New York Stock Exchange, Inc.; Filing and Order Granting Accelerated Approval of Proposed Rule Change

November 18, 1983.

The New York Stock Exchange, Inc. ("NYSE") 11 Wall Street New York, New York 10005, submitted on November 17, 1983, copies of a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act") and Rule 19b-4 thereunder, to address the requirements applicable to when-issued transactions in customer's cash accounts in American Telephone & Telegraph ("AT&T") and the issues created as a result of the AT&T divestiture.[1] The NYSE proposes to adopt specific procedures and requirements for cash transactions in "exempt accounts" under NYSE Rule 431(d)(3)(B).[2]

Pursuant to NYSE Rule 431(a) the Exchange will impose a 10% initial deposit requirement on *all* when-issued transactions in AT&T and the divestitute issues for "exempt accounts." Further, a 7% minimum maintenance requirement must be maintained. Member organizations may not accept transactions from "exempt accounts" that fail to comply with the initial requirements, and must take appropriate action when any such account fails to adhere to the maintenance requirements.

All "exempt accounts" with when-issued positions shall be marked to the market on each net position, even

[1] Specifically, when-issued trading in the following issues will be affected: American Telephone & Telegraph Co., American Information Technologies Corporation, Bell Atlantic Corporation, BellSouth Corporation, NYNEX Corporation, Pacific Telesis Group, Southwestern Bell Corporation, and U.S. West, Inc.

[2] The term "exempt accounts" relates to the following provision of NYSE Rule 431(d)(3)(B):

In connection with any net position resulting from contracts for a "when-issued" security made for a member organization or for or with a bank, trust company, insurance company, investment trust or charitable or non-profit educational institution, no margin need be required and such net position need not be marked to the market. However, where such net position is not marked to the market, an amount equal to the loss at the market in such position shall be considered as cash required to provide margin in the computation of the Net Capital of the member organization under the Exchange's Capital Requirements.

though the account may be long the securities upon which the when-issued security is to be issued. Whenever mark-to-markets reduce an account's equity below the 7% maintenance requirement, the account must immediately deposit additional funds to remain in compliance with the 7% minimum.

The collection of the above deposit requirements must be accomplished within the normal 7 business day period. Member organizations may request "extensions of time" for initial or maintenance deposits using the same format and system applicable to extensions under Regulation T of the Federal Reserve Board. In its filing the NYSE states that, prior to applying for an extension, member organizations should satisfy themselves that the exempt account has the ability to comply with such requirements.[3]

The NYSE states that, to comply with the above initial and maintenance deposit requirements (including mark-to-markets), member organizations may accept cash or readily marketable securities. Where an exempt account has demonstrated a *legal* impediment to depositing cash and/or securities, member organizations may accept other financial instruments which would guarantee completion of the transactions (*e.g.*, C.D.'s, Bank Acceptances, Letters of Guarantee, Depository Receipts, etc.). However, where letters of credit are utilized for these purposes no value will be given under Rule 15c3–1 under the Act; therefore, the schedule of charges as stated in Exhibit A of the NYSE's Information Memo 83–39 (November 16, 1983) will apply until the transaction is closed out.

The Exchange states in its filing that it has determined that pension and profit sharing plans covered by ERISA may be deemed as "exempt accounts."

Interested persons are invited to submit written data, views and arguments concerning the proposed rule change within 21 days from the date of publication of the submission in the Federal Register. Persons desiring to make writtem comments should filed six copies thereof with the Secretary of the Commission, Washington, D.C. 20549. Reference should be made to File No. SR–NYSE–83–56.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying at the Commission's Public Reference Room, 450 5th Street, N.W., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available at the principal office of the above-mentioned self-regulatory organization.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges in particular, the requirements of Section 6 and the rules and regulations thereunder.

The Commissioner finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof, in that when-issued trading in the AT&T divestiture issues is expected to begin November 21, 1983. The Commission believes that the NYSE's proposed requirements are necessary to lessen potential financial and liquidity risks posed to broker-dealers if institutions are exempted from providing a good faith credit deposit under NYSE Rule 431 in connection with when-issued trading in the AT&T divestiture securities.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change referenced above be, and hereby is, approved.

By the Commission.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 83-31769 Filed 11-25-83; 8:45 am]

BILLING CODE 8010-01-M

[3] Pursuant to Rule 15c3–1 under the Act, a 100% charge to capital is imposed for any cash margin deficiency in customer accounts. However, because of the nature of the divestiture the Exchange staff has worked with the SEC staff to adopt a schedule of reduced capital charges for "exempt accounts" during the divestiture period. This schedule is attached as Exhibit A to the NYSE's Information Memo 83–39 (November 16, 1983). The special haircut provision to be applied to proprietary positions in AT&T and the divestiture issues are set forth in Exhibit B to that Information Memo. The Information Memo also sets forth specific minimum systems that member organizations should have in place for monitoring and controlling on a daily basis proprietary commitments and for measuring risk in relation to capital.

[Release No. 20404; File No. SR-OCC-83-21]

Options Clearing Corp. Order Granting Accelerated Approval of Proposed Rule Change

November 21, 1983.

On September 28, 1983, the Options Clearing Corporation ("OCC") filed with the Commission pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s (b)(1), (the "Act") and Rule 19b–4 thereunder, a proposed rule change that would authorize OCC to modify its foreign currency options settlement procedures and to make related non-substantive or technical amendments to OCC's Rules and By-laws. Notice of the proposed rule change, together with its terms of substance, was published in Securities Exchange Act Release No. 20307 (October 19, 1983), 48 FR 49518 (October 26, 1983). The Commission received no comments.

The proposal would amend Article XV of OCC's By-laws in several ways. First, OCC could elect not to treat British bank holidays as "foreign business days" and could defer exercise settlement dates to compensate for those intervening holidays. Because OCC will be designating the London branch of a U.S. bank as its agent to coordinate all foreign currency option exercise settlements, OCC believes that, without the rule change, intervening British bank holidays could disrupt exercise settlement. Second, the term "foreign government restrictions" would be defined to include taxes on the delivery or receipt of foreign currency.[1] Third, if such "foreign government restrictions" occur, OCC could adjust foreign currency exercise settlement procedures as OCC in its discretion determines to be fair. The proposal also would authorize OCC to adjust settlement procedures and terms when it determines that foreign government restrictions would impose undue burdens on OCC or on Foreign Currency Clearing Members in connection with the settlement of foreign currency option exercises. Such adjustments could include fixing U.S. dollar settlement prices deliverable to assigned put writers in lieu of foreign currency. Currently, this authority is limited to fixing cash settlement prices deliverable to exercising call holders. Finally, proposed Article XV would require holders of foreign currency put options to indemnify OCC for losses, damages, or expenses resulting from the exercise of their put options in violation of OCC's prohibition against such exercise under OCC's By-laws and their failure to deliver foreign currency. The current

[1] OCC s definition currently includes "any law, rule, regulation, executive, legislative, or judicial decree or other restriction imposed by a foreign government on the ownership of non-resident bank accounts in the country of origin of a foreign currency or which would otherwise prevent or impede delivery or receipt of foreign currency . . . in that . . . country" *See* OCC By-law, Art. XV, § 1(1).

Article requires those exercising holders to compensate assigned Clearing Members directly for losses incurred from the attempted exercise.

The proposed rule change also would amend several OCC foreign currency option settlement rules. First, Rule 1604 would be amended to move the exercise settlement date from the third to the fourth foreign business day following the day on which an exercise notice is tendered properly to OCC. OCC believes that this change will provide OCC needed, ample time to verify that Receiving Clearing Members have met their cash settlement obligations before irrevocably authorizing foriegn currency deliveries to those Members.

Second, OCC would amend Rule 1606 to require Delivering Clearing Members to guarantee, two days in advance of exercise settlement date, that delivery of foreign currency will be made on settlement date in immediately available funds. Currently, Rule 1606 does not require such a guarantee. OCC in its filing states that the proposed guarantee will give OCC advance notice of potential fails to deliver. That advance notice would enable OCC to borrow foreign currency through its agent bank in time to meet its delivery obligations to Receiving Clearing Members on settlement day. Moreover, OCC believes that the proposal reflects prevailing interbank wire system practices. OCC states in its filing that the deliverer's bank customarily guarantees delivery of foreign currency via "wire" before "value date." Proposed Rule 1606 also would provide for allocation of interest to Paying Clearing Members on amounts received by OCC from those Members before settlement date.

Third, Rule 1607 would be modified by the proposed rule change to reflect OCC's plan to have one U.S. agent bank in London act as its correspondent in the foreign currency exercise settlement process. Under that plan, bookkeeping entries at the London bank will reflect all actual physical deliveries and receipts of foreign currency. Physical deliveries will continue to take place in the country of origin of the foreign currency between foreign branches of OCC's London bank and Clearing Members' correspondent banks. Rule 1607 would be changed to recognize that OCC's and clearing members' correspondent banks can be located outside the foreign currency's country of origin so long as the banking arrangements assure physical delivery and receipt of foreign currency in the country of origin.[2]

Fourth, OCC proposes to amend Rule 1608 in a number of ways. Under the proposal, a Delivering Clearing Member's failure to make a Rule 1606 guarantee would trigger OCC's current authority either to borrow foreign currency under OCC Rule 1606(c) or to direct appropriate Receiving Clearing Members to buy-in foreign currency for OCC's account and liability. If OCC chooses to borrow foreign currency to effect delivery, and the Delivering Clearing Member fails to guarantee delivery or fails to deliver the foreign currency within five days after exercise settlement date, OCC will have two choices. First, it can exercise its current buy-in authority against the Delivering Clearing Member. The proposal allows OCC to execute that buy-in not more than seven foreign business days after exercise settlement date. In the alternative, the proposal would enable OCC to retransmit to the Delivering Clearing Member liability for any buy-in executed for OCC's account and liability by entities that have lent OCC foreign currency.[3] OCC states that this retransmittal opportunity is designed to shift the buy-in liability from OCC to the party that caused that liability—the delinquent Delivering Clearing Member. In addition, these amendments reflect the injection of the guarantee procedure into OCC's settlement scheme.

The proposed amendments to Rule 1608 also clarify the obligations concerning payment of imputed interest loss resulting from late delivery. Under the proposal, OCC would be obligated to pay to Receiving Clearing Members any imputed interest loss resulting from OCC's late delivery. The proposal also would delete from current Rule 1608 a redundant requirement that Delivering Clearing Members pay OCC imputed interest losses. Those Members already are obligated under Rule 1606(c) to reimburse OCC for fees, interest, or other charges OCC incurs in borrowing foreign currency to satisfy Delivering Clearing Members' obligations.

Fifth, the proposed rule change would modify Rule 1609. Among other things, the proposal would delete current references to a Receiving Clearing Member's refusal to accept delivery of foreign currency. Because a Clearing Member first must pay OCC the appropriate settlement amount to be entitled to receive foreign curency, OCC believes it must unlikely for Receiving Clearing Members not to accept delivery. Moreover, because OCC already would have been paid for the foreign currency by the refusing Clearing Member, OCC would not be exposed to financial loss. Indeed, OCC would, in effect, pass through to the Delivering Clearing Member the Receiving Clearing Member's money payment, and OCC would retain the refused foreign currency pending resolution of the dispute.

Finally, the proposed rule change would amend Rule 1610 to subject Delivering Clearing Members to disciplinary action for failure to guarantee delivery obligations under OCC Rule 1606. The proposal also would eliminate reference to a Receiving Clearing Member's refusal to accept proper delivery of foreign currency, which should reduce fails to deliver and receive.

In addition to the reasons for the rule change stated above, OCC believes that the proposal, taken as a whole, will conform OCC's Rules and By-laws to prevailing industry practices, will reduce the incidence of fails, will facilitate borrowings of foreign currency to cover fails, and will broaden OCC's settlement procedures to enable OCC to respond more flexibly to "foreign government restrictions." In its filing, OCC states that the proposed rule change, consistent with Section 17A(b)(3)(F) of the Act, would promote the prompt and accurate clearance and settlement of foreign currency option exercise transactions, assure the safeguarding of funds which are in the custody or control of OCC or for which it is responsible, and protect investors and the public interest.

For the reasons discussed below, the Commission believes that OCC's proposal is consistent with Section 17A of the Act. In particular, the Commission believes that the proposal is consistent with Section 17A(b)(3)(A) and (F) of the Act in that it promotes the prompt and accurate clearance and settlement of securities transactions and assures the safeguarding of securities and funds which are in OCC's custody or for which it is responsible.

The Commission believes that OCC, as a registered clearing agency, must be

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[2] The proposed changes to Rule 1607 were included in a letter amendment filed with the Commission by OCC on November 4, 1983. Also included in that letter were conforming technical changes to the definition of "foreign business day" in OCC By-law Article XV, § 1(j).

[3] Under the proposed Interpretation and Policy to OCC Rule 1608, if a Delivery Clearing Member fails to guarantee its delivery obligation in a timely manner, OCC will instruct its agent bank to borrow the deliverable foreign currency. The bank then will create an overdraft against OCC's account. If that overdraft is not liquidated within five business days after exercise settlement date by proper delivery by the Delivering Clearing Member, the agent bank, under its agreement with OCC, can buy-in the foreign currency against OCC's account.

able to make fair adjustments in its foreign currency options exercise settlement procedures to respond effectively to unilateral foreign government actions that may affect orderly foreign currency exercise settlement. The Commission believes that the proposal enhances OCC's ability to respond effectively in three ways.

First, the definition of "foreign government restrictions" now would include taxes levied by a foreign government on the delivery or receipt of foreign currency in the country of origin. The Commission agrees with OCC that taxes on the delivery and receipt of foreign currency can disrupt the orderly settlement of foreign currency option exercises in a manner similar to disruptions caused by direct restraints, such as restricting ownership of non-resident bank accounts. For example, if a foreign government imposes significant taxes on the physical delivery of foreign currency in a non-resident bank account after a non-resident call holder exercises his option, that exercising holder's reasonable investment expectations would be frustrated. To help assure that exercising holders' reasonable investment expectations remain relatively unaffected by taxes, OCC under the proposal could institute alternative means to effect exercise settlement, such as requiring physical deliveries and receipts to occur in a country that does not impose significant taxes on non-resident accounts.

Second, the proposal will enable OCC to adjust foreign currency option exercise settlement procedures when OCC determines that foreign government restrictions would impose undue burdens on OCC or on OCC's affected Clearing Members. Previously, OCC could adjust those procedures only when such restrictions, in OCC's view, would make orderly exercise settlement impossible. The Commission believes that this change should enable OCC to react to foreign government restrictions at a suitably early time. Thus, the proposal should enable OCC to make appropriate adjustments before the settlement process becomes impossible. In addition, this amendment complements OCC's inclusion of taxes in the term "foreign government restrictions." As noted, such taxes could unduly burden Clearing Members without making settlement impossible. This amemdment thus should enable OCC to adjust exercise settlement procedures in those circumstances.

Third, OCC's authority to fashion adjustments to settlement procedures would be expanded under the proposal. Previously, OCC could fix U.S. dollar settlement prices in lieu of foreign currency only for exercising foreign currency call holders. Under the proposal, OCC not only could fix U.S. dollar settlement prices deliverable by assigned foreign currency call writers, OCC also could fix such prices deliverable by exercising foreign currency put holders.

The proposal's equal treatment of foreign currency call holders and put writers differs from OCC's treatment of equity option call holders and put writers in similar circumstances. The current provision is modeled after OCC's Rules authorizing OCC to adjust stock option exercise settlement procedures when shortages of the underlying security occur. As noted in the Commission's Order approving those Rules (*see* Securities Exchange Act Release No. 17124 (September 5, 1980, 45 FR 60100 (September 11, 1980)), such shortages can occur in connection with imminent or pending tender offers, exchange offers, suspensions of trading or similar events. Under the Rules approved in that Order, OCC can set cash settlement obligations for call writers who cannot deliver underlying securities on exercise settlement date. OCC, however, will prohibit put holders from exercising their contracts when they cannot deliver the underlying securities and will not set cash settlement prices in lieu of their failure to deliver those securities. Briefly, those Rules reflect OCC's determination that in a shortage situation, put holders, who are unable to fulfill the performance obligations created by their exercise, are distinguishable from call holders. Those put holders, prior to creating the exercise settlement contract, could have protected themselves by acquiring and holding the underlying securities. Failure to hold the securities prior to exercise may make such put holders unable to perform their exercise settlement obligations. In contrast, exercising call holders always are ready, willing and able to perform their exercise settlement obligations. At the same time, however, such exercising call holders cannot protect themselves against the risk of having their exercises assigned to uncovered call writers who cannot readily purchase stock for delivery because of a shortage of supply.[4]

The Commission believes that the considerations that apply in the equity context are inapplicable to foreign currency options. Absent a calamity that would cause economic disruption in countries of origin, shortages of deliverable foreign currency will not occur. As a result, the proposal focuses on foreign government restrictions, which could frustrate expectations suddenly and unpredictably for all parties to all types of foreign currency options contracts. For example, if a foreign government suddenly imposes a confiscatory tax on the receipt of foreign currency by nonresidents, non-resident exercising call holders and assigned put writers would be taxed. Conversely, if such a tax were imposed on deliveries of foreign currency, exercising put holders and assigned call writers would be taxed. In both cases, all parties to both types of contracts would be affected by the tax, either directly or indirectly.[5] Moreover, the cause of the parties' frustration in any case would be beyond their control. Thus, the Commission approves OCC's extension of authority to fix U.S. settlement prices in lieu of deliverable foreign currency for both exercising foreign currency call and put holders.

OCC's authority to adjust foreign currency exercise settlement procedures would be expanded to include any action that OCC in its discretion determines to be fair to the affected parties.[6] The Commission believes that OCC's "fairness" requirement will adequately discipline OCC's determinations under this provision. Moreoever, the Commission notes that OCC, as a registered clearing agency, is user-governed.[7] Thus, the opportunity for Clearing Members to express their opinions and views should operate to reduce significantly any likelihood that OCC's could abuse its discretion. In addition, OCC remains subject to Commission oversight under the Act. If

[4] *See generally* Securities Exchange Act Release No. 19678 (April 15, 1983), 48 FR at 17608–17609 (April 25, 1983). *See also* Securities Exchange Act Release No. 19127 (October 14, 1982), 47 FR 46941 (October 21, 1982) in which the Commission approved almost identical "shortage" rules for options on United States Treasury Securities.

[5] Delivering Clearing Members would be indirectly affected by a tax on Receiving Clearing Members. Delivering Clearing Members, whether exercising put holders or assigned call writers, would likely find their long foreign currency positions discounted.

[6] Under Article XV, § 4 of OCC's By-laws, OCC, through its Securities Committee (as defined in Article VI, § 11 of OCC's By-laws) has the discretion to adjust exercise prices, units of trading, number of contracts, or underlying currency regarding foreign currency option contracts in certain extraordinary circumstances as the Committee deems to be fair to affected writers and holders. These circumstances include when new currency is issued to replace underlying currency as the standard medium of exchange, or when the country revalues, devalues, or alters the exchange characteristics of the currency.

[7] *See* Sections 17A(b)(3)(C) of the Act and Article III of OCC's By-laws.

OCC were to abuse its discretion in making adjustments, the Commission under Section 19(h) of the Act could take appropriate action.

The Commission also believes that OCC, as a clearing agency creditor, must be able to take steps to facilitate the settlement of foreign currency options exercises and at the same time guard itself against potential financial exposure from Clearing Member default. In the Commission's view, the proposal accomplishes these objectives in a number of ways. First, by moving exercise settlement day to the fourth business day after the day on which an exercise notice is tendered properly to OCC, OCC will be better able to determine whether a Receiving Clearing Member has paid for foreign currency before OCC irrevocably authorizes delivery of foreign currency to that Clearing Member and whether a Delivering Clearing Member, in fact, has delivered or, under the proposal, has guaranteed delivery of, foreign currency, before OCC irrevocably authorizes delivery of foreign currency to the Receiving Clearing Member. Second, by requiring Delivering Clearing Members to guarantee foreign currency deliveries two business days prior to exercise settlement date, OCC will be able to identify early in the settlement process potential fails to deliver. This "early warning system" should enable OCC to take prompt, effective action to satisfy its settlement obligations, *i.e.*, to borrow foreign currency or to direct appropriate Receiving Clearing Members to buy-in foreign currency for the account and liability of OCC. As discussed above, OCC also has included in the proposal safeguards against potential financial exposure caused by borrowing foreign currency. For example, instead of OCC executing a buy-in for the account and liability of a delinquent Clearing Member, OCC can "retransmit" to the delinquent Clearing Member the liability for any buy-in executed for OCC's account by OCC's agent bank in London.

For the reasons stated above, the Commission finds that the proposed rule change is consistent with the Act and the rules thereunder applicable to registered clearing agencies, and in particular the requirements of Section 17A of the Act. Specifically, the Commission finds that the proposed rule change is consistent with Sections 17A(b)(3) (A) and (F) of the Act because it facilitates the prompt and accurate clearance and settlement of foreign currency options transactions and assures the safeguarding of funds which are in the custody or control of OCC or for which it is responsible.

The Commission also finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing. The Commission believes that acclerated approval should allow OCC ample time to implement the proposal for OCC's December foreign currency options expiration date. Moreover, because this proposal and other effective proposed rule changes in the last year require OCC to revise its December 1982 Foreign Currency Disclosure Document, accelerated approval should ensure OCC's early distribution of that revised Document to its Foreign Currency Clearing Members and their customers.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change referenced above be, and hereby is approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 83-31776 Filed 11-25-83; 8:45 am]

BILLING CODE 8010-01-M

[File No. 22-12815]

The Standard Oil Co., Sohio/BP Trans Alaska Pipeline Capital Inc. and Kennecott Corp.; Application and Opportunity for Hearing

November 22, 1983.

Notice is hereby given that the Standard Oil Company ("Sohio"), Sohio/BP Trans Alaska Pipeline Capital Inc. ("Capital") and Kennecott Corporation ("Kennecott") (Sohio, Capital and Kennecott being sometimes referred to herein as the "Applicants") have filed a joint application under clause (ii) of Section 310(b)(1) of the Trust Indenture Act of 1939 (the "Act") for a finding that the trusteeship of Morgan Guaranty Trust Company of New York ("Morgan") under two existing indentures that have been qualified under the Act, and four Trust Indentures which have not been qualified under the Act is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Morgan from acting as Trustee under any of such indentures.

Section 310(b) of the Act provides in part that, if a trustee under an indenture qualified under the Act has or shall acquire any conflicting interest, it shall within ninety days after ascertaining that it has such conflicting interest, either eliminate such conflicting interest or resign. Subsection (1) of such Section provides, in effect, with certain exceptions, that a trustee under a qualified indenture shall be deemed to have a conflicting interest if such trustee is trustee under another indenture under which any other securities of the same issuer are outstanding. However, under clause (ii) of subsection (1), there may be excluded from the operation of this provision another indenture under which other securities of the issuer are outstanding, if the issuer shall have sustained the burden of proving, on application to the Commission and after opportunity for hearing thereon, that trusteeship under such qualified indenture and such other indenture is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify such trustee from acting as trustee under either of such indentures.

The Applicants allege that:

(1) Morgan currently is acting as trustee under two indentures under which the Applicants are obligors. The indenture, dated as of December 1, 1974, and entered into between Capital and Morgan (the "1974 Indenture"), involved the issuance of $250,000,000 principal amount of 9¾ percent Debentures due 1999 (the "1974 Debentures"). The 1974 Indenture was filed as Exhibit 4 to Capital's Registration Statement No. 2-52263 filed under the Securities Act of 1933 (the "1933 Act") and has been qualified under the Act. Capital purchased from Sohio Pipe Line Company its 9¾ percent Guaranteed Note due 1999 in the principal amount of $169,500,000, guaranteed by Sohio (the "1974 Guarantee"). The indenture, dated as of December 1, 1976, and entered into between Sohio and Morgan (the "1976 Indenture"), involved the issuance of $200,000,000 principal amount of 7½ percent Notes due December 1, 1986 (the "1976 Notes"). The 1976 Indenture was filed as Exhibit 2(a) to Registration Statement No. 2-57682 of Sohio under the 1933 Act and has been qualified under the Act.

(2) The Applicants are not in default in any respect under the 1974 Indenture, the 1976 Indenture, the 1974 Guarantee or under any other existing indenture.

(3) In 1977 and 1978, Morgan entered into two Trust Indentures, dated as of November 15, 1977 and October 1, 1978, respectively, (the "Salt Lake County Indentures") with Salt Lake County, a political subdivision of the State of Utah ("Salt Lake County"), pursuant to which there were issued $70,000,000 principal amount of Pollution Control Revenue

Bonds due 2007 (Kennecott Project) and $50,000,000 principal amount of Pollution Control Revenue Bonds due 1998 (Kennecott Project), respectively, (the "Bonds"). Kennecott is obligated to pay the principal of, premium, if any, and interest on the Bonds pursuant to obligations under financing agreements entered into concurrently with the issuance of the Bonds (the "Financing Agreements").

(4) In 1979, Morgan entered into a Trust Indenture dated as of June 15, 1979 (the "1979 Indenture") with the Standard Oil Company (Ohio) International N.V. ("Sohio N.V.") and Kennecott, pursuant to which there were issued $100,000,000 principal amount of 9½ percent Guaranteed Notes due 1986 (the "1979 Notes").

(5) In 1983, Morgan entered into a Trust Agreement dated as of April 19, 1983 (the "Kuparuk Indenture") with Kuparuk Transportation Capital Corporation ("Kuparuk"), pursuant to which Kuparuk may issue up to $200,000,000 principal amount of its short-term promissory notes (the "Kuparuk Notes").

(6) Sohio is obligated to pay the principal of, premium, if any, and interest on the Bonds, 1979 Notes and a certain portion of the Kuparuk Notes pursuant to guarantees (the "Sohio Guarantees") contained in amendments to the Financing Agreements with respect to the Bonds, a First Supplemental Indenture with respect to the 1979 Notes and a Performance Guaranty Agreement with respect to the Kuparuk Notes.

(7) The Bonds have not been registered under the 1933 Act on the basis of the exemption provided by Section 3(a)(2) thereof, and the Salt Lake County Indentures have not been qualified under the Act on the basis of the provisions of Section 304 thereof. The 1979 Notes have not been registered under the 1933 Act and the 1979 Indenture has not been qualified under the Act because the 1979 Notes were sold wholly outside the United States. The Kuparuk Notes have not been registered under the 1933 Act on the basis of the exemption provided by Section 3(a)(3) thereof, and the Kuparuk Indenture has not been qualified under the Act on the basis of the provisions of Section 304 thereof.

(8) The Sohio Guarantees, if enforced against Sohio, would rank on a parity with the obligations evidenced by the 1974 Guarantee and the 1976 Indenture, and the obligations of Sohio under the Sohio Guarantees, the 1974 Guarantee and the 1976 Indenture are wholly unsecured.

(9) Aside from differences among the 1974 Indenture, the 1976 Indenture, the Salt Lake Country Indentures, the 1979 Indenture and the Kuparuk Indenture as to amounts, interest rates, maturity dates, redemption dates and redemption powers, and differences in form between the 1974 Indenture, the 1976 Indenture, the Salt Lake County Indentures, the 1979 Indenture and the Kuparuk Indenture, the terms of said indentures are substantially similar.

Such differences as exist between the 1974 Indenture, the 1976 Indenture, the Salt Lake County Indentures, the 1979 Indenture and the Kuparuk Indenture are not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Morgan from acting as Trustee under any of said indentures.

(10) Applicant has waived notice of hearing, hearing and any and all rights to specify procedures under the Rules of Practice of the Commission in connection with this matter.

For a more detailed statement of the matters of fact and law asserted, all persons are referred to said application, which is a public document on file in the office of the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington D.C.

Notice is further given that any interested person may, not later than December 19, 1983, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert, or he may request that he be notified if the Commission should order a hearing thereon.

Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. At any time after said date, the Commission may issue an order granting the application upon such terms and conditions as the Commission may deem necessary or appropriate in the public interest and the interest of investors, unless a hearing is ordered by the Commission.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-31779 Filed 11-25-83; 8:45 am]

BILLING CODE 8010-01-M

[File No. 81-682]

Sun Savings & Loan Association; Application

November 21, 1983.

Notice is hereby given that Sun Savings and Loan Association (the "Applicant"), as originator and servicer pursuant to General Provisions Governing Mortgage Participation Cerificates, Series 1982A, in connection with the issuance of Mortgage Pass-Through Certificates (the "Certificates"), has filed an application pursuant to Section 12(h) of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), for exemption from certain reporting requirements under Section 13, and from the operation of Section 16 of the Exchange Act.

The application states in part:

In the absence of an exemption, Applicant would be required to file reports adhering to all the item requirements of Forms 10–K, 10–Q and 8–K under the Exchange Act.

Applicant believes that the exemptive order requested by it is appropriate in that certain items of 8–K, Form 10–Q and Form 10–K under the Exchange Act are inapplicable to its pass-through mortgage pool arrangement, and the requirements of Section 16 of the Exchange Act are inapplicable to holders of its mortgage pass-through certificates.

For a more detailed statement of the information presented, all persons are referred to said application, which is on file in the Office of the Commission at the Public Reference Room, 450 Fifth Street, N.W., Washington, D.C. 20549.

Notice is further given that any interested person may submit to the Commission in writing not later than December 16, 1983, his views on any substantial facts bearing on the application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 450 5th Street, N.W., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert.

Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof. Any time after said date, an order granting the

application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 83-31778 Filed 11-25-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 23124; (70-6921)]

American Electric Power Co., Inc., Proposed Issuance and Sale of Short-Term Notes; Capital Contributions to Subsidiaries; Request for Exception From Competitive Bidding

November 18, 1983. Riverside Plaza, Columbus, Ohio 43215.

The American Electric Power Company, Inc. ("AEP"), 1 Riverside Plaza, Columbus, Ohio 43215, a registered holding company and several of its electric utility subsidiaries, hereinafter cited, have filed an application-declaration and amendments thereto with this Commission pursuant to Sections 6(b) and 12(b) of the Public Utility Holding Company Act of 1935 ("Act") and Rules 45, 50(a)(2) and 50(a)(5) under the Act.

During the period January 1 to December 31, 1984, AEP proposes to: (1) Issue and sell short-term notes to banks and to a commercial paper dealer in an aggregate amount not to exceed $165 million outstanding at any one time, and (2) make cash capital contributions to its subsidiaries as follows: $80 million to Columbus and Southern Ohio Electric Company ("C&OE"), $30 million to Indiana & Michigan Electric Company ("I&M"), and $72 million to Kentucky Power Company ("Kentucky"). During the same period, these subsidiaries, as well as Kingsport Power Company ("Kingsport") and Michigan Power Company ("Michigan") request authorization to issue and sell short-term notes to banks. C&SOE and I&M would also sell notes to a commercial paper dealer. The companies propose to sell notes in aggregate amounts outstanding at any one time up to: $160 million for C&SOE, $135 million for I&M, $50 million for Kentucky, $3.5 million for Kingsport, and $6 million for Michigan.

All notes will mature not more than 270 days after the date of issuance or renewal. None will mature later than June 30, 1985. The notes to banks will be sold under various lines of credit with different terms, including: (1) Rates at prime, not greater than 108.5% of prime, or not more then ½% above the London Interbank Offered Rate; (2) generally, no maintenance of separate or additional compensating balances since the companies maintain deposit balances for operational and financial needs; and (3) fees in the amount ⅜% of a line of credit or ¼% on the unused amount of a line of credit. Fees and balances for shared lines of credit are borne by the companies in proportion to their respective projected maximum need for such credit. With such fees and with balances maintained solely to fulfill borrowing requirements, no line of credit would result in an effective cost of borrowing exceeding 125% of the prime commercial rate in effect from time to time, or not more than 13.75% based on a prime rate of 11%.

The commercial paper will not be prepayable, will have varying maturities, and will be sold directly to a dealer at a discount not in excess of the discount rate per annum prevailing at the time of issuance for commercial paper of comparable quality and maturity. No commercial paper notes will be issued having a maturity of more than 90 days if such notes would have an effective interest cost which exceeds the effective interest cost at which such company could borrow from banks through the issuance of notes in an amount at least equal to the principal amount of such commercial paper at that time. The dealer may reoffer the commercial paper to not more than 200 of its customers, at a discount rate of ⅛% per annum less than the discount rate to AEP, C&SOE, or I&M.

An exception from the competitive bidding requirements of Rule 50 has been requested for the proposed issuance of commercial paper notes on the grounds that: (1) It is impractical to invite competitive bids for commercial paper; and (2) current rates are published daily. The proceeds from the borrowings will be used for general corporate purposes including business operations, construction, and retirement of short-term debt.

The application-declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by December 13, 1983, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicant-declarant at the address specified above. Proof of service (by affidavit or in the case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing and will receive a copy of any notice or order issued. After said date, the application-declaration, as then amended, may be granted and permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 83-31700 Filed 11-25-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 20402; (File No. 4-208)]

American Stock Exchange, Inc., et al.; Temporary Approval and Summary Effectiveness of Amendment to the Intermarket Trading System Plan

November 18, 1983.

In the matter of American Stock Exchange, Inc., Boston Stock Exchange, Inc., Cincinnati Stock Exchange, Inc., Midwest Stock Exchange, Inc., National Association of Securities Dealers, Inc., New York Stock Exchange, Inc., Pacific Stock Exchange, Inc., and Philadelphia Stock Exchange, Inc.

The Securities and Exchange Commission has issued an order, pursuant to Section 11A of the Securities Exchange Act of 1934 ("Act") and Rule 11As3-2 ("National Market System ("NMS") Plan Rule") thereunder, approving on a temporary basis an amendment ("Amendment") to the "Plan for the Purpose of Creating and Operating an Intermarket Communication Linkage ("Intermarket Trading System ("ITS") Plan").[1]

I. Background and Description of Amendment

The ITS participants filed the Amendment with the Commission on November 7, 1983. In general, the Amendment: (1) Permits "when issued" trading through ITS in the stock of the American Telephone and Telegraph Company ("AT&T") "ex the distribution" and the seven regional holding companies (collectively, the "AT&T WI stocks"); (2) gives priority to "regular way" trading through ITS in the event the ITS capacity is exceeded, particularly as a result of problems with ITS II; [2] (3) excepts each ITS participant

[1] The ITS Plan and subsequent amendments are contained in File No. 4-208. *See* Securities Exchange Act Release No. 19456 (January 23, 1983), 48 FR 4938.

[2] ITS II represents a total facilities upgrade of ITS that will expand the system's trading capacity and enable ITS to adapt more readily to future system enhancements.

market maker's first opening in AT&T WI stocks from the Pre-Opening Application procedures; [3] and (4) provides modified procedures for clearing AT&T WI trades.

II. Discussion

The Commission believes that it is important that ITS is available for the trading the AT&T WI stocks, given the activity anticipated in these securities. The Amendment represents an appropriate approach to ensuring that "when issued" trading in AT&T WI stocks is possible in the ITS without interrupting the smooth functioning of that System or diminishing its overall efficiency. In particular, the Commission believes that the Amendment's modifications to the Pre-Opening Application procedure and method for resolving potential capacity problems are practical short-term measures that address concerns related to the initial trading in AT&T WI stocks.

In light of the above, and because "when issued" trading in AT&T WI stocks will commence on November 21, 1983, the Commission, pursuant to paragraph (c)(4) of the NMS Plan Rule, has determined to grant the amendment summary effectiveness until February 15, 1984.

Accordingly, the Commission finds that granting the Amendment summary effectiveness and approving the Amendment on a temporary basis is in furtherance of the purposes of the Act, for the protection of investors, and removes impediments to and perfects mechanisms of, a national market system.

III. Request for Comment

Publication is expected to be made in the **Federal Register** during the week of November 21, 1983. In order to assist the Commission in determining whether to approve the Amendment permanently, persons are invited to submit written comments concerning the submission within 21 days from the date of publication in the **Federal Register.**

Persons desiring to make written comment should file six copies with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. All communications should refer to File No. 4–208. Copies of the submission and other related information other than that which may be withheld from the public [4] will be available for inspection and copying at the Commission's Public Reference Room, 450 Fifth Street, N.W., Washington, D.C. 20549.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 83-31696 Filed 11-25-83; 8:45 am]

BILLING CODE 8010-01-M

[3] Prior to the first opening, however, market makers in ITS participant markets will be required to transmit administrative messages concerning opening, or re-opening indications of interest furnished to the Consolidated Tape Association Plan processor.

[4] 17 CFR 240.24b–2.

[Release No. 20403; (SR-NASD-83-24)]

National Association of Securities Dealers, Inc.; Filing and Order Granting Accelerated Approval of Proposed Rule Change

November 21, 1983.

The National Association of Securities Dealers, Inc. ("NASD"), 1735 K Street, N.W., Washington, D.C. 20006, submitted on November 18, 1983, copies of a proposed rule change pursuant Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") and Rule 19b–4 thereunder, to temporarily amend Appendix A to Section 30 of the NASD's Rules of Fair Practice to eliminate, for purposes of "when issued" trading in the stock of American Telephone and Telegraph ("AT&T") and the regional holding companies, the exemption from the NASD's margin requirements presently available to special cash accounts of institutional investors. These investors will be subject to an initial minimum margin maintenance requirement of 10 percent which must be maintained at a level of 7 percent following the initial transaction. This temporary amendment will be in effect until "when issued" trading in these securities terminates. The NASD states that the proposed rule change is being made for the purpose of dealing with net capital and related financial problems which members may experience in connection with the divestiture of AT&T. The Commission understands that the NASD will be flexible in their application of this rule to institutions subject to legal impediments which would prevent them from making deposits directly with a broker-dealer.[1]

Interested persons are invited to submit written data, views and arguments concerning the proposed rule change within 21 days from the date of publication of the submission in the **Federal Register.** Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Reference should be made to File No. SR–NASD–83–24.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of the filing and of any subsequent amendments also will be available at the principal office of the above-mentioned self-regulatory organization.

The Commission finds that the proposed rule change is consistent with the requirements of the act and the rules and regulations thereunder applicable to the NASD and in particular, the requirements of Section 15A, and the rules and regulations thereunder.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof, in that "when issued" trading in the new shares commences November 21, 1983 at which time the proposed rule change addressing specific problems posed by "when issued" trading should be effective.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change referenced above be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 83-31696 Filed 11-25-83; 8:45 am]

BILLING CODE 8010-01-M

[1] *See* Letter from Frank J. Wilson, Executive Vice President and General Counsel, NASD, to selected NASD members, dated November 18, 1983.

[Release No. 20400; (SR-NYSE-83-49)]

New York Stock Exchange, Inc.; Order Granting Accelerated Approval of Proposed Rule Change

November 18., 1983.

The New York Stock Exchange, Inc. ("NYSE"), 11 Wall Street, New York, NY, submitted on October 17, 1983, copies of a proposed rule cxhange pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act") and Rule 19b–4 thereunder to provide a system for the execution,

processing and reporting of standard odd-lot market orders to purchase or sell shares in American Telephone & Telegraph Co. ("AT&T") and the equity shares created as a result of the AT&T divestiture.[1] In light of the increase in odd-lot order volume which is anticipated as a result of the divestiture, the Exchange is implementing procedures to ensure maximum capacity for odd-lot order processing as well as to provide for efficient clearance and settlement of these transactions. The procedures will be implemented on a nine-month pilot basis, commencing on the day such divestiture issues begin trading on the NYSE, which is expected to be November 21, 1983.

Under the NYSE procedures, standard odd-lot market orders to purchase or sell shares of AT&T and the equity issues created as a result of the divestiture which are received prior to the opening of trading will be processed through the Exchange's Opening Automated Report Service ("OARS") and executed at the opening price. No odd-lot differential will be charged on these orders. Standard odd-lot market orders which are received after the opening will be routed to the NYSE's Designated Order Turnaround ("DOT") System. Execution prices of these orders will be based on the prevailing NYSE quotation in the stock in which the order is entered at the time the order reaches the system.[2] No odd-lot differential will be charged on these orders. In the event of a DOT system failure, standard odd-lot market orders in the AJ&J issues may be routed to the Exchange's Pricing and Reporting System ("APARS") which is the system presently used for the pricing and reporting of all odd-lot orders executed on the Exchange. The orders will be executed at the price of the next round-lot sale which occurs after the order is received, plus or minus any differential.[3]

Notice of the Proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 20503, October 19, 1983) and by publication in the **Federal Register** (48 FR, October 24, 1983). All written statements with respect to the proposed rule change which were filed with the Commission and all written communications relating to the proposed rule change between the Commission and any person were considered and (with the exception of those statements or communications which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552) were made available to the public at the Commission's Public Reference Room.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and in particular, the requirements of Section 6 and the rules and regulations thereunder.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of the notice of filing thereof, in that trading in AT&T and the equity issues created as a result of the divestiture will begin trading of the NYSE on November 21, 1983. The proposed procedural and systems modifications will permit the Exchange to increase its capacity to execute odd-lot orders in anticipation of the large trading volume in the AT&T divestiture issues. In addition, the NYSE has stated in its filing that, during the nine-month pilot, the Exchange will monitor the activity in the AT&T divestiture issues, especially with respect to the effect the procedures described herein will have on the pricing of odd-lots.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 83-31697 Filed 11-25-83; 8:45 am]

BILLING CODE 8010-01-M

[1] Specifically, the following issues will be affected by the proposed procedures: American Information Technologies Corporation, American Telephone & Telegraph Co., Bell Atlantic Corporation, BellSouth Corporation, NYNEX Corporation, Pacific Telesis Group, Southwestern Bell Corporation and US - West, Inc.

[2] Buy orders will be executed at the best NYSE offer and sell orders will be executed at the best NYSE bid.

Processing of odd-lot market orders through the DOT system would require a change in the way such orders are currently priced under NYSE Rule 124(A). Rule 124(A) provides that standard odd-lot market orders are executed at a price based on the next NYSE round-lot sale after the order has been received in the system, plus or minus any differential.

[3] This is the present pricing procedure for odd-lot market orders as provided by NYSE Rule 124(A).

[Release No. 20394; (SR-NSCC-83-12)]

Filing and Immediate Effectiveness of Proposed Rule Change by the National Securities Clearing Corporation

November 18, 1983.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on October 27, 1983, National Securities Clearing Corporation ("NSCC") filed with the Commission a proposed rule change as described below. NSCC states that the proposal would enable NSCC. (1) To modify its Fee Structure [1] to reflect more accurately costs that it incurs for its services; (2) to act as a collection agent for charges assessed by self-regulatory organizations and security industry groups; and (3) to make technical changes to its Fee Structure to clarify or to delete a number of fees. This Commission is publishing this notice to solicit comments from persons interested in the proposed rule change.

First, NSCC proposes to delete the section "Regulatory Charges" from its Fee Structure. This section enabled NSCC to require its participants to pay their *pro rata* share of regulatory fees that NSCC paid to its shareholders (the New York and American Stock Exchanges and the National Association of Securities Dealers) for regulatory services. NSCC's shareholders no longer charge NSCC these fees. Instead, the shareholders now assess their respective members directly for these services.

NSCC additionally proposes to add a section to its Fee Structure that would enble NSCC to act as a collection agent for its shareholders, other self-regulatory organizations, and security industry groups, such as Securities Industry Automation Corporation ("SIAC"). As noted above, each shareholder, in separte proceedings, has established direct member assessments for regulatory services. The shareholders have requested NSCC to collect these fees for them, and NSCC has agreed. Moreover, NSCC has agreed with SIAC to collect, on SIAC's behalf, a ten dollar charge from each NSCC participant for the late return of magnetic tapes used in processing data. NSCC has represented that it will file with the Commission under Section 19(b) of the Act all written agreements with self-regulatory organizations and security industry groups in which NSCC agrees to act as a collection agent.

The proposed rule change has become effective under Section 19(b)(3)(A) of the Act and Rule 19b-4 thereunder. At any time within sixty days of the filing of such proposed rule change, the Commission can summarily abrogate the rule change if the Commission decides that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

[1] NSCC's Fee Structure is attached as Addendum A to NSCC's *Rules and Procedures*.

If you wish to comment on the proposal, please submit your written comments to the Commission within twenty-one days from the date this notice is published in the **Federal Register**. Please file six copies of your comments with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Please make sure that your comments refer to File No. SR–NSCC–83–12.

Copies of the filing, exhibits, and comments can be inspected at the Securities and Exchange Commission's Public Reference Room, 450 Fifth Street, NW., Washington, D.C. Copies of the filing also are available at NSCC's principal office.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 83-31669 Filed 11-25-83; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement; Cloverdale, Sonoma County, California

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in Sonoma County California.

FOR FURTHER INFORMATION CONTACT: David L. Eyres, District Engineer, Federal Highway Administration, P.O. Box 1915, Sacramento, California 95809, Telephone: (916) 440–3541.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the California Department of Transportation (Caltrans) will prepare an environmental impact statement (EIS) on a proposal to improve U.S. Route 101 in Sonoma County, California.

The proposed improvement would involve the replacement of the existing two lane conventional highway through Cloverdale with a four lane freeway easterly of the City of Cloverdale from 0.6 mile north of Hiatt Road to Preston Overhead for a distance of 4.4 miles. Improvements to the corridor are considered necessary to provide for the existing and projected traffic demand. Also included in this proposal is an undercrossing at First Street and interchanges at South Cloverdale Boulevard, Cloverdale Boulevard extension and at the north end of the proposed improvement.

The only other alternative under consideration is the no action alternative although grade and alignment design variations may be considered. The California Highway Commission (predecessor of the California Transportation Commission) adopted the route location for the proposed improvement. An Environmental Impact Report was prepared by Caltrans and all of the requirements of the California Environmental Quality Act (CEQA) have been satisfied. Scoping meetings and a public hearing were conducted in accordance with Federal regulations. The public hearing was held in December 1981. No other alternatives were suggested in the public hearing or from public comments, and there was no controversy. The State of California subsequently proceeded with design, right-of-way acquisition and a project which provided partial construction of the bypass including 0.7 miles of grading and paving for two traffic lanes. Construction and right-of-way acquisition were suspended when the FHWA, at the State's request, reestablished Federal-aid eligibility for the proposed improvement. As a Federal-aid project, environmental analysis under NEPA will be undertaken to determine whether the project can be further advanced with Federal-funds. Environmental analysis will consider all reasonable project alternatives as if no actions on final design, right-of-way acquisition, and construction have been taken.

Letters describing the proposed action and announcing reestablishment of Federal-aid eligibility will be sent to all appropriate Federal, State, and local agencies including those who were contracted during the scoping and environmental processes in developing the adopted EIR under State environmental laws and regulations. Letters soliciting comments will also be sent to private organizations and citizens who have previously expressed interest in this proposal. Although no additional formal scoping meetings are planned at the this time, scoping meetings will be held if requested. Another public hearing may be held. A public notice announcing availability of the DEIS and an opportunity for a hearing will be published.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

Dated: November 18, 1983.

David L. Eyres,

District Engineer, Sacramento, California.

[FR Doc. 83-31749 Filed 11-25-83; 8:45 am]

BILLING CODE 4910-22-M

Research and Special Programs Administration

Applications for Exemptions; Correction

On November 9, 1983 (48 FR 51562) a list of applicants for exemptions was published. Under application number 9165N the name "HARSCO Corporation (Taylor-Wharton) Easton, Pa., was omitted from Col. 2.Section 173.301(b) should have been 173.301(h) in Col. 3, and Mode 1 should be added to column 4 last sentence.

J.R. Grothe,

Exemptions Branch, Office of Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 83-31763 Filed 11-25-83; 8:45 am]

BILLING CODE 4910-60-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Department Circ. Public Debt Series—No. 35–83]

Treasury Notes of November 30, 1985, Series AB–1985

November 21, 1983.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of Chapter 31 of Title 31, United States Code, invites tenders for approximately $8,000,000,000 of United States securities, designated Treasury Notes of November 30, 1985, Series AB–1985 (CUSIP No. 912827 QE 5). The securities will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the bid yield of each accepted tender. The interest rate on the securities and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of these securities may be issued to Government accounts and Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the new securities may also be issued at the average price to Federal Reserve

Banks, as agents for foreign and international monetary authorities.

2. Description of Securities

2.1. The securities will be dated November 30, 1983, and will bear interest from that date, payable on a semiannual basis on May 31, 1984, and each subsequent 6 months on November 30 and May 31 until the principal becomes payable. They will mature November 30, 1985, and will not be subject to call for redemption prior to maturity. In the event an interest payment date or the maturity date is a Saturday, Sunday, or other nonbusiness day, the interest or principal is payable on the nextsucceeding business day

2.2. The income derived from the securities is subject to all taxes imposed under the Internal Revenue Code of 1954. The securities are subject to estate, inheritance, gift, or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, any possession of the United States, or any local taxing authority.

2.3. The securities will be acceptable to secure deposits of public monies. They will not be acceptable in payment of taxes.

2.4. Securities registered as to principal and interest will be issued in denominations of $5,000, $10,000, $100,000, and $1,000,000. Book-entry securities will be available to eligible bidders in multiples of those amounts. Interchanges of securities of different denominations and of registered and book-entry securities, and the transfer of registered securities will be permitted. Bearer securities will not be available, and the interchange of registered or book-entry securities for bearer securities will not be permitted.

2.5. The Department of the Treasury's general regulations governing United States securities apply to the securities offered in this circulars. These general regulation include those currently in effect, as well as those that may be issued at a later date.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, prior to 1:30 p.m., Eastern Standard time, Tuesday, November 22, 1983. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Monday, November 21, 1983, and received no later than Wednesday, November 30, 1983.

3.2. The face amount of securities bid for must be stated on each tender. The minimum bid is $5,000, and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Common fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield. No bidder may submit more than one noncompetitive tender, and the amount may not exceed $1,000,000.

3.3. Commercial banks which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions in and borrowings on such securities, may submit tenders for account of customers if the names of the customers and the amount for each customer are furnished. Other are permitted to submit tenders only for their own account.

3.4. Tenders will be received without deposit for their own account from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from others must be accompanied by full payment for the amount of securities applied for (in the form of cash, maturing Treasury securities, or readily collectible checks), or by a payment guarantee of 5 percent of the face amount applied for, from a commercial bank or a primary dealer.

3.5. A noncompetitive bidder may not have entered into an agreement, or make an agreement with respect to the purchase or sale or other disposition of any noncompetitive awards of this issue in this auction prior to the designated closing time for receipt of tenders.

3.6. Immediately after the closing hour, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extend required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, an interest rate will be established, on the basis of a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 99.500. That rate of interest will be paid on all of the securities. Based on such interest rate, the price on each competitive tender alloted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance or rejection of their tenders. Those submitting noncompetitive tenders will be notified only if the tender is not accepted in full, or when the price is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of securities specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for allotted securities must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on securities allotted to institutional investors and to others whose tenders are accompanied by a payment guarantee as provided in Section 3.4., must be made or completed on or before Wednesday, November 30, 1983. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general

regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Monday, November 28, 1983. When payment has been submitted with the tender and the purchase price of allotted securities is over par, settlement for the premium must be completed timely, as specified in the preceding sentence. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the face amount of securities allotted, shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered securities tendered in payment for allotted securities are not required to be assigned if the new securities are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new securities are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (securities offered by this circular) in the name of (name and taxpayer identifying number)." Specific instructions for the issuance and delivery of the new securities, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20226. The securities must be delivered at the expense and risk of the holder.

5.4. Delivery of securities in registered form will be made after the requested form of registration has been validated, the registered interest account has been established, and the securities have been inscribed.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make allotments as directed by the Secretary of the Treasury, to issue such notices as may be necessary, and to receive payment for and make delivery of securities on full-paid allotments.

6.2. The Secretary of the Treasury may at any time issue supplemental or amendatory rules and regulations governing the offering. Public announcement of such changes will be promptly provided.

Carole J. Dineen,

Fiscal Assistant Secretary.

[FR Doc. 83-31704 Filed 11-22-83; 2:22 pm]

BILLING CODE 4810-40-M

[Department Circular; Public Debt Series, No. 36-83]

Treasury Notes of February 15, 1989; Series G-1989

November 22, 1983.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of Chapter 31 of Title 31, United States Code, invites tenders for approximately $6,000,000,000 of United States securities, designated Treasury Notes of February 15, 1989, Series G-1989 (CUSIP No. 912827 of QF 2). The securities will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the bid yield of each accepted tender. The interest rate on the securities and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of these securities may be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

2. Description of Securities

2.1. The securities will be dated December 1, 1983, and will bear interest from that date, payable on a semiannual basis on August 15, 1984, and each subsequent 6 months on February 15 and August 15 until the principal becomes payable. They will mature February 15, 1989, and will not be subject to call for redemption prior to maturity. In the event an interest payment date or the maturity date is a Saturday, Sunday, or other nonbusiness day, the interest or principal is payable on the next-succeeding business day.

2.2. The income derived from the securities is subject to all taxes imposed under the Internal Revenue Code of 1954. The securities are subject to estate, inheritance, gift, or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, any possession of the United States, or any local taxing authority.

2.3. The securities will be acceptable to secure deposits of public monies. They will not be acceptable in payment of taxes.

2.4. Securities registered as to principal and interest will be issued in denominations of $1,000, $5,000, $10,000, $100,000, and $1,000,000. Book-entry securities will be available to eligible bidders in multiples of those amounts. Interchanges of securities of different denominations and of registered and book-entry securities, and the transfer of registered securities will be permitted. Bearer securities will not be available, and the interchange of registered or book-entry securities for bearer securities will not be permitted.

2.5. The Department of the Treasury's general regulations governing United States securities apply to the securities offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, prior to 1:30 p.m., Eastern Standard time, Tuesday, November 29, 1983. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Monday, November 28, 1983, and received no later than Thursday, December 1, 1983.

3.2. The face amount of securities bid for must be stated on each tender. The minimum bid is $1,000, and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Common fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield. No bidder may submit more than one noncompetitive tender, and the amount may not exceed $1,000,000.

3.3. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions in and borrowings

on such securities, may submit tenders for account of customers if the names of the customers and the amount for each customer are furnished. Others are permitted to submit tenders only for their own account.

3.4. Tenders will be received without deposit for their own account from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve banks; and Government account. Tenders from others must be accompanied by full payment for the amount of securities applied for (in the form of cash, maturing Treasury securities, or readily collectible checks), or by a payment guarantee of 5 percent of the face amount applied for, from a commercial bank or a primary dealer.

3.5. A noncompetitive bidder may not have entered into an agreement, or make an agreement with respect to the purchase or sale or other disposition of any noncompetitive awards of this issue in this auction prior to the designated closing time for receipt of tenders.

3.6. Immediately after the closing hour, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, an interest rate will be established, on the basis of a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 98.750. That rate of interest will be paid on all of the securities. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance or rejection of their tenders. Those submitting noncompetitive tenders will be notified only if the tender is not accepted in full, or when the price is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of securities specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for allotted securities must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on securities allotted to institutional investors and to others whose tenders are accompanied by a payment guarantee as provided in Section 3.4., must be made or completed on or before Thursday, December 1, 1983. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Tuesday, November 29, 1983. When payment has been submitted with the tender and the purchase price of allotted securities is over par, settlement for the premium must be completed timely, as specified in the preceding sentence. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the face amount of securities allotted, shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered securities tendered in payment for allotted securities are not required to be assigned if the new securities are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new securities are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (securities offered by this circular) in the name of (name and taxpayer identifying number)." Specific instructions for the issuance and delivery of the new securities, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20226. The securities must be delivered at the expense and risk of the holder.

5.4. Delivery of securities in registered form will be made after the requested form of registration has been validated, the registered interest account has been established, and the securities have been inscribed.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make allotments as directed by the Secretary of the Treasury, to issue such notices as may be necessary, and to receive payment for and make delivery of securities on full-paid allotments.

6.2. The Secretary of the Treasury may at any time issue supplemental or amendatory rules and regulations governing the offering. Public

announcement of such changes will be promptly provided.

Carole J. Dineen,

Fiscal Assistant Secretary.

[FR Doc. 83-31876 Filed 11-23-83; 4:04 pm]

BILLING CODE 4810-40-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

DEPARTMENT OF LABOR

Office of Pension and Welfare Benefit Programs

[Prohibited Transaction Exemption 83-162; Exemption Application Nos. D-3396 and D-3410]

Exemption From the Prohibitions for Certain Transactions Involving the Beneficial Corporation and Beneficial National Bank Located in Wilmington, Delaware

AGENCIES: Internal Revenue Service, Treasury; and Pension and Welfare Benefit Programs, Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption exempts the investment of the assets of certain Keogh plans and individual retirement accounts (IRAs) which are maintained by employees and directors of the Beneficial Corporation (the Employer) in a thrift club (the Thrift Club) sponsored by the Employer and whose assets constitute loans to the Employer. The exemption affects the Thrift Club, the Employer, the participants of the Thrift Club, the Keogh Plans, the IRAs, and other persons participating in the transactions.

EFFECTIVE DATE: This exemption is effective January 1, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Stewart Copeland of the Internal Revenue Service (the Service), telephone (202) 566-6761, or Ms. Linda Hamilton of the Department of Labor (the Department), telephone (202) 523-8881. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: On June 28, 1983, notice was published in the **Federal Register** (48 FR 29779) of the pendency before the Service and the Department of a proposal to grant an exemption from the restrictions of section 406(a) and 406 (b)(1) and (b)(2) of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1) (A) through (E) of the Code, for the above-described transactions. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Service and the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Service and the Department. In addition, the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. The applicant has represented that a copy of the notice was mailed to all interested persons on August 8, 1983. Since this notification occurred after the time period set forth in the notice of pendency, all interested persons were notified on August 25, 1983 that the comment period had been extended until September 8, 1983. No public comments and no requests for a hearing were received by the Service or the Department.

This application was filed with both the Department and the Service. The Act granted discretionary authority to the Secretaries of Labor and Treasury to issue administrative exemptions from the prohibited transactions provisions contained in Title I and Title II of the Act. In explaining these procedures, the Conference Report (H. R. Report No. 93-1280, 93rd Cong., 2d Sess. (1974) at p. 311) provides that the Secretary of Labor may refuse to grant an exemption if the transaction would constitute an abuse of the labor laws. Similarly, the Secretary of the Treasury may refuse to grant an exemption if the transaction would involve a tax abuse. Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue administrative exemptions under section 4975(c)(2) of the Code to the Secretary of Labor subject to certain narrow exceptions. Because the scope of the proposed exemption is limited to transactions involving IRAs and Keogh plans, the particular concern of the Service and the Department is to assure that the transactions of not conflict with the basic purpose for which such plans are established and afforded special tax benefits, that is, to provide retirement savings for participants and their beneficiaries. Accordingly, the Service and the Department have decided to jointly grant this exemption from the prohibited transactions restrictions of section 406(a) and 406(b) (1) and (2) of the Act and section 4975(c)(1) of the Code.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code including any prohibited transaction provisions to which the exemption does not apply; nor does the exemption affect the requirement of section 408(a) of the Code that an IRA must operate for the exclusive benefit of the individual for whose benefit the IRA is maintained and his or her beneficiaries or the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1) (F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975) and Rev. Proc. 75-26, 1975-1 C.B. 722, and based upon the entire record, the Service and the Department make the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the individuals for those benefit the IRA and Keogh plans are maintained; and

(c) It is protective of the rights of those individuals and their beneficiaries.

Accordingly, effective January 1, 1979, the restrictions of section 406(a) and 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the investment of the assets of IRAs in the Thrift Club as described in the notice of proposed exemption, so long as the terms of the transactions are no less favorable to the

IRAs than those obtainable in an arm's length transaction with an unrelated third party, and, effective January 1, 1979, the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the investment of the assets of Keogh plans as described in the notice of proposed exemption, so long as the terms of the transactions are no less favorable to the Keogh plans than those obtainable in an arm's length transaction with an unrelated third party.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transactions which are the subject of this exemption.

Signed at Washington, D.C., this 10th day of November, 1983.

Billy M. Hargett,

Director, Employee Plans Division, Internal Revenue Service, Department of the Treasury.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 83-31705 Filed 11-25-83; 8:45 am]

BILLING CODE 4830-01-M

UNITED STATES INFORMATION AGENCY

Radio Engineering Advisory Committee; Meeting

The Radio Engineering Advisory Committee of the United States Information Agency will meet in Washington, D.C. on Wednesday, December 14, 1983, to discuss current operations and future plans of the Voice of America (VOA). The meeting will be held at the VOA Headquarters, 330 Independence Avenue, SW., Room 3348, beginning at 9:00 AM. Point of contact for the meeting is Terry Balazs, tel: 202-485-8048.

This meeting will include a report by Morton Smith, Special Assistant to the Director of VOA for Negotiations, on the status of site negotiations for VOA relay stations, reports by senior staff members for VOA Engineering on the progress being made on preliminary engineering for new projects, and a discussion led by Maurice J. Raffensperger, Director of Engineering and Technical Operations, on specific technical plans for the VOA enhancement and modernization program and recommendations for correcting deficiences.

This meeting will be closed to the public because there will be a discussion of issues relating to future site negotiations for Voice of America relay stations. This meeting will be closed because disclosure of the matters to be discussed is likely to divulge information that is: (A) Specifically authorized under criteria established by an Executive Order to be kept secret in the interest of national defense or foreign policy; and (B) in fact is properly classified pursuant to such Executive Order (5 U.S.C. 552b(c)(1)).

Dated: November 16, 1983.

Charles Z. Wick,

Director.

[FR Doc. 83-31706 Filed 11-25-83; 8:45 am]

BILLING CODE 8230-01-M

Sunshine Act Meetings

Federal Register
Vol. 48, No. 229
Monday, November 28, 1983

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).

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1

FEDERAL MARITIME COMMISSION

TIME AND DATE: 9 a.m., November 30, 1983.

PLACE: Hearing Room One, 1100 L Street NW., Washington, D.C. 20573.

STATUS: Parts of the meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Portions open to the public:

1. Agreement No. 10424–7: Modification of the United States Atlantic & Gulf/Jamaica and Hispaniola Steamship Conference Agreement to provide for proportional ratemaking authority.
2. Agreement No. 2744–50: Modification of the Atlantic & Gulf/West Coast of South America Conference Agreement to add intermodal and miniland bridge authority.

Portions closed to the public:

1. Activities of Philippine Express Corp.
2. Pooling agreements in the United States and Brazilian and Argentine trades.
3. Docket No. 82–58: Action to Adjust or Meet Conditions Unfavorable to Shipping in the United States/Venezuela Trade—Review of status of proceeding.

CONTACT PERSON FOR MORE INFORMATION: Francis C. Hurney, Secretary (202) 523–5725.

[S–1654–83 Filed 11–22–83; 4:14 pm]
BILLING CODE 6730–01–M

2

FEDERAL RESERVE SYSTEM

TIME AND DATE: 2:30 p.m., Tuesday, November 22, 1983. The business of the Board required that this meeting be held with less than one week's advance notice to the public, and no earlier announcement of the meeting was practicable.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551

STATUS: Closed

MATTERS TO BE CONSIDERED:

1. Supervisory and regulatory matter.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452–3204

Date: November 22, 1983.

James McAfee,

Associate Secretary of the Board.

[S–1657–83 Filed 11–22–83; 5:18 pm]
BILLING CODE 6210–01–M

3

FEDERAL RESERVE SYSTEM

TIME AND DATE: 10 a.m., Wednesday, November 30, 1983.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets NW., Washington, D.C. 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED: *Summary Agenda:* Because of its routine nature, no substantive discussion of the following item is anticipated. This matter will be voted on without discussion unless a member of the Board requests that the item be moved to the discussion agenda:

1. Proposed amendment to Regulation D (Reserve Requirements of Depository Institutions) to index the low reserve tranche for transactions accounts and the reserve requirement exemption amount for 1984.

Discussion Agenda:

2. Review of public comments on amendments to the Board's Capital Adequacy Guidelines, adopted in June 1983.
3. Proposed definition of participations in bankers' acceptances for purposes of the exemption from the acceptance limits of the Bank Export Services Act. (Proposed earlier for public comment; Docket No. R–0474.)
4. Any items carried forward from a previously announced meeting.

Note.—This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for $5 per cassette by calling (202) 452–3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board, (202) 452–3204.

Dated: November 22, 1983.

James McAfee,

Associate Secretary of the Board.

[S–1655–83 Filed 11–22–83; 4:53 pm]
BILLING CODE 6210–01–M

4

FEDERAL RESERVE SYSTEM

TIME AND DATE: Approximately 11 a.m., Wednesday, November 30, 1983, following a recess at the conclusion of the open meeting.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE DISCUSSED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452–3204.

Dated: November 22, 1983.

James McAfee,

Associate Secretary of the Board.

[S–1656–83 Filed 11–22–83; 4:53 pm]
BILLING CODE 6201–01–M

5

LEGAL SERVICES CORPORATION

Board of Directors Meeting.

TIME AND DATE: It will commence at 9 a.m. and continue until all official business is completed; Monday, December 5, 1983.

PLACE: Doral Inn Hotel, Crystal Room, 541 Lexington Avenue, New York, New York 10022.

STATUS OF MEETING: Open (Portion of Meeting is to be closed to discuss personnel, personal, litigation, and investigatory matters under 45 CFR 1622.5 (a), (e), (f), and (h)).

MATTERS TO BE CONSIDERED:

1. Approval of Agenda;
2. Approval of Draft Minutes of November 7, 1983 Board Meeting;
3. Approval of Draft Minutes of November 21, 1983 Board Meeting;
4. Funding Formula Panel Discussion;
5. 1985 Budget Mark;
6. Public Comment Period (Maximum of two hours);
7. Needs Study Update.

CONTACT PERSON FOR MORE INFORMATION: LeaAnne Bernstein, Office of the President (202) 272–4040.

Dated: November 23, 1983.

Donald P. Bogard,

President.

[S–1658–83 Filed 11–23–83; 2:58 pm]

BILLING CODE 6820–35–M

6

NATIONAL COUNCIL ON EDUCATIONAL RESEARCH

TIME AND DATE: 7 p.m. to 11 p.m., November 13, 1983, and 8 a.m. to 7 p.m., November 14, 1983.

PLACE: November 13, 1983, Ramada Renaissance, 1143 New Hampshire Ave., N.W. Washington, D.C.; and November 14, 1983, National Council on Educational Research office, 2000 L St., N.W., Washington, D.C. 20036 (Suite 617B).

Note.—This notice corrects the Supplementary Information portion of the document (published November 8, 1983; 48 FR 51395) to read as set forth below.

STATUS FOR MEETING: The Search Committee, a subcommittee of N.C.E.R. will hold a closed meeting on November 13 and 14, 1983.

MATTERS TO BE DISCUSSED: Discussion of Internal Personnel; specifically, the selection of an Executive Director (interviewing and discussion of qualifications/resumes).

SUPPLEMENTARY INFORMATION: The N.C.E.R. Search Committee meeting will be closed. The agenda includes discussion of internal personnel matters; namely, selection of an Executive Director. The meeting will be closed on November 13 and 14, 1983 to review applications and to conduct interviews for the position of Executive Director of the Council. The meeting will be closed under the authority of Section 10(d) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. Appendix 1) and under exemptions (2) and (6) of Section 552b(c) of the Government in the Sunshine Act (Pub. L. 94–409; 5 U.S.C. 552b(c) (2) and (6). Discussion of the applications will include consideration of the qualifications and fitness of the candidates and will touch upon matters which would constitute a serious invasion of privacy if conducted in open session.

CONTACT PERSON FOR MORE INFORMATION: Renee' Trent, N.C.E.R. Associate, N.C.E.R. 2000 L Street, N.W., Suite 617B, Washington, D.C. 20036; 202/254–7490.

Patricia Hines,

N.C.E.R. Associate, Authorizing Official.

[S–1659–83 Filed 11–23–83; 3:02 pm]

BILLING CODE 4000–01–M

7

POSTAL SERVICE

(Board of Governors)

The board of Governors of the United States Postal Service, pursuant to its Bylaws (39 CFR 7.5) and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice that it intends to hold meetings at 11 a.m. on Monday, December 5, 1983, in Washington, D.C., and at 8:30 a.m. on Tuesday, December 6, 1983, in the Benjamin Franklin Room, 11th floor, Postal Service Headquarters, 475 L'Enfant Plaza, SW, Washington, D.C. As indicated in the following paragraph, the December 5 meeting is closed to public observation. The December 6 meeting is closed to public observation. The December 6 meeting is open to the public. The Board expects to discuss the matters stated in the agenda which is set forth below. Requests for information about the meetings should be addressed to the Secretary of the Board, David F. Harris, at (202) 245–3734.

At its meeting on October 31, 1983, the board voted in accordance with the provisions of the Government in the Sunshine Act to close to public observation its meeting scheduled for December 5. (See 48 FR 51396, November 8, 1983.) The agenda items of the meeting to be closed concern 1) consideration of the Postal Rate Commission Recommended Decision on third-class bulk rates for nonprofit mail (Docket R80–1); 2) strategic planning in connection with collective bargaining and 3) consideration of a change in the delivery of expedited mail.

Agenda

Monday Session, December 5 (closed):

11:00 a.m.:

1. Consideration of Postal Rate Commission Recommended Decision of August 26, 1983, on Third-Class Bulk Rates for Nonprofit Mail. (Docket R80–1.)
2. Strategic Planning—Collective Bargaining.
3. Consideration of a Proposed New Approach to the Delivery of Expedited Mail.

Tuesday Session, December 6 (open):

8:30 a.m.:

1. Minutes of the Previous Meeting, October 31–November 1, 1983.
2. Remarks of the Postmaster General.

(In keeping with its consistent practice, the Board's agenda provides this opportunity for the Postmaster General to inform the Members of miscellaneous current developments concerning the Postal Service. Nothing that requires a decision by the Board is brought up under this item.)

3. Officer Compensation.

(The Board will consider approval of two officer compensation matters.)

4. Review of the Postal Service's Budget Program.

(Mr. Coughlin, Senior Assistant Postmaster General, Finance Group, will present the Postal Service's budget for fiscal year 1985, as it is proposed for transmission to OMB and the Congress, for the approval of the Board.)

5. Report by the Audit Committee.

(Mr. McKean, Chairman of the Audit Committee, will report on the audited financial statements for the Postal Service for fiscal year 1983.)

6. Review of the Comprehensive Statement.

(Pub. L. 94–421 amended 39 U.S.C. 2401(g) to require the Postal Service to present a "Comprehensive Statement" to the Legislative and Appropriations Committees of the Congress having cognizance over postal matters. The Comprehensive Statement is to describe the plans and policies of the Postal Reorganization Act; postal operations generally; and financial summaries and projections. Mr. Horgan, Assistant Postmaster General, Government Relations Department, will present the proposed Comprehensive Statement for the Board's approval.)

7. Annual Report of the Postmaster General.

(The Board will consider the Annual Report of the Postmaster General to the Board concerning the operations of the Postal Service, as required by 39 U.S.C. 2402. Upon approval thereof, or after making such changes as it considers appropriate, the Board is to transmit this record to the President and the Congress. Ms. Layton, Assistant Postmaster General, Public and Employee Communications Department, will present the proposed Annual Report for Fiscal Year 1983.)

8. Capital Investment Projects:

a. Construction of a New General Mail Facility and Vehicle Maintenance Facility at Los Angeles, CA.

b. Construction of a Building at the General Mail Facility at Merrifield, VA, for use as a Postal Service Research and Development Facility.

(Mr. Chapp, Assistant Postmaster General, Engineering and Technical Support Department, will present the proposal for the Los Angeles General Mail Facility/Vehicle Maintenance Facility and Mr. Marable, Executive Director, Research and Development Laboratories, will present the proposal for the Research and Development Facility.)

9. Consideration of a Tentative Agenda for the January 9–10, 1984, Meetings of the Board in St. Louis, Missouri.

David F. Harris,

Secretary.

[S-1653-83 Filed 11-22-83; 4:13 pm]

BILLING CODE 7710-12-M

8

POSTAL SERVICE

BOARD OF GOVERNORS

There will be a meeting of the Audit Committee of the Board of Governors of the United States Postal Service at 9:30 a.m. on Monday, December 5, 1983, in the Benjamin Franklin Room, 11th floor, Postal Service Headquarters, 475 L'Enfant Plaza, S.W., Washington, D.C. The purpose of the meeting is to review the Fiscal Year 1983 Financial Report of the Postal Service. The meeting is open to the public. Requests for information should be addressed to the Secretary of the Board, David F. Harris at (202) 245–3734.

David F. Harris,

Secretary.

[S-1660-83 Filed 11-23-83; 3:40 pm]

BILLING CODE 7710-12-M

Federal Register

Monday
November 28, 1983

Part II

Department of the Interior

Fish and Wildlife Service

Endangered and Threatened Wildlife and Plants; Supplement to Review of Plant Taxa for Listing; Proposed Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Supplement to Review of Plant Taxa for Listing as Endangered or Threatened Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of review.

SUMMARY: The Service makes changes to the 1980 listings of those vascular plant taxa native to the United States that are being reviewed for possible addition to the list of Endangered and Threatened Plants under the Endangered Species Act of 1973, as amended (the Act). The changes primarily involve additions of taxa to and deletions of taxa from active consideration, changes in category for candidate taxa, and additions and deletions in their State distributions. The presence of the candidate taxa should be taken into account in environmental planning.

DATE: Comments are requested until further notice.

ADDRESSES: Interested persons or organizations should submit comments to the appropriate Regional Director(s) below or to: Director (OES), U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240. Comments and materials relating to this notice are available for public inspection by appointment during usual business hours at the Service's Office of Endangered Species, Suite 500, 1000 North Glebe Road, Arlington, Virginia.

Information relating to particular taxa may be obtained from the Endangered Species Coordinator(s) in the appropriate Service Regional Office(s) listed below:

Region 1.—California, Hawaii, Idaho, Nevada, Oregon, Washington, and Pacific territories

Regional Director (ARD/FA), U.S. Fish and Wildlife Service, Suite 1692, Lloyd 500 Building, 500 NE Multnomah Street, Portland, Oregon 97232, Telephone: 503/231-6131 (FTS: 8/429-6131);

Region 2.—Arizona, New Mexico, Oklahoma, and Texas

Regional Director (ARD/AFF), U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103, Telephone: 505/766-3972 (FTS: 8/474-3972);

Region 3.—Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Ohio, and Wisconsin

Regional Director (ARD/AFF), U.S. Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111, Telephone: 612/725-3276 (FTS: 8/725-3276);

Region 4.—Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Puerto Rico, and the Virgin Islands

Regional Director (ARD/FA), U.S. Fish and Wildlife Service, The Richard B. Russell Federal Building, 75 Spring Street, SW., Atlanta, Georgia 30303, Telephone: 404/221-3583 (FTS: 8/242-3583);

Region 5.—Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, and West Virginia

Regional Director (ARD/FA), U.S. Fish and Wildlife Service, Suite 700, One Gateway Center, Newton Corner, Massachusetts 02158, Telephone: 617/965-5100 ext. 316 (FTS: 8/829-9316, 7, 8);

Region 6.—Colorado, Kansas, Montana, Nebraska, North Dakota, South Dakota, Utah, and Wyoming

Regional Director (ARD/FA), U.S. Fish and Wildlife Service, P.O. Box 25486, Denver Federal Center, Denver, Colorado 80225, Telephone: 303/234-2496 (FTS: 8/234-2496);

Region 7.—Alaska.

Regional Director (ARD/AFF), U.S. Fish and Wildlife Service, 1101 East Tudor Road, Anchorage, Alaska 99503, Telephone: 907/786-3435 (FTS: 8/907/786-3435).

FOR FURTHER INFORMATION CONTACT: Endangered Species Coordinator(s) in the appropriate Regional Office(s), or Mr. John L. Spinks, Jr., Chief, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240, Telephone: 703/235-2771 (FTS: 8/235-2771).

SUPPLEMENTARY INFORMATION:

Background

The Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.)* requires determination of whether species of wildlife and plants are Endangered or Threatened, based on the best available scientific and commercial data. Recognizing a special need to focus on the conservation of Endangered and Threatened plants, which were first generally accorded the means for Federal protection therein, the 1973 Act directed the Secretary of the Smithsonian Institution to prepare a report on endangered and threatened plant species and recommend necessary conservation measures. The Smithsonian report, published as House Document No. 94-51, included a list of more than 3,000 native taxa. The Service published a notice on July 1, 1975 (40 FR 27823) in which it announced that this report had been accepted as a petition under the terms of the Act, and that the taxa named in the report and notice were being reviewed for possible inclusion in the list of Endangered and Threatened species.

A revision of the Smithsonian's report was published in 1978 as a book: E. S. Ayensu and R. A. DeFilipps, Endangered and Threatened Plants of the United States, Smithsonian Institution and World Wildlife Fund, Washington, D.C.; it also was accepted as a petition for the taxa newly included therein (48 FR 6752). The July 1975 notice was replaced on December 15, 1980, by the Service's publication in the **Federal Register** (45 FR 82479-82569) of a new comprehensive notice of review for native plants, which took into account the Smithsonian petitions and other accumulated information *(Endangered Species Technical Bulletin,* January 1981). A petition on one additional species *(Serianthes nelsonii)* has been accepted in the February 15, 1983, **Federal Register** (48 FR 6752); the plant is also included here.

Present Supplement

This first supplement to the 1980 notice (45 FR 82479) provides all necessary additions, deletions, and changes in status and State distributions of taxa that have come to the attention of the Service. Entries for taxa in the present supplement supersede entries for these taxa in the 1980 notice. (Information on entries for taxa still considered not vulnerable [i.e. in category 3] is not updated in this supplement.) The 1980 notice remains current for the taxa that are not included in this supplement because their entries are not changed, unless the taxa have been the subjects of proposed or final rules and thus are no longer simply candidates. For those taxa currently proposed as Endangered or Threatened species, see issues of the **Federal Register** and the *Endangered Species Technical Bulletin.* For taxa recently listed as Endangered or Threatened species, see those publications, and in particular a consolidated list in the July 27, 1983, issue of the **Federal Register** (48 FR 34181-34196) and at 50 CFR 17.12. The 1980 notice and this 1983 supplement together reflect the Service's current judgment of the possible vulnerability of all native vascular plant taxa (copies of each notice are available from the Service.) Taxa in the 1980

notice and in this supplement are grouped in several categories, as described below, in order to reflect the Service's present evaluation of their status.

Category 1 comprises taxa for which the Service currently has on file substantial information on biological vulnerability and threat(s) to support the appropriateness of proposing to list the taxa as Endangered or Threatened species. Presently, data are being gathered concerning any required Critical Habitat designations, and for many of the taxa, data concerning the precise boundaries for Critical Habitat designations. Development and publication of proposed rules on these taxa are anticipated, but because of the large number of such taxa, could take some years.

Also included in category 1 are taxa whose status in the recent past is known, but that may already have gone extinct. These plants may retain a high priority for addition to the list, subject to the confirmation of extant populations. Such possibly extinct taxa are indicated by an asterisk (*). Double asterisk (**) indicate taxa thought to be extinct in the wild, but known to be extant in cultivation.

Category 2 comprises taxa for which information now in possession of the Service indicates that proposing to list the taxa as Endangered or Threatened species is possibly appropriate, but for which substantial data on biological vulnerability and threat(s) are not currently known or on file to support proposed rules. Such taxa that are possibly extinct are again indicated by an asterisk (*). Further biological research and field study usually will be necessary to ascertain the status of the taxa in category 2, and some of the taxa are of uncertain taxonomic validity. It is likely that some of the taxa will not warrant listing, while some will be found to be in greater danger of extinction than some taxa in category 1. It is hoped that this notice will encourage the necessary research on vulnerability, taxonomy, and/or threats for these taxa. To organize and elaborate status information that may be submitted, contributors are encouraged to use the status report guidelines of Henifin *et al.*, pages 261–282 in L. E. Morse and M. S. Henifin, editors, Rare Plant Conservation, 1981, The New York Botanical Garden, Bronx, New York; copies of these guidelines are available from the Service.

Category 3 comprises taxa that are no longer being considered for listing as Threatened or Endangered species. Such taxa are included in one of three subcategories, depending on the reason(s) for removal from consideration.

3A. Taxa for which the Service has persuasive evidence of extinction. If rediscovered, however, such taxa might acquire high priority for listing. At this time, the best available information indicates that the taxa included in this subcategory, or the habitats from which they were known, are in fact extinct or destroyed, respectively.

3B. Names that, on the basis of current taxonomic understanding, usually as represented in published revisions and monographs, do not represent taxa meeting the Act's definition of "species." Such supposed taxa could be reevaluated in the future on the basis of subsequent research.

3C. Taxa that have proven to be more abundant or widespread than was previously believed and/or those that are not subject to any identifiable threat. Should further research or changes in land use indicate significant decline in any of these taxa, they may be reevaluated for possible inclusion in category 1 or 2.

The taxa in categories 1 and 2 of this notice or remaining unchanged in those categories in the 1980 notice (45 FR 82479) are candidates for possible addition to the List of Endangered and Threatened Plants, and therefore should receive consideration in environmental planning, such as in environmental impact analysis under the National Environmental Policy Act of 1969 (implemented at 40 CFR Parts 1500–1508).

The Service hereby requests that information on the vulnerable taxa named in this notice or the 1980 notice be submitted as soon as possible and on a continuing basis. Especially sought are data for our files—

(1) indicating that a taxon would more properly be assigned to a category other than the one in which it appears;

(2) nominating a taxon not included;

(3) recommending an area as Critical Habitat for a candidate taxon, or indicating that proposal of Critical Habitat would not be prudent for a taxon;

(4) documenting threats to any of the included taxa;

(5) informing the Service of the intensity and immediacy of threats to any of the taxa;

(6) pointing out taxonomic changes for any of the taxa;

(7) suggesting appropriate common names; or

(8) noting errors, such as any in the indicated historic distributions.

The Service intends to consider all information received in response to this notice, to amend the contents of categories 1, 2, and 3 to reflect current knowledge concerning affected plant taxa, and to indicate its intentions with regard to future listing actions (in accord with 50 CFR 424.15, as currently published and with the modifications proposed in the **Federal Register** (48 FR 36061) on August 8, 1983). Substantive changes may be announced by periodic supplemental or revised replacement notices in the **Federal Register.**

Relationship to Petition Requirements

All candidate plant taxa (which are those remaining in category 1 or 2 of the 1980 notice or in those categories in this supplementary notice) are treated as under petition, and these notices serve for the review of status required by Section 4(b)(3)(A) of the Act, as amended in 1982. The Service will soon respond separately in the **Federal Register** to the requirements of Section 4(b)(3)(B) of the Act for appropriate petitioned plants and animals.

Organization of Lists

The following lists are arranged alphabetically by names of genera and species. Synonyms have been provided when necessary to avoid confusion. In some cases, taxa have been included that have not yet been formally described in the scientific literature. Such taxa are usually identified by a name followed by "sp. (ssp., var.) nov. ined." Following the scientific name of each species (subspecies, variety) are a family designation and any common name. Known historical ranges are given on the right for all included taxa, usually indicated by abbreviations for States. Some taxa may no longer occur in some of the areas shown.

For each taxon, the assigned category of status appears on the lef:. Table I lists

the taxa in categories 1 and 2 (candidates), as defined above. Table II lists the taxa in category 3, indicating subcategories.

This notice was prepared by Dr. Bruce MacBryde in the Service's Office of Endangered Species in Washington (703/235–1975; FTS 8/235–1975), from evaluations by appropriate staff botanists or biologists in the Washington Office and in the Service's Endangered Species Program in Regional Offices and Field Stations. The Service gratefully acknowledges the computer assistance of Dr. Larry E. Morse, The Nature Conservancy, Arlington, Virginia, and Dr. John Nagy, Brookhaven National Laboratory, Upton, New York, in compiling the lists of taxa.

Dated: October 27, 1983.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

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BILLING CODE 4310-55-C

TABLE I

TAXA CURRENTLY UNDER REVIEW

CAT	TAXON	FAMILY	COMMON NAME	HISTORICAL DISTRIBUTION
2	ABRONIA ALPINA	NYCTAGINACEAE	SAND-VERBENA, ALPINE	CA
2	ABRONIA MACROCARPA	NYCTAGINACEAE		TX
2	ACANTHOMINTHA ILICIFOLIA	LAMIACEAE	THORN-MINT, SAN DIEGO	CA, MEXICO
2	ACLEISANTHES CRASSIFOLIA	NYCTAGINACEAE		TX, MEXICO
1	AGALINIS ACUTA	SCROPHULARIACEAE	GERARDIA, SANDPLAIN	CT MA NY RI
2	AGALINIS PSEUDAPHYLLA	SCROPHULARIACEAE		AL LA MS TN
2	AGALINIS PURPUREA VAR. CARTERI	SCROPHULARIACEAE		FL
2*	AGALINIS STENOPHYLLA	SCROPHULARIACEAE	FALSE FOXGLOVE,	FL
2	AGAVE PARVIFLORA	LILIACEAE		AZ
2	AGROSTIS ARISTIGLUMIS	POACEAE	BENT GRASS, AWNED	CA
2	AGROSTIS BLASDALEI VAR. BLASDALEI	POACEAE	BENT GRASS, BLASDALE'S	CA
2	AGROSTIS BLASDALEI VAR. MARINENSIS	POACEAE	BENT GRASS, MARIN	CA
2	AGROSTIS CLIVICOLA VAR. CLIVICOLA	POACEAE	BENT GRASS, COASTAL BLUFF	CA
2	AGROSTIS CLIVICOLA VAR. PUNTA-REYESENSIS	POACEAE	BENT GRASS, POINT REYES	CA
2	AGROSTIS ROSSIAE	POACEAE	BENT GRASS, ROSS	WY
2	ALLIUM HOFFMANII	LILIACEAE	ONION, BEEGUM	CA
2	ALLIUM OXYPHILUM	LILIACEAE		VA WV
2	ALOPECURUS AEQUALIS VAR. SONOMENSIS	POACEAE	ALOPECURUS, SONOMA	CA
2	AMARANTHUS PUMILUS	AMARANTHACEAE	PIGWEED, SEA-BEACH	DE MA MD NC NJ NY RI SC VA
2	AMBROSIA LINEARIS	ASTERACEAE		CO
2	AMBROSIA PUMILA	ASTERACEAE	AMBROSIA, SAN DIEGO	CA
2	AMPHIANTHUS PUSILLUS	SCROPHULARIACEAE	AMPHIANTHUS, LITTLE	AL GA SC
2*	AMSINCKIA CARINATA	BORAGINACEAE		OR
2	AMSINCKIA FURCATA	BORAGINACEAE		CA
2	AMSINCKIA VERNICOSA	BORAGINACEAE		CA
	AMSINCKIA VERNICOSA VAR. FURCATA	*** SEE ***	AMSINCKIA FURCATA	
2	AMSONIA GRANDIFLORA	APOCYNACEAE		AZ, MEXICO
2	AMSONIA TABERNAEMONTANA VAR. GATTINGERI	APOCYNACEAE		TN
2	AMSONIA THARPII	APOCYNACEAE		TX
2	ANGURIA COOKIANA	CUCURBITACEAE	ALGODONCILLO	PR
2	ANTIRRHINUM SUBCORDATUM	SCROPHULARIACEAE	SNAPDRAGON, DIMORPHIC	CA
2	AQUILEGIA CANADENSIS VAR. AUSTRALIS	RANUNCULACEAE	COLUMBINE, CANADIAN,	FL
2	AQUILEGIA HINCKLEYANA	RANUNCULACEAE	COLUMBINE, HINCKLEY'S	TX
2	ARABIS BREWERI VAR. AUSTINIAE	BRASSICACEAE		CA
2	ARABIS BREWERI VAR. PECUNIARIA	BRASSICACEAE	ROCK CRESS, SAN BERNARDINO	CA
2	ARABIS CONSTANCEI	BRASSICACEAE	ROCK CRESS, CONSTANCE'S	CA
1*	ARABIS HOFFMANNII	BRASSICACEAE	ROCK CRESS, HOFFMANN'S	CA
2	ARABIS KOEHLERI VAR. KOEHLERI	BRASSICACEAE	ROCK CRESS, KOEHLER'S	OR
2	ARABIS MISSOURIENSIS VAR. DEAMII	BRASSICACEAE		IN MI MO WI
1*	ARABIS PERSTELLATA VAR. AMPLA	BRASSICACEAE	ROCK CRESS, LARGE	TN
1	ARABIS PERSTELLATA VAR. PERSTELLATA	BRASSICACEAE	ROCK CRESS, SMALL	KY
2	ARABIS PUSILLA	BRASSICACEAE		WY
2	ARABIS SEROTINA	BRASSICACEAE		VA WV
2	ARABIS SP. NOV. /INED. (DEL NORTE, CURRY COS.)	BRASSICACEAE		CA OR
2	ARABIS WILLIAMSII	BRASSICACEAE		WY
2	ARCTOMECON CALIFORNICA	PAPAVERACEAE	DESERT-POPPY,	AZ NV
	ARCTOSTAPHYLOS BAKERI	*** SEE ***	ARCTOSTAPHYLOS PUNGENS SSP. BAKERI	
2	ARCTOSTAPHYLOS CATALINAE	ERICACEAE	MANZANITA, SANTA CATALINA ISLAND	CA
	ARCTOSTAPHYLOS DENSIFLORA	*** SEE ***	ARCTOSTAPHYLOS UVA-URSI VAR. DENSIFLORA	
	ARCTOSTAPHYLOS EDMUNDSII VAR. EDMUNDSII	*** SEE ***	ARCTOSTAPHYLOS UVA-URSI SSP. EDMUNDSII	
1	ARCTOSTAPHYLOS GLUTINOSA	ERICACEAE	MANZANITA, SCHREIBER'S	CA
	ARCTOSTAPHYLOS HOOKERI SSP. FRANCISCANA	*** SEE ***	ARCTOSTAPHYLOS UVA-URSI VAR. FRANCISCANA	
	ARCTOSTAPHYLOS HOOKERI SSP. HEARSTIORUM	*** SEE ***	ARCTOSTAPHYLOS UVA-URSI VAR. HEARSTIORUM	
2	ARCTOSTAPHYLOS KLAMATHENSIS	ERICACEAE		CA

TABLE I (CONTINUED) TAXA CURRENTLY UNDER REVIEW

	ARCTOSTAPHYLOS MONTANA	*** SEE ***	ARCTOSTAPHYLOS PUNGENS SSP. MONTANA	
2	ARCTOSTAPHYLOS MONTARAENSIS	ERICACEAE	MANZANITA, MONTARA	CA
	ARCTOSTAPHYLOS MYRTIFOLIA	*** SEE ***	ARCTOSTAPHYLOS UVA-URSI SSP. MYRTIFOLIA	
	ARCTOSTAPHYLOS PACIFICA	*** SEE ***	ARCTOSTAPHYLOS UVA-URSI VAR. SAXICOLA	
2	ARCTOSTAPHYLOS PALLIDA	ERICACEAE	MANZANITA, ALAMEDA	CA
2	ARCTOSTAPHYLOS PILOSULA SSP. PILOSULA	ERICACEAE	MANZANITA, SANTA MARGARITA	CA
	ARCTOSTAPHYLOS PUMILA	*** SEE ***	ARCTOSTAPHYLOS UVA-URSI SSP. PUMILA	
2	ARCTOSTAPHYLOS PUNGENS SSP. BAKERI	ERICACEAE	MANZANITA, BAKER'S	CA
2	ARCTOSTAPHYLOS PUNGENS SSP. MONTANA	ERICACEAE	MANZANITA, TAMALPAIS	CA
2	ARCTOSTAPHYLOS SILVICOLA	ERICACEAE	MANZANITA, SILVER-LEAVED	CA
2	ARCTOSTAPHYLOS UVA-URSI SSP. EDMUNDSII	ERICACEAE	MANZANITA, LITTLE SUR	CA
1	ARCTOSTAPHYLOS UVA-URSI SSP. MYRTIFOLIA	ERICACEAE	MANZANITA, IONE	CA
2	ARCTOSTAPHYLOS UVA-URSI SSP. PUMILA	ERICACEAE	MANZANITA, SANDMAT	CA
1	ARCTOSTAPHYLOS UVA-URSI VAR. DENSIFLORA	ERICACEAE	MANZANITA, VINE HILL	CA
1**	ARCTOSTAPHYLOS UVA-URSI VAR. FRANCISCANA	ERICACEAE	MANZANITA, SAN FRANCISCO	CA
2	ARCTOSTAPHYLOS UVA-URSI VAR. HEARSTIORUM	ERICACEAE	MANZANITA, HEARST'S	CA
1**	ARCTOSTAPHYLOS UVA-URSI VAR. LEOBREWERI	ERICACEAE	MANZANITA, LEO BREWER'S	CA
2	ARCTOSTAPHYLOS UVA-URSI VAR. MARINENSIS	ERICACEAE	MANZANITA, PT. REYES	CA
2	ARCTOSTAPHYLOS UVA-URSI VAR. MONOENSIS	ERICACEAE	MANZANITA, MONO	CA
1	ARCTOSTAPHYLOS UVA-URSI VAR. SAXICOLA	ERICACEAE	MANZANITA, PACIFIC	CA
2	ARCTOSTAPHYLOS VIRGATA	ERICACEAE	MANZANITA, BOLINAS	CA
2	ARENARIA ALABAMENSIS	CARYOPHYLLACEAE	SANDWORT, ALABAMA	AL NC
	ARENARIA DECUMBENS	*** SEE ***	MINUARTIA DECUMBENS	
2*	ARENARIA FRANKLINII VAR. THOMPSONII	CARYOPHYLLACEAE		OR
2	ARENARIA LIVERMORENSIS	CARYOPHYLLACEAE	SANDWORT, LIVERMORE	TX
2	ARENARIA MACRADENIA VAR. KUSCHEI	CARYOPHYLLACEAE	SANDWORT, FOREST CAMP	CA
	ARENARIA ROSEI	*** SEE ***	MINUARTIA ROSEI	
2	ARGEMONE MUNITA SSP. ROBUSTA	PAPAVERACEAE	PRICKLY-POPPY, ROBUST	CA
2	ARGYTHAMNIA APHOROIDES	EUPHORBIACEAE	MERCURY, WILD,	TX
2	ARGYTHAMNIA BLODGETTII	EUPHORBIACEAE		FL
2	ARISTIDA SIMPLICIFLORA	POACEAE		AL FL MS
2	ARNICA VENOSA	ASTERACEAE	ARNICA, VEINY	CA
2	ARTEMISIA ALEUTICA	ASTERACEAE	WORMWOOD, ALEUTIAN	AK
2	ARTEMISIA LUDOVICIANA SSP. ESTESII	ASTERACEAE		OR
2	ARTEMISIA SENJAVINENSIS	ASTERACEAE	SAGE, ARCTIC	AK, U.S.S.R.
2	ASCLEPIAS CUTLERI	ASCLEPIADACEAE	MILKWEED, CUTLER	AZ UT
2	ASCLEPIAS MEADII	ASCLEPIADACEAE	MILKWEED, MEAD'S	IL IN IA KS MO WI
2	ASTER CHILENSIS VAR. LENTUS	ASTERACEAE	ASTER, SUISUN	CA
2	ASTER FURCATUS	ASTERACEAE		AR IL IN IA MO WI
2	ASTER JESSICAE	ASTERACEAE		ID WA
2	ASTER SCHISTOSUS	ASTERACEAE		VA
2	ASTER SPINULOSUS	ASTERACEAE		FL
2	ASTER YUKONENSIS	ASTERACEAE	ASTER, YUKON	AK, CANADA (YUKON)
2	ASTRAGALUS ACCUMBENS	FABACEAE		NM
2	ASTRAGALUS AEQUALIS	FABACEAE		NV
1	ASTRAGALUS APPLEGATII	FABACEAE		OR
2	ASTRAGALUS ATRATUS VAR. INSEPTUS	FABACEAE	MILK-VETCH,	ID
2	ASTRAGALUS BARNEBYI	FABACEAE	MILK-VETCH, BARNEBY	AZ UT
2	ASTRAGALUS BEATLEYAE	FABACEAE	MILK-VETCH, BEATLEY	NV
2	ASTRAGALUS BRAUNTONII	FABACEAE	MILK-VETCH, BRAUNTON'S	CA
2	ASTRAGALUS CAMPTOPUS	FABACEAE		ID
2	ASTRAGALUS CLARIANUS	FABACEAE	MILK-VETCH, NAPA	CA
2	ASTRAGALUS DEANEI	FABACEAE	MILK-VETCH, DEANE	CA
2	ASTRAGALUS DESERETICUS	FABACEAE	MILK-VETCH, DESERET	UT
2	ASTRAGALUS DIAPHANUS	FABACEAE		OR WA
2	ASTRAGALUS DOUGLASII VAR. PERSTRICTUS	FABACEAE	MILK-VETCH, ROUND-PODDED	CA
2	ASTRAGALUS EQUISOLENSIS	FABACEAE	MILK-VETCH,	UT

TABLE I (CONTINUED) TAXA CURRENTLY UNDER REVIEW

2	ASTRAGALUS FUNEREUS	FABACEAE	WOOLY POD, BLACK	CA NV
2	ASTRAGALUS GEYERI VAR. TRIQUETRUS	FABACEAE		AZ NV
2	ASTRAGALUS HARRISONII	FABACEAE	MILK-VETCH, HARRISON	UT
2	ASTRAGALUS HOLMGRENIORUM	FABACEAE		AZ UT
1	ASTRAGALUS HUMILLIMUS	FABACEAE	MILK-VETCH, MANCOS	CO NM
2	ASTRAGALUS JAEGERIANUS	FABACEAE	MILK-VETCH, COOLGARDIE	CA
2*	ASTRAGALUS KENTROPHYTA VAR. DOUGLASII	FABACEAE	MILK-VETCH, THISTLE, DOUGLAS	OR WA
2	ASTRAGALUS KNIGHTII	FABACEAE		NM
2	ASTRAGALUS LENTIGINOSUS VAR. MICANS	FABACEAE	MILK-VETCH, SHINY	CA
2*	ASTRAGALUS LENTIGINOSUS VAR. URSINUS	FABACEAE	MILK-VETCH, BEAR VALLEY	UT
2	ASTRAGALUS MAGDALENAE VAR. PEIRSONII	FABACEAE	MILK-VETCH, PEIRSON'S	CA
2	ASTRAGALUS MOHAVENSIS VAR. HEMIGYRUS	FABACEAE	MILK-VETCH, DARWIN MESA	CA NV
2	ASTRAGALUS MULPORDIAE	FABACEAE		ID OR
2	ASTRAGALUS MUSIMONUM	FABACEAE		AZ NV
2	ASTRAGALUS NEVINII	FABACEAE	MILK-VETCH, SAN CLEMENTE ISLAND	CA
2	ASTRAGALUS ONICIFORMIS	FABACEAE		ID
2	ASTRAGALUS OOCARPUS	FABACEAE	MILK-VETCH, DESCANSO	CA
1*	ASTRAGALUS PYCNOSTACHYUS VAR. LANOSISSIMUS	FABACEAE	MILK-VETCH, VENTURA MARSH	CA
2	ASTRAGALUS ROBBINSII VAR. ALPINIFORMIS	FABACEAE	MILK-VETCH, ROBBINS,	OR
2	ASTRAGALUS ROBBINSII VAR. OCCIDENTALIS	FABACEAE	MILK-VETCH, ROBBINS,	NV
2	ASTRAGALUS SHULTZIORUM	FABACEAE		WY
2	ASTRAGALUS STERILIS	FABACEAE	MILK-VETCH,	ID OR
2	ASTRAGALUS STRIATIFLORUS	FABACEAE	MILK-VETCH, ESCARPMENT	AZ UT
2	ASTRAGALUS SUBCINEREUS VAR. BASALTICUS	FABACEAE		UT
2	ASTRAGALUS TENER VAR. TITI	FABACEAE	RATTLEWEED, COASTAL DUNES	CA
2	ASTRAGALUS TENNESSEENSIS	FABACEAE		AL IL IN TN
2	ASTRAGALUS TRASKIAE	FABACEAE	MILK-VETCH, TRASK'S	CA
2	ASTRAGALUS UNCIALIS	FABACEAE	MILK-VETCH,	NV UT
2	ASTRAGALUS VEXILLIFLEXUS VAR. NUBILUS	FABACEAE		ID
1	ASTRAGALUS YODER-WILLIAMSII	FABACEAE		ID NV
1	ATRIPLEX TULARENSIS	CHENOPODIACEAE	SALTBUSH, BAKERSFIELD	CA
2	ATRIPLEX VALLICOLA	CHENOPODIACEAE	SALTBUSH, LOST HILLS	CA
2	BACCHARIS PLUMMERAE SSP. GLABRATA	ASTERACEAE	BACCHARIS, HOOVER'S	CA
2	BACCHARIS VANESSAE	ASTERACEAE	BACCHARIS, ENCINITIS	CA
2*	BACOPA SIMULANS	SCROPHULARIACEAE	WATER-HYSSOP, CHICKAHOMINY	VA
2	BACOPA STRAGULA	SCROPHULARIACEAE	WATER-HYSSOP, MAT-FORMING	MD VA
1	BANARA VANDERBILTII	FLACOURTIACEAE		PR
2	BAPTISIA CALYCOSA VAR. CALYCOSA	FABACEAE		FL
2	BAPTISIA CALYCOSA VAR. HIRSUTA	FABACEAE	WILD INDIGO, HAIRY	FL
	BAPTISIA HIRSUTA	*** SEE ***	BAPTISIA CALYCOSA VAR. HIRSUTA	
2	BAPTISIA SIMPLICIFOLIA	FABACEAE		FL
2	BENSONIELLA OREGONA	SAXIFRAGACEAE	BENSONIELLA	CA OR
	BERBERIS NERVOSA VAR. MENDOCINENSIS	*** SEE ***	MAHONIA NERVOSA VAR. MENDOCINENSIS	
	BERBERIS NEVINII	*** SEE ***	MAHONIA NEVINII	
	BERBERIS PINNATA SSP. INSULARIS	*** SEE ***	MAHONIA PINNATA SSP. INSULARIS	CA
2	BIDENS BIDENTOIDES VAR. MARIANA	ASTERACEAE	BUR-MARIGOLD, MARYLAND	MD
2	BLENNOSPERMA BAKERI	ASTERACEAE	BLENNOSPERMA, BAKER'S	CA
2	BLENNOSPERMA NANUM VAR. ROBUSTUM	ASTERACEAE	BLENNOSPERMA, POINT REYES	CA
2	BLOOMERIA HUMILIS	LILIACEAE	GOLDENSTAR, DWARF	CA
2	BOERHAVIA MATHISIANA	NYCTAGINACEAE		TX
1	BONAMIA GRANDIFLORA	CONVOLVULACEAE		FL
2	BOTRYCHIUM CRENULATUM	OPHIOGLOSSACEAE		CA
2	BOTRYCHIUM PARADOXUM	OPHIOGLOSSACEAE		MT, CANADA (ALTA.)
2	BOTRYCHIUM PUMICOLA	OPHIOGLOSSACEAE	GRAPE FERN, CRATER LAKE	CA OR
2	BRAYA HUMILIS SSP. VENTOSA	BRASSICACEAE		CO
	BRICKELLIA EUPATORIOIDES VAR. FLORIDANA	*** SEE ***	BRICKELLIA MOSIERI	
2	BRICKELLIA MOSIERI	ASTERACEAE		AL FL GA SC

TABLE I (CONTINUED) TAXA CURRENTLY UNDER REVIEW

2	BRODIAEA CORONARIA SSP. ROSEA	LILIACEAE	BRODIAEA, INDIAN VALLEY	CA
2	BRODIAEA FILIFOLIA	LILIACEAE	BRODIAEA, THREAD-LEAVED	CA
2	BRODIAEA KINKIENSIS	LILIACEAE	BRODIAEA, SAN CLEMENTE ISLAND	CA
2	BRODIAEA ORCUTTII	LILIACEAE	BRODIAEA, ORCUTT'S	CA, MEXICO
2	BRONGNIARTIA MINUTIFOLIA	FABACEAE	BRONGNIARTIA, LITTLE-LEAF	TX, MEXICO
2	BUMELIA THORNEI	SAPOTACEAE	BUCKTHORN,	GA
1	BUXUS VAHLII	BUXACEAE	BOXWOOD,	PR
2	CAESALPINIA CULEBRAE	FABACEAE	MATO AMARILLO (SMOOTH YELLOW NICKER)	PR
2	CALAMAGROSTIS DENSA	POACEAE	REED GRASS, DENSE	CA, MEXICO
2	CALAMAGROSTIS INSPERATA	POACEAE	REED GRASS, OPER HOLLOW	AR MO OH
2	CALAMAGROSTIS TWEEDYI	POACEAE	REED GRASS,	ID MT WA
1	CALAMINTHA ASHEI	LAMIACEAE		FL GA
2	CALAMOVILFA BREVIPILIS	POACEAE	SAND GRASS,	NJ NC VA
1	CALLICARPA AMPLA	VERBENACEAE	CAPA ROSA	PR VI
2	CALLIRHOE BUSHII	MALVACEAE	POPPY-MALLOW,	AR KS MO OK
2	CALOCHORTUS CLAVATUS SSP. RECURVIFOLIUS	LILIACEAE	MARIPOSA, CRUZ	CA
2	CALOCHORTUS CLAVATUS VAR. AVIUS	LILIACEAE	MARIPOSA, PLEASANT VALLEY	CA
2	CALOCHORTUS DUNNII	LILIACEAE	MARIPOSA, DUNN'S	CA, MEXICO
2	CALOCHORTUS EXCAVATUS	LILIACEAE	MARIPOSA, INYO	CA
2	CALOCHORTUS GREENEI	LILIACEAE	MARIPOSA, GREENE'S	CA OR
2	CALOCHORTUS HOWELLII	LILIACEAE		OR
2*	CALOCHORTUS INDECORUS	LILIACEAE	MARIPOSA,	OR
2	CALOCHORTUS OBISPOENSIS	LILIACEAE	MARIPOSA, SAN LUIS	CA
2	CALOCHORTUS PERSISTENS	LILIACEAE	MARIPOSA, SISKIYOU	CA
2	CALYPTRIDIUM PULCHELLUM	PORTULACACEAE	PUSSY PAWS, MARIPOSA	CA
2	CALYSTEGIA COLLINA SSP. OXYPHYLLA	CONVOLVULACEAE		CA
2	CALYSTEGIA COLLINA SSP. VENUSTA	CONVOLVULACEAE		CA
2	CALYSTEGIA MACROSTEGIA SSP. AMPLISSIMA	CONVOLVULACEAE		CA
2	CALYSTEGIA STEBBINSII	CONVOLVULACEAE	MORNING-GLORY, STEBBINS'	CA
2	CALYSTEGIA SUBACAULIS SSP. EPISCOPALIS	CONVOLVULACEAE		CA
1	CAMISSONIA EXILIS	ONAGRACEAE		AZ UT
2	CAMISSONIA GUADALUPENSIS SSP. CLEMENTINA	ONAGRACEAE	EVENING-PRIMROSE, SAN CLEMENTE I.	CA
2	CAMISSONIA HARDHAMIAE	ONAGRACEAE	EVENING-PRIMROSE, HARDHAM'S	CA
2	CAMISSONIA MEGALANTHA	ONAGRACEAE		NV
2	CAMISSONIA SIERRAE SSP. ALTICOLA	ONAGRACEAE		CA
2	CAMPANULA CALIFORNICA	CAMPANULACEAE	HAREBELL, SWAMP	CA
2	CAMPANULA ROBINSIAE	CAMPANULACEAE	BELLFLOWER, ROBINS'	FL
2	CAMPANULA SHARSMITHIAE	CAMPANULACEAE	HAREBELL, MT. HAMILTON	CA
2	CARDAMINE LONGII	BRASSICACEAE	BITTER CRESS, LONG'S	MA ME MD NC NH NJ NY VA
2	CARDAMINE MICRANTHERA	BRASSICACEAE	BITTER CRESS,	NC VA
2	CARDAMINE PATTERSONII	BRASSICACEAE	BITTER CRESS, SADDLE MOUNTAIN	OR
2*	CAREX ABORIGINUM	CYPERACEAE	SEDGE, INDIAN VALLEY	ID
2	CAREX BARRATTII	CYPERACEAE	SEDGE, BARRATT'S	AL CT DE MD NC NJ NY PA TN VA
2	CAREX BILTMOREANA	CYPERACEAE	SEDGE, BILTMORE	GA NC SC
1	CAREX LATEBRACTEATA	CYPERACEAE	SEDGE, WATERFALL'S	AR OK
2	CAREX LENTICULARIS VAR. DOLIA	CYPERACEAE		AK MT, CANADA (ALTA., B.C., YUKON)
2	CAREX PAUCIFRUCTUS	CYPERACEAE	SEDGE, SIERRA	CA
	CAREX PLECTOCARPA	*** SEE ***	CAREX LENTICULARIS VAR. DOLIA	
2	CAREX POLYMORPHA	CYPERACEAE	SEDGE, VARIABLE	CT DE MA MD ME NH NJ NY PA RI VA WV
1*	CAREX ROANENSIS	CYPERACEAE		TN
1	CARPENTERIA CALIFORNICA	SAXIFRAGACEAE	CARPENTERIA	CA
2	CASSIA FASCICULATA VAR. MACROSPERMA	FABACEAE		VA
2	CASTILLEJA AQUARIENSIS	SCROPHULARIACEAE	INDIAN PAINTBRUSH, AQUARIUS	UT
2	CASTILLEJA CHLOROTICA	SCROPHULARIACEAE	INDIAN PAINTBRUSH, GREEN-TINGED	OR

TABLE I (CONTINUED) TAXA CURRENTLY UNDER REVIEW

2	CASTILLEJA CILIATA	SCROPHULARIACEAE	INDIAN PAINTBRUSH,	TX
2	CASTILLEJA CRYPTANTHA	SCROPHULARIACEAE		WA
2	CASTILLEJA GLEASONII	SCROPHULARIACEAE	PAINTBRUSH, MT. GLEASON	CA
2	CASTILLEJA KAIBABENSIS	SCROPHULARIACEAE		AZ
2	CASTILLEJA LATIPOLIA SSP. MENDOCINENSIS	SCROPHULARIACEAE	INDIAN PAINTBRUSH, MENDOCINO COAST	CA
2	CASTILLEJA LEVISECTA	SCROPHULARIACEAE		OR WA, CANADA (B.C.)
2	CASTILLEJA MOLLIS	SCROPHULARIACEAE	INDIAN PAINTBRUSH, SOFT-LEAVED	CA
2	CASTILLEJA SALSUGINOSA	SCROPHULARIACEAE	INDIAN PAINTBRUSH,	NV
2	CASTILLEJA XANTHOTRICHA	SCROPHULARIACEAE		OR
2	CAULANTHUS CALIFORNICUS	BRASSICACEAE	JEWELFLOWER, CALIFORNIA	CA
	CAULANTHUS LEMMONII	*** SEE ***	STREPTANTHUS LEMMONII	
2	CAULANTHUS STENOCARPUS	BRASSICACEAE	CAULANTHUS, SLENDER-POD	CA, MEXICO
2	CAULOSTRAMINA JAEGERI	BRASSICACEAE	CAULOSTRAMINA, JAEGER'S	CA
2	CEANOTHUS CONFUSUS	RHAMNACEAE	CEANOTHUS, RINCON	CA
2	CEANOTHUS CYANEUS	RHAMNACEAE	CEANOTHUS, LAKESIDE	CA
2	CEANOTHUS DIVERGENS	RHAMNACEAE	CEANOTHUS, CALISTOGA	CA
2	CEANOTHUS FERRISAE	RHAMNACEAE	CALIFORNIA-LILAC, COYOTE	CA
2	CEANOTHUS GLORIOSUS VAR. PORRECTUS	RHAMNACEAE	CEANOTHUS, MOUNT VISION	CA
2	CEANOTHUS HEARSTIORUM	RHAMNACEAE	CEANOTHUS, HEARST'S	CA
2	CEANOTHUS MASONII	RHAMNACEAE	CEANOTHUS, BOLINAS	CA
2	CEREUS GRACILIS VAR. ABORIGINUM	CACTACEAE	PRICKLY-APPLE, ABORIGINAL	FL
2	CEREUS GRACILIS VAR. SIMPSONII	CACTACEAE	PRICKLY-APPLE, SIMPSON'S	FL
2	CHAETOPAPPA ELEGANS	ASTERACEAE		NM
2	CHAETOPAPPA HERSHEYI	ASTERACEAE		NM TX
2	CHORIZANTHE ORCUTTIANA	POLYGONACEAE	SPINEFLOWER, ORCUTT'S	CA
2	CHORIZANTHE SPINOSA	POLYGONACEAE	SPINEFLOWER, MOJAVE	CA
2	CHORIZANTHE STATICOIDES SSP. CHRYSACANTHA	POLYGONACEAE	TURKISH RUGGING, ORANGE COUNTY	CA
2	CHORIZANTHE VALIDA	POLYGONACEAE	SPINEFLOWER, SONOMA	CA
1	CHRYSOPSIS CRUISEANA	ASTERACEAE		AL FL
2	CIRSIUM CAMPYLON	ASTERACEAE	THISTLE, MT. HAMILTON	CA
2	CIRSIUM CILIOLATUM	ASTERACEAE	THISTLE, ASHLAND	CA OR
2	CIRSIUM CRASSICAULE	ASTERACEAE	THISTLE, SLOUGH	CA
2	CIRSIUM FONTINALE VAR. FONTINALE	ASTERACEAE	THISTLE, FOUNTAIN	CA
2	CIRSIUM FONTINALE VAR. OBISPOENSE	ASTERACEAE	THISTLE, BOG, CHORRO CREEK	CA
2	CIRSIUM HYDROPHILUM VAR. VASEYI	ASTERACEAE	THISTLE, MT. TAMALPAIS	CA
2	CIRSIUM LONCHOLEPIS	ASTERACEAE	THISTLE, LA GRACIOSA	CA
2	CIRSIUM OCCIDENTALE VAR. COMPACTUM	ASTERACEAE	THISTLE, COBWEB, COMPACT	CA
2	CIRSIUM RHOTHOPHILUM	ASTERACEAE	THISTLE, SURF	CA
2	CIRSIUM VIRGINENSIS	ASTERACEAE		AZ UT
2	CLARKIA ROSTRATA	ONAGRACEAE	CLARKIA, BEAKED	CA
2	CLARKIA SPECIOSA SSP. IMMACULATA	ONAGRACEAE	CLARKIA, SAN LUIS OBISPO	CA
2	CLARKIA SPRINGVILLENSIS	ONAGRACEAE	CLARKIA, SPRINGVILLE	CA
	CLAYTONIA FLAVA	*** SEE ***	CLAYTONIA LANCEOLATA VAR. FLAVA	
2*	CLAYTONIA LANCEOLATA VAR. FLAVA	PORTULACACEAE		ID MT
2	CLEMATIS VITICAULIS	RANUNCULACEAE	LEATHERFLOWER, MILLBORO	VA
	COCHISEIA ROBBINSORUM	*** SEE ***	CORYPHANTHA ROBBINSORUM	
2	COLLOMIA MACROCALYX	POLEMONIACEAE	COLLOMIA, BRISTLE-FLOWERED	OR
2	COLLOMIA MAZAMA	POLEMONIACEAE		OR
1	COLLOMIA RAWSONIANA	POLEMONIACEAE	TRUMPET, FLAMING	CA
2	CONDALIA HOOKERI VAR. EDWARDSIANA	RHAMNACEAE	BRASIL, EDWARDS'	TX
2	CONRADINA BREVIFOLIA	LAMIACEAE	ROSEMARY, SHORT-LEAVED	FL
2	CONRADINA GLABRA	LAMIACEAE	ROSEMARY, APALACHICOLA	FL
2	CORDYLANTHUS EREMICUS SSP. BERNARDINUS /INED.	SCROPHULARIACEAE	BIRD'S-BEAK, SAN BERNARDINO	CA
2	CORDYLANTHUS MARITIMUS SSP. PALUSTRIS	SCROPHULARIACEAE	BIRD'S-BEAK, NORTH COAST	CA OR
2	CORDYLANTHUS NIDULARIUS	SCROPHULARIACEAE	BIRDS-ON-NEST	CA
1	CORDYLANTHUS PALMATUS	SCROPHULARIACEAE	BIRD'S-BEAK, PALMATE-BRACTED	CA
2	CORDYLANTHUS TECOPENSIS	SCROPHULARIACEAE	BIRD'S-BEAK, TECOPA	CA NV OR

TABLE I (CONTINUED) TAXA CURRENTLY UNDER REVIEW

2	CORDYLANTHUS TENUIS SSP. CAPILLARIS /INED.	SCROPHULARIACEAE	BIRD'S-BEAK, PENNELL	CA
2	CORDYLANTHUS TENUIS SSP. PALLESCENS /INED.	SCROPHULARIACEAE	BIRD'S-BEAK, PALLID	CA
2	COREOPSIS HAMILTONII	ASTERACEAE	COREOPSIS, MT. HAMILTON	CA
2	COREOPSIS LATIFOLIA	ASTERACEAE		GA NC SC
2	CORYDALIS AQUAE-GELIDAE	FUMARIACEAE		OR WA
2	CORYPHANTHA RECURVATA	CACTACEAE		AZ, MEXICO
1	CORYPHANTHA ROBBINSORUM	CACTACEAE		AZ
2	CORYPHANTHA STROBILIFORMIS VAR. DURISPINA	CACTACEAE		TX, MEXICO
2	CORYPHANTHA VIVIPARA VAR. ALVERSONII	CACTACEAE	PINCUSHION CACTUS, ALVERSON'S	CA
2	CRATAEGUS HARBISONII	ROSACEAE	HAW,	AL GA TN
2	CROTON ALABAMENSIS	EUPHORBIACEAE		AL TN
2	CRYPTANTHA CRINITA	BORAGINACEAE	CRYPTANTHA, SILKY	CA
2	CRYPTANTHA GANDERI	BORAGINACEAE	CRYPTANTHA, GANDER'S	CA, MEXICO
2*	CRYPTANTHA INSOLITA	BORAGINACEAE	CATSEYE,	NV
2	CRYPTANTHA JONESIANA	BORAGINACEAE	CATSEYE, JONES	UT
2	CRYPTANTHA ROOSIORUM	BORAGINACEAE	CATSEYE, BRISTLE-CONE	CA
2	CRYPTANTHA SHACKLETTEANA	BORAGINACEAE	CATSEYE,	AK
2	CRYPTANTHA SUBCAPITATA	BORAGINACEAE		WY
2	CRYPTANTHA TRASKIAE	BORAGINACEAE		CA
2	CUPHEA ASPERA	LYTHRACEAE		FL
2	CUPRESSUS MACROCARPA	CUPRESSACEAE	CYPRESS, MONTEREY	CA
2*	CUSCUTA WARNERI	CUSCUTACEAE	DODDER, WARNER'S	UT
2	CYMOPTERUS BECKII	APIACEAE		UT
2	CYMOPTERUS DESERTICOLA	APIACEAE	CYMOPTERUS, DESERT	CA
2	CYMOPTERUS NIVALIS	APIACEAE		NV
2	CYMOPTERUS SP. NOV. /INED. (CUSTER CO.)	APIACEAE		ID
1	CYMOPTERUS SP. NOV. /INED. (CUSTER, LEMHI COS.)	APIACEAE		ID
2	CYNANCHUM MONENSE	ASCLEPIADACEAE		PR
1	CYPERUS PENNATIFORMIS VAR. BRYANII	CYPERACEAE		HI
2	CYPRIPEDIUM KENTUCKIENSE	ORCHIDACEAE		AL KY LA TN
2	DALEA POLIOSA	FABACEAE	PRAIRIE-CLOVER,	AL IL TN
2	DALEA REVERCHONII	FABACEAE	PRAIRIE-CLOVER, COMANCHE-PEAK	TX
2	DALEA SABINALIS	FABACEAE	PRAIRIE-CLOVER, SABINAL	TX
2	DEDECKERA EUREKENSIS	POLYGONACEAE	JULY GOLD	CA
1	DEERINGOTHAMNUS PULCHELLUS	ANNONACEAE		FL
2	DELPHINIUM BAKERI	RANUNCULACEAE	LARKSPUR, BAKER'S	CA
2	DELPHINIUM HESPERIUM SSP. CUYAMACAE	RANUNCULACEAE	LARKSPUR, CUYAMACA	CA
2	DELPHINIUM HUTCHINSONAE	RANUNCULACEAE	DELPHINIUM, HUTCHINSON'S	CA
2	DELPHINIUM LUTEUM	RANUNCULACEAE	LARKSPUR, YELLOW	CA
2	DELPHINIUM PAVONACEUM	RANUNCULACEAE		OR
2	DENDROMECON RIGIDA SSP. RHAMNOIDES	PAPAVERACEAE		CA
2	DENDROPEMON SINTENISII	LORANTHACEAE	HICAQUILLO (MISTLETOE)	PR
2	DICERANDRA CORNUTISSIMA	LAMIACEAE		FL
2	DICHANTHELIUM LANUGINOSUM VAR. THERMALE	POACEAE	PANIC GRASS, HOT SPRING	CA
2	DIPLACUS ARIDUS	SCROPHULARIACEAE	BUSH MONKEYFLOWER, LOW	CA, MEXICO (BAJA CALIFORNIA)
2	DITAXIS CALIFORNICA	EUPHORBIACEAE	DITAXIS, CALIFORNIA	CA
2	DITHYREA MARITIMA	BRASSICACEAE	SPECTACLE-POD, BEACH	CA
2	DODECATHEON FRENCHII	PRIMULACEAE	SHOOTINGSTAR, FRENCH'S	AR IL IN KY MO OH
2	DOUGLASIA IDAHOENSIS /SP. NOV. INED.	PRIMULACEAE		ID
2	DOWNINGIA CONCOLOR VAR. BREVIOR	CAMPANULACEAE	DOWNINGIA, CUYAMACA LAKE	CA
2	DRABA APRICA	BRASSICACEAE		AR GA MO OK SC
2	DRABA ASTEROPHORA VAR. MACROCARPA	BRASSICACEAE	DRABA, CUP LAKE	CA
2	DRABA CARNOSULA	BRASSICACEAE	DRABA, MT. EDDY	CA
	DRABA HOWELLII VAR. CARNOSULA	*** SEE ***	DRABA CARNOSULA	
2	DRABA MURRAYI	BRASSICACEAE		AK, CANADA (YUKON)
2	DUDLEYA BETTINAE	CRASSULACEAE	LIVEFOREVER, BETTY'S	CA

TABLE I (CONTINUED)

TAXA CURRENTLY UNDER REVIEW

2	DUDLEYA BLOCHMANIAE SSP. INSULARIS	CRASSULACEAE	DUDLEYA, SANTA ROSA ISLAND	CA
2	DUDLEYA CANDELABRUM	CRASSULACEAE	LIVEFOREVER, CANDLEHOLDER	CA
2	DUDLEYA CYMOSA SSP. MARCESCENS	CRASSULACEAE	LIVEFOREVER, SANTA MONICA MOUNTAINS	CA
2	DUDLEYA DENSIFLORA	CRASSULACEAE	DUDLEYA, SAN GABRIEL MOUNTAIN	CA
2	DUDLEYA MULTICAULIS	CRASSULACEAE	LIVEFOREVER, MANY-STEMMED	CA
2	DUDLEYA NESIOTICA	CRASSULACEAE	LIVEFOREVER, SANTA CRUZ ISLAND	CA
2	DUDLEYA SAXOSA SSP. SAXOSA	CRASSULACEAE		CA
2	DUDLEYA VARIEGATA	CRASSULACEAE	DUDLEYA, VARIEGATED	CA, MEXICO
2	DUDLEYA VERITYI	CRASSULACEAE		CA
2	DUDLEYA VIRENS	CRASSULACEAE	LIVEFOREVER, GREEN	CA
2	DUDLEYA VISCIDA	CRASSULACEAE	LIVEFOREVER, STICKY	CA
2	ECHINACEA LAEVIGATA	ASTERACEAE	CONEFLOWER,	AL GA NC SC VA
2	ECHINOCEREUS CHLORANTHUS VAR. NEOCAPILLUS	CACTACEAE	HEDGEHOG CACTUS,	TX
2	ECHINOCEREUS ENGELMANNII VAR. HOWEI	CACTACEAE	HEDGEHOG CACTUS, HOWE'S	CA
2	ECHINOCEREUS ENGELMANNII VAR. MUNZII	CACTACEAE	HEDGEHOG CACTUS, MUNZ'S	CA, MEXICO
2	ELEOCHARIS CYLINDRICA	CYPERACEAE	SPIKE-RUSH, CYLINDER	TX, MEXICO
2*	ELODEA NEVADENSIS	HYDROCHARITACEAE	WATERWEED, NEVADA	NV
2	ELYTRARIA CAROLINIENSIS VAR. ANGUSTIFOLIA	ACANTHACEAE		FL
2	ENCELIOPSIS COVILLEI	ASTERACEAE	DAISY, PANAMINT	CA
2	ENCYCLIA BOOTHIANA VAR. ERYTHRONIOIDES	ORCHIDACEAE	ORCHID, DOLLAR	FL, BAHAMAS, BELIZE, CUBA, JAMAICA, MEXICO, HISPANIOLA, SOUTH AMERICA
2	EPIDENDRUM LACERUM	ORCHIDACEAE		PR, CUBA
2	EPILOBIUM NEVADENSE	ONAGRACEAE	WILLOWHERB, NEVADA	NV UT
2	ERAGROSTIS TRACYI	POACEAE	LOVE GRASS, SANIBEL	FL
2	ERIASTRUM BRANDEGEAE	POLEMONIACEAE	ERIASTRUM, BRANDEGEE	CA
2	ERIASTRUM DENSIFOLIUM SSP. SANCTORUM	POLEMONIACEAE	ERIASTRUM, SANTA ANA RIVER	CA
2	ERIASTRUM TRACYI	POLEMONIACEAE	ERIASTRUM, TRACY	CA
1	ERIGERON DECUMBENS VAR. DECUMBENS	ASTERACEAE		OR
2	ERIGERON HOWELLII	ASTERACEAE	FLEABANE, HOWELL'S	OR WA
2	ERIGERON LATUS	ASTERACEAE	FLEABANE,	ID NV
1	ERIGERON MAGUIREI VAR. MAGUIREI	ASTERACEAE	DAISY, MAGUIRE	UT
2	ERIGERON MANCUS	ASTERACEAE	DAISY, DEPAUPERATE	UT
2	ERIGERON MIMEGLETES	ASTERACEAE	FLEABANE,	TX
2	ERIGERON MUIRII	ASTERACEAE		AK
2	ERIGERON MULTICEPS	ASTERACEAE	DAISY, KERN RIVER	CA
2	ERIGERON PARISHII	ASTERACEAE	DAISY, PARISH'S	CA
2	ERIGERON PRINGLEI	ASTERACEAE		AZ
2	ERIGERON SIONIS	ASTERACEAE		UT
2	ERIOCAULON PARKERI	CYPERACEAE	PIPEWORT, PARKER'S	CT DC DE MA MD ME NC NJ NY PA VA, CANADA (N.B., QUE.)
2	ERIOCHLOA MICHAUXII VAR. SIMPSONII	POACEAE		FL
1	ERIOGONUM AMMOPHILUM	POLYGONACEAE	WILD BUCKWHEAT, SAND-LOVING	UT
2	ERIOGONUM AMPULLACEUM	POLYGONACEAE	WILD BUCKWHEAT, MONO	CA
2	ERIOGONUM ARGOPHYLLUM	POLYGONACEAE	WILD BUCKWHEAT,	NV
2	ERIOGONUM BREEDLOVEI VAR. BREEDLOVEI	POLYGONACEAE	WILD BUCKWHEAT, PIUTE	CA
2	ERIOGONUM BUTTERWORTHIANUM	POLYGONACEAE	WILD BUCKWHEAT, BUTTERWORTH'S	CA
2	ERIOGONUM CAPILLARE	POLYGONACEAE	WILD BUCKWHEAT,	AZ
2	ERIOGONUM CHRYSOPS	POLYGONACEAE	WILD BUCKWHEAT, GOLDEN	OR
2	ERIOGONUM CROCATUM	POLYGONACEAE	WILD BUCKWHEAT, CONEJO	CA
2	ERIOGONUM CROSBYAE	POLYGONACEAE		OR
2	ERIOGONUM CUSICKII	POLYGONACEAE		OR
2	ERIOGONUM ERICIFOLIUM VAR. THORNEI	POLYGONACEAE	WILD BUCKWHEAT, THORNE'S	CA
2	ERIOGONUM FLAVUM VAR. AQUILINUM	POLYGONACEAE	WILD BUCKWHEAT,	AK
	ERIOGONUM FLORIDANUM	*** SEE ***	ERIOGONUM LONGIFOLIUM VAR. GNAPHALIFOLIUM	
2	ERIOGONUM GIGANTEUM VAR. COMPACTUM	POLYGONACEAE	GIANT BUCKWHEAT, SANTA BARBARA IS.	CA
2	ERIOGONUM GIGANTEUM VAR. FORMOSUM	POLYGONACEAE	WILD BUCKWHEAT, SAN CLEMENTE IS.	CA

TABLE I (CONTINUED) TAXA CURRENTLY UNDER REVIEW

2	ERIOGONUM GOSSYPINUM	POLYGONACEAE	ERIOGONUM, COTTON	CA
2	ERIOGONUM GRANDE VAR. DUNKLEI	POLYGONACEAE	WILD BUCKWHEAT, SAN MIGUEL IS.	CA
2	ERIOGONUM HOLMGRENII	POLYGONACEAE		NV
2	ERIOGONUM HUMIVAGANS	POLYGONACEAE	WILD BUCKWHEAT, SPREADING	UT
1	ERIOGONUM KELLOGGII	POLYGONACEAE	WILD BUCKWHEAT, RED MOUNTAIN	CA
2	ERIOGONUM KENNEDYI VAR. PINICOLA	POLYGONACEAE	WILD BUCKWHEAT, CACHE PEAK	CA
2	ERIOGONUM LOGANUM	POLYGONACEAE	WILD BUCKWHEAT, LOGAN	UT
2	ERIOGONUM LONGIFOLIUM VAR. GNAPHALIFOLIUM	POLYGONACEAE	WILD BUCKWHEAT, SCRUB	FL
2	ERIOGONUM LONGIFOLIUM VAR. HARPERI	POLYGONACEAE		AL KY TN
2	ERIOGONUM MICROTHECUM VAR. JOHNSTONII	POLYGONACEAE	BRUSH BUCKWHEAT, JOHNSTON'S	CA
2	ERIOGONUM MORTONIANUM	POLYGONACEAE	WILD BUCKWHEAT,	AZ
2	ERIOGONUM NUDUM VAR. MURINUM	POLYGONACEAE	WILD BUCKWHEAT, MOUSE	CA
1	ERIOGONUM OVALIFOLIUM VAR. VINEUM	POLYGONACEAE	WILD BUCKWHEAT,	CA
1	ERIOGONUM OVALIFOLIUM VAR. WILLIAMSIAE	POLYGONACEAE		NV
2	ERIOGONUM PENDULUM	POLYGONACEAE	WILD BUCKWHEAT, WALDO	CA OR
2	ERIOGONUM PROCIDUUM	POLYGONACEAE	WILD BUCKWHEAT, PROSTRATE	CA NV OR
2	ERIOGONUM SOREDIUM	POLYGONACEAE		UT
	ERIOGONUM SP. (LAKEVIEW CO., OR)	*** SEE ***	ERIOGONUM CROSBYAE	
2	ERIOGONUM THOMPSONAE VAR. ATWOODII	POLYGONACEAE	WILD BUCKWHEAT, THOMPSON, ATWOOD'S	AZ
2	ERIOGONUM TRUNCATUM	POLYGONACEAE	ERIOGONUM, CONTRA COSTA	CA
2	ERIOGONUM TWISSELMANNII	POLYGONACEAE	ERIOGONUM, TWISSELMANN'S	CA
2	ERIOGONUM UMBELLATUM VAR. HUMISTRATUM	POLYGONACEAE	WILD BUCKWHEAT, MT. EDDY	CA
2	ERIOGONUM VISCIDULUM	POLYGONACEAE	WILD BUCKWHEAT,	NV
2	ERIOPHYLLUM LANATUM VAR. HALLII	ASTERACEAE	WOOLY-SUNFLOWER, PT. TEJON	CA
2	ERIOPHYLLUM MOHAVENSE	ASTERACEAE	WOOLY-SUNFLOWER, BARSTOW	CA
2	ERIOPHYLLUM NUBIGENUM	ASTERACEAE	WOOLY-SUNFLOWER, YOSEMITE	CA
2	ERYNGIUM ARISTULATUM VAR. HOOVERI	APIACEAE	BUTTON-CELERY, HOOVER'S	CA
2	ERYNGIUM CONSTANCEI	APIACEAE	COYOTE-THISTLE, CONSTANCE'S	CA
2	ERYNGIUM MATHIASIAE	APIACEAE	COYOTE-THISTLE, MATHIAS'	CA
2	ERYNGIUM PINNATISECTUM	APIACEAE	COYOTE-THISTLE, TUOLUMNE	CA
2	ERYNGIUM RACEMOSUM	APIACEAE	COYOTE-THISTLE, DELTA	CA
2	ERYSIMUM AMMOPHILUM	BRASSICACEAE	WALLFLOWER, COAST	CA
2	ERYSIMUM ASPERUM VAR. ANGUSTATUM	BRASSICACEAE	WALLFLOWER,	AK, CANADA (YUKON)
2	ESCHSCHOLZIA PROCERA	PAPAVERACEAE	POPPY, KERNVILLE	CA
2	EUGENIA MARGARETTAE	MYRTACEAE		PR
	EULOPHIA ECRISTATA	*** SEE ***	PTEROGLOSSASPIS ECRISTATA	
1*	EUPATORIUM DROSEROLEPIS	ASTERACEAE	OREGANILLO	PR
2	EUPATORIUM RESINOSUM	ASTERACEAE	BONESET, PINE BARRENS	DE NJ NY NC
2	EUPHORBIA CUMULICOLA	EUPHORBIACEAE		FL
2	EUPHORBIA FENDLERI VAR. TRILIGULATA	EUPHORBIACEAE	SPURGE,	TX
2	EUPHORBIA GOLONDRINA	EUPHORBIACEAE	SPURGE,	TX
2	EUPHORBIA PLATYSPERMA	EUPHORBIACEAE	SPURGE, FLAT-SEEDED	AZ CA, MEXICO
2	EUPHORBIA PURPUREA	EUPHORBIACEAE	SPURGE, DARLINGTON'S	DE MD NJ NC OH PA VA WV
2	EUPHORBIA TELEPHIOIDES	EUPHORBIACEAE		FL
2	FEROCACTUS ACANTHODES VAR. ACANTHODES	CACTACEAE		AZ CA, MEXICO
2	FEROCACTUS VIRIDESCENS	CACTACEAE	BARREL CACTUS, SAN DIEGO	CA, MEXICO
2	FESTUCA HALLII	POACEAE		CO
1	FIMBRISTYLIS PERPUSILLA	CYPERACEAE		GA MD SC
2	FRASERA COLORADENSIS	GENTIANACEAE		CO
2	FRASERA PAHUTENSIS	GENTIANACEAE	GREEN-GENTIAN,	NV
2	FREMONTODENDRON DECUMBENS	STERCULIACEAE	FLANNELBUSH, PINE HILL	CA
2	FREMONTODENDRON MEXICANUM	STERCULIACEAE	FREMONTIA, MEXICAN	CA, MEXICO
2	FRITILLARIA AGRESTIS	LILIACEAE		CA
2	FRITILLARIA FALCATA	LILIACEAE	FRITILLARY, TALUS	CA
2	FRITILLARIA GRAYANA	LILIACEAE	FRITILLARY, RODERICK'S	CA
2	FRITILLARIA LILIACEA	LILIACEAE		CA
2	FRITILLARIA OJAIENSIS	LILIACEAE		CA

TABLE I (CONTINUED)

	FRITILLARIA RODERICKII			
2	FRITILLARIA STRIATA			
2	GAILLARDIA FLAVA			
2	GALACTIA PINETORUM			
2	GALIUM ANGUSTIPOLIUM SSP. BORREGOENSE			
2	GALIUM CALIFORNICUM SSP. PRIMUM			
2	GALIUM CALIFORNICUM SSP. SIERRAE			
2	GALIUM CATALINENSE SSP. ACRISPUM			
2	GALIUM GLABRESCENS SSP. MODOCENSE			
2	GALIUM HILENDIAE SSP. KINGSTONENSE			
2	GALVEZIA SPECIOSA			
2	GAYLUSSACIA BRACHYCERA			
2	GENISTIDIUM DUMOSUM			
2	GENTIANA BISETAEA			
2	GENTIANA PENNELLIANA			
2	GESNERIA PAUCIFLORA			
2	GEUM GENICULATUM			
2	GEUM RADIATUM			
2	GILIA CAESPITOSA			
2	GITHOPSIS DIFFUSA SSP. FILICAULIS			
2	GRAPTOPETALUM BARTRAMII			
2	GRATIOLA HETEROSEPALA			
2	GRINDELIA HOWELLII			
2	GRINDELIA MARITIMA			
2	GUTIERREZIA CALIFORNICA			
2	HACKELIA IBAPENSIS			
2	HALIMOLOBOS PERPLEXA VAR. PERPLEXA			
2	HAPLOPAPPUS FREMONTII SSP. MONOCEPHALUS			
2	HAPLOPAPPUS INSECTICRURIS			
2	HAPLOPAPPUS RADIATUS			
2	HAPLOPAPPUS UNIFLORUS SSP. GOSSYPINUS			
1	HASTINGSIA BRACTEOSA			
2	HAZARDIA CANA			
2	HAZARDIA ORCUTTII			
2	HEDEOMA PILOSUM			
2	HELENIUM VIRGINICUM			
2	HELIANTHELLA CASTANEA			
2	HELIANTHEMUM GREENEI			
2	HELIANTHEMUM SUFFRUTESCENS			
2	HELIANTHUS CARNOSUS			
1	HELIANTHUS DEBILIS SSP. VESTITUS			
2	HELIANTHUS EGGERTII			
2	HELIANTHUS NIVEUS SSP. TEPHRODES			
1*	HELIANTHUS NUTTALLII SSP. PARISHII			
1	HELIANTHUS PARADOXUS			
2	HELIANTHUS SMITHII			
2	HELONIAS BULLATA			
2	HEMIZONIA CONJUGENS			
2	HEMIZONIA FLORIBUNDA			
2	HEMIZONIA MINTHORNII			
1*	HEMIZONIA MOHAVENSIS			
2	HERITIERA LONGIPETIOLATA			
2	HESPEROLINON BREWERI			
2	HESPEROLINON DIDYMOCARPUM			
	HETEROTHECA FLEXUOSA			
2	HETEROTHECA JONESII			

TAXA CURRENTLY UNDER REVIEW

*** SEE ***	FRITILLARIA GRAYANA	
LILIACEAE	ADOBE-LILY, GREENHORN	CA
ASTERACEAE	BLANKETFLOWER, YELLOW	UT
FABACEAE	MILK-PEA	PL
RUBIACEAE	BEDSTRAW, BORREGO	CA
RUBIACEAE	BEDSTRAW, SAN JACINTO	CA
RUBIACEAE	BEDSTRAW, EL DORADO	CA
RUBIACEAE	BEDSTRAW, SAN CLEMENTE ISLAND	CA
RUBIACEAE	BEDSTRAW, MODOC	CA
RUBIACEAE	BEDSTRAW, KINGSTON	CA NV
SCROPHULARIACEAE	GAMBELIA, SHOWY	CA
ERICACEAE	HUCKLEBERRY, BOX	DE KY MD PA TN VA WV
FABACEAE		TX, MEXICO
GENTIANACEAE	GENTIAN,	OR
GENTIANACEAE	GENTIAN, WIREGRASS	PL
GESNERIACEAE		PR
ROSACEAE	AVENS, BENT	NC TN
ROSACEAE	AVENS, SPREADING	NC TN
POLEMONIACEAE	GILIA, RABBIT VALLEY	UT
CAMPANULACEAE	BLUECUP, MISSION CANYON	CA
CRASSULACEAE		AZ
SCROPHULARIACEAE	HEDGE-HYSSOP, BOGGS LAKE	CA OR
ASTERACEAE		ID MT
ASTERACEAE	GUMPLANT, SAN FRANCISCO	CA
ASTERACEAE	MATCHWEED, BAY	CA
BORAGINACEAE	STICKSEED,	UT
BRASSICACEAE		ID
ASTERACEAE	GOLDENWEED,	CO
ASTERACEAE		ID
ASTERACEAE	GOLDENWEED,	ID OR
ASTERACEAE	GOLDEN-ASTER, BEAR VALLEY	CA
LILIACEAE		OR
ASTERACEAE	HAZARDIA, ISLAND	CA, MEXICO (BAJA CALIFORNIA NORTE)
ASTERACEAE	HAZARDIA, ORCUTT'S	CA, MEXICO
LAMIACEAE	PENNYROYAL, OLD BLUE	TX
ASTERACEAE		VA
ASTERACEAE	ROCK-ROSE, DIABLO	CA
CISTACEAE	RUSH-ROSE, ISLAND	CA
CISTACEAE	RUSH-ROSE, AMADOR	CA
ASTERACEAE		FL
ASTERACEAE		FL
ASTERACEAE		AL KY NC TN
ASTERACEAE	SUNFLOWER, DESERT	CA, MEXICO
ASTERACEAE	SUNFLOWER, LOS ANGELES	CA
ASTERACEAE	SUNFLOWER,	NM TX
ASTERACEAE		AL GA
LILIACEAE	SWAMP-PINK,	DE GA MD NJ NY NC SC VA
ASTERACEAE	TARWEED, OTAY	CA
ASTERACEAE	TARWEED, TECATE	CA, MEXICO
ASTERACEAE	TARWEED, SANTA SUSANA	CA
ASTERACEAE	TARWEED, MAJAVE	CA
STERCULIACEAE	UFA-HALOMTANO	GU, ROTA, SAIPAN
LINACEAE	DWARF-FLAX, BREWER'S	CA
LINACEAE	DWARF-FLAX, LAKE COUNTY	CA
*** SEE ***	PITYOPSIS FLEXUOSA	
ASTERACEAE	GOLDEN-ASTER, JONES	UT

TABLE I (CONTINUED) TAXA CURRENTLY UNDER REVIEW

	HETEROTHECA RUTHII	*** SEE ***	PITYOPSIS RUTHII	
	HEUCHERA ARKANSANA	*** SEE ***	HEUCHERA VILLOSA VAR. ARKANSANA	
2	HEUCHERA MAXIMA	SAXIFRAGACEAE	ALUMROOT, ISLAND	CA
2	HEUCHERA VILLOSA VAR. ARKANSANA	SAXIFRAGACEAE		AR
2	HEXASTYLIS CONTRACTA	ARISTOLOCHIACEAE		KY NC TN
2	HIBISCUS DASYCALYX	MALVACEAE	ROSE-MALLOW, NECHES RIVER	TX
2	HORKELIA WILDERAE	ROSACEAE	HORKELIA, WILDER'S	CA
2	HOWELLIA AQUATILIS	CAMPANULACEAE		CA ID MT OR WA
2	HYMENOCALLIS CORONARIA	LILIACEAE	SPIDER-LILY,	AL GA SC
2	HYMENOPHYLLUM TUNBRIGENSE	HYMENOPHYLLACEAE		SC, EUROPE
2	HYMENOXYS DEPRESSA	ASTERACEAE		UT
2	HYPERICUM LISSOPHLOEUS	HYPERICACEAE		FL
2	ILEX AMELANCHIER	AQUIFOLIACEAE	HOLLY,	AL FL GA LA MS NC SC
2	ILEX COLLINA	AQUIFOLIACEAE	HOLLY, LONG-STALKED	NC VA WV
2	IPOMOPSIS POLYANTHA	POLEMONIACEAE		CO
2	ISOETES EATONII	ISOETACEAE	QUILLWORT, EATON'S	CT MA NH NJ NY, CANADA (ONT.)
2	ISOETES MELANOSPORA	ISOETACEAE		GA SC
2	ISOETES TEGETIFORMANS	ISOETACEAE		GA NC
2	ISOETES VIRGINICA	ISOETACEAE	QUILLWORT,	NC SC VA
2	IVESIA CALLIDA	ROSACEAE	IVESIA, TAHQUITZ	CA
	IVESIA CORYMBOSA	*** SEE ***	IVESIA PANICULATA	
2	IVESIA CRYPTOCAULIS	ROSACEAE		NV
2	IVESIA PANICULATA	ROSACEAE	IVESIA, ASH CREEK	CA
2	IVESIA REYPARA	ROSACEAE	IVESIA, GRIMY	NV OR
2	JACQUEMONTIA CURTISSII	CONVOLVULACEAE	JACQUEMONTIA, PINELAND	FL
2	JACQUEMONTIA RECLINATA	CONVOLVULACEAE		FL
2	JAMESIANTHUS ALABAMENSIS	ASTERACEAE	JAMESIANTHUS, ALABAMA	AL
2	JUGLANS HINDSII	JUGLANDACEAE	WALNUT, NORTHERN CALIFORNIA BLACK	CA
1	JUNCUS LEIOSPERMUS VAR. AHARTII /INED.	JUNCACEAE	RUSH,	CA
2	JUNCUS LEIOSPERMUS VAR. LEIOSPERMUS /INED.	JUNCACEAE	RUSH, RED BLUFF	CA
2	JUNCUS TRIFIDUS SSP. CAROLINIANUS	JUNCACEAE		NC NY TN VA
1	JUSTICIA COOLEYI	ACANTHACEAE	WATER-WILLOW, COOLEY'S	FL
2	KOSTELETZKYA SMILACIFOLIA	MALVACEAE		AL FL
2	LASTHENIA BURKEI	ASTERACEAE	GOLDFIELDS, BURKE'S	CA
2	LASTHENIA CONJUGENS	ASTERACEAE	GOLDFIELDS, CONTRA COSTA	CA
2	LASTHENIA MACRANTHA SSP. PRISCA	ASTERACEAE		OR
2	LATHYRUS BIFLORUS	FABACEAE		CA
2	LAYIA DISCOIDEA	ASTERACEAE	TIDYTIPS, RAYLESS	CA
2	LEAVENWORTHIA ALABAMICA VAR. BRACHYSTYLA	BRASSICACEAE	GLADE CRESS,	AL
2	LEAVENWORTHIA CRASSA VAR. ELONGATA	BRASSICACEAE	GLADE CRESS,	AL
2	LEAVENWORTHIA EXIGUA VAR. EXIGUA	BRASSICACEAE		AL GA TN
2	LEAVENWORTHIA EXIGUA VAR. LUTEA	BRASSICACEAE	GLADE CRESS,	AL TN
2	LEGENERE LIMOSA	CAMPANULACEAE	LEGENERE	CA
2	LEPIDIUM DAVISII	BRASSICACEAE	PEPPER CRESS, DAVIS'	ID OR
2	LEPIDIUM FLAVUM VAR. FELIPENSE	BRASSICACEAE	PEPPER-GRASS, BORREGO VALLEY	CA
2	LEPIDIUM MONTANUM VAR. NEESEAE	BRASSICACEAE		UT
2	LEPIDIUM MONTANUM VAR. STELLAE	BRASSICACEAE		UT
2	LEPIDOSPARTUM BURGESSII	ASTERACEAE		NM TX
2	LESQUERELLA LYRATA	BRASSICACEAE	BLADDERPOD, LYRATE	AL
2	LESQUERELLA PALLIDA	BRASSICACEAE		TX
2	LESQUERELLA PARVIFLORA	BRASSICACEAE		CO
2	LESSINGIA GERMANORUM VAR. GERMANORUM	ASTERACEAE	LESSINGIA, SAN FRANCISCO	CA
2	LESSINGIA GLANDULIFERA VAR. TOMENTOSA	ASTERACEAE	LESSINGIA, WARNER SPRINGS	CA
2	LEWISIA CANTELOWII	PORTULACACEAE	LEWISIA, CANTELOW'S	CA
2	LEWISIA COTYLEDON SSP. /SSP. NOV. INED.	PORTULACACEAE	LEWISIA, FRINGED	CA
2	LEWISIA COTYLEDON VAR. HECKNERI	PORTULACACEAE	LEWISIA, HECKNER'S	CA

TABLE I (CONTINUED) TAXA CURRENTLY UNDER REVIEW

2	LEWISIA COTYLEDON VAR. HOWELLII	PORTULACACEAE	LEWISIA, HOWELL'S	CA OR
2	LEWISIA COTYLEDON VAR. PURDYI	PORTULACACEAE		OR
2	LEWISIA MAGUIREI	PORTULACACEAE		NV
2	LEWISIA SERRATA	PORTULACACEAE	LEWISIA, SAW-TOOTHED	CA
2	LEWISIA STEBBINSII	PORTULACACEAE	LEWISIA, STEBBINS	CA
2	LIATRIS HELLERI	ASTERACEAE		NC
2	LIATRIS PROVINCIALIS	ASTERACEAE	BLAZINGSTAR, GODFREY'S	FL
2	LILAEOPSIS MASONII	APIACEAE		CA
2	LILAEOPSIS RECURVA	APIACEAE		AZ
2	LILIUM GRAYI	LILIACEAE	LILY, GRAY'S	NC TN VA
2	LILIUM IRIDOLLAE	LILIACEAE	LILY, PANHANDLE	AL FL
2	LILIUM PARRYI	LILIACEAE		AZ CA
2	LIMNANTHES BAKERI	LIMNANTHACEAE	MEADOWFOAM, BAKER'S	CA
2	LIMNANTHES DOUGLASII VAR. SULPHUREA	LIMNANTHACEAE	MEADOWFOAM, PT. REYES	CA
2	LIMNANTHES FLOCCOSA SSP. BELLINGERANA	LIMNANTHACEAE	MEADOWFOAM, BELLINGER'S	CA OR
2	LIMNANTHES GRACILIS VAR. GRACILIS	LIMNANTHACEAE		OR
2	LIMNANTHES GRACILIS VAR. PARISHII	LIMNANTHACEAE	MEADOWFOAM, PARISH'S	CA
2	LIMNANTHES VINCULANS	LIMNANTHACEAE	MEADOWFOAM, SEBASTOPOL	CA
2	LINANTHUS KILLIPII	POLEMONIACEAE	LINANTHUS, BALDWIN LAKE	CA
2	LINANTHUS MACULATUS	POLEMONIACEAE	LINANTHUS, SAN BERNARDINO MT., LITTL	CA
2	LINANTHUS ORCUTTII	POLEMONIACEAE	LINANTHUS, ORCUTT	CA
2	LINDERA SUBCORIACEA	LAURACEAE		LA MS
2	LINUM ARENICOLA	LINACEAE	FLAX, SAND	FL
2	LINUM WESTII	LINACEAE	FLAX, WEST'S	FL GA
1	LIPOCHAETA POROPHILLA	ASTERACEAE		HI
2	LISTERA AURICULATA	ORCHIDACEAE	TWAYBLADE, AURICLED	ME MI MN NH NY VT WI, CANADA (LAB., N.B., NFLD., ONT., QUE.)
2	LOBELIA BOYKINII	CAMPANULACEAE	LOBELIA, BOYKIN'S	AL DE FL GA NC NJ SC
2	LOMATIUM ATTENUATUM	APIACEAE		WY
2	LOMATIUM CONCINNUM	APIACEAE		CO
2	LOMATIUM LAEVIGATUM	APIACEAE		OR WA
2	LOMATIUM NELSONIANUM	APIACEAE		OR
2	LOMATIUM OREGANUM	APIACEAE		OR
2	LOMATIUM PECKIANUM	APIACEAE	LOMATIUM, PECK'S	CA OR
2	LOMATIUM ROLLINSII	APIACEAE		ID OR WA
2	LOMATIUM STEBBINSII	APIACEAE		CA
2	LOMATIUM TUBEROSUM	APIACEAE	DESERT-PARSLEY, HOOVER'S	WA
2	LOTUS ARGOPHYLLUS SSP. ADSURGENS	FABACEAE	HOSACKIA, SILVER, SAN CLEMENTE IS.	CA
2	LOTUS ARGOPHYLLUS SSP. NIVEUS	FABACEAE	HOSACKIA, SILVER, SANTA CRUZ ISLAND	CA, MEXICO
2	LUPINUS ARIDORUM	FABACEAE		FL
2	LUPINUS BIDDLEI	FABACEAE		OR
2	LUPINUS CONSTANCEI	FABACEAE	LUPINE, LASSICS	CA
2	LUPINUS CRASSUS	FABACEAE		CO
2	LUPINUS CUSICKII	FABACEAE		OR
	LUPINUS DEDECKERAE	*** SEE ***	LUPINUS PADRE-CROWLEYI	
2	LUPINUS DEPLEXUS	FABACEAE	LUPINE, MARIPOSA	CA
2	LUPINUS DURANII	FABACEAE		CA
2	LUPINUS EXIMIUS	FABACEAE	TREE LUPINE, SAN MATEO	CA
2	LUPINUS GUADALUPENSIS	FABACEAE	LUPINE, GUADALUPE ISLAND	CA, MEXICO
	LUPINUS HUMBOLDTIENSIS /SP. NOV. INED.	*** SEE ***	LUPINUS CONSTANCEI	
2	LUPINUS LUDOVICIANUS	FABACEAE	LUPINE, SAN LUIS	CA
2	LUPINUS MAGNIFICUS VAR. MAGNIFICUS	FABACEAE	LUPINE, PANAMINT MOUNTAINS	CA
2	LUPINUS MILO-BAKERI	FABACEAE	LUPINE, MILO BAKER	CA
2	LUPINUS NIPOMENSIS	FABACEAE	LUPINE, NIPOMO MESA	CA
2	LUPINUS PADRE-CROWLEYI	FABACEAE	LUPINE, DEDECKER'S	CA
2	LUPINUS SPECTABILIS	FABACEAE	LUPINE, SHAGGY HAIR	CA

TABLE I (CONTINUED) TAXA CURRENTLY UNDER REVIEW

!	LUPINUS TIDESTROMII VAR. LAYNEAE	FABACEAE	LUPINE, POINT REYES	CA
!	LYGODESMIA DOLORESENSIS	ASTERACEAE		CO
2	LYONOTHAMNUS FLORIBUNDUS SSP. ASPLENIFOLIUS	ROSACEAE	IRONWOOD, FERN-LEAVED	CA
2	LYONOTHAMNUS FLORIBUNDUS SSP. FLORIBUNDUS	ROSACEAE	IRONWOOD, CATALINA	CA
2	MACBRIDEA ALBA	LAMIACEAE	BIRDS-IN-A-NEST, WHITE	FL
2	MACHAERANTHERA LAGUNENSIS	ASTERACEAE	ASTER, LAGUNA MOUNTAINS	CA
2	MADIA HALLII	ASTERACEAE		CA
2	MAGNOLIA ASHEI	MAGNOLIACEAE	MAGNOLIA, ASHE'S	FL
2	MAHONIA NERVOSA VAR. MENDOCINENSIS	BERBERIDACEAE	BARBERRY, MENDOCINO	CA
1	MAHONIA NEVINII	BERBERIDACEAE	BARBERRY, NEVIN'S	CA
2	MAHONIA PINNATA SSP. INSULARIS	BERBERIDACEAE	BARBERRY, ISLAND	CA
2	MALACOTHAMNUS FASCICULATUS VAR. NESIOTICUS	MALVACEAE	BUSH-MALLOW, SANTA CRUZ ISLAND	CA
2	MALACOTHAMNUS PALMERI VAR. INVOLUCRATUS	MALVACEAE	BUSH-MALLOW, CARMEL VALLEY	CA
2	MALACOTHAMNUS PALMERI VAR. LUCIANUS	MALVACEAE	BUSH-MALLOW, ARROYO SECO	CA
2	MALACOTHRIX SAXATILIS VAR. ARACHNOIDEA	ASTERACEAE	MALACOTHRIX, CARMEL VALLEY	CA
2	MARSHALLIA GRANDIFLORA	ASTERACEAE	BARBARA'S BUTTONS,	KY MD NC PA TN WV
2	MARSHALLIA MOHRII	ASTERACEAE	BARBARA'S BUTTONS,	AL FL GA
2	MATELEA ALABAMENSIS	ASCLEPIADACEAE	ANGLEPOD,	AL FL GA
2	MATELEA FLORIDANA	ASCLEPIADACEAE		FL
2	MATELEA RADIATA	ASCLEPIADACEAE	ANGLEPOD (MILKVINE), FALPURRIAS	TX
2	MAURANDYA PETROPHILA	SCROPHULARIACEAE	ROCK LADY	CA
2	MELANTHERA PARVIFOLIA	ASTERACEAE		FL
2	MENTZELIA DENSA	LOASACEAE		CO
2	MENTZELIA MOLLIS	LOASACEAE	STICKLEAF, SMOOTH	ID NV OR
2	MERTENSIA DRUMMONDII	BORAGINACEAE	BLUEBELL, DRUMMOND	AK, CANADA (N.W.T., YUKON)
2	MESADENUS PORTORICENSIS	ORCHIDACEAE		PR
1*	MICRANTHEMUM MICRANTHEMOIDES	SCROPHULARIACEAE	MICRANTHEMUM, NUTTALL'S	DE DC MD NJ NY PA VA
2	MICROSERIS DECIPIENS	ASTERACEAE	MICROSERIS, SANTA CRUZ	CA
2	MICROSERIS HOWELLII	ASTERACEAE		OR
	MIMULUS ARIDUS	*** SEE ***	DIPLACUS ARIDUS	
2	MIMULUS EXIGUUS	SCROPHULARIACEAE	MONKEYFLOWER, MEAN	CA
2	MIMULUS GLABRATUS VAR. MICHIGANENSIS	SCROPHULARIACEAE	MONKEYFLOWER,	MI
2	MIMULUS PURPUREUS VAR. PURPUREUS	SCROPHULARIACEAE	MONKEYFLOWER, PURPLE	CA
2	MIMULUS RUPICOLA	SCROPHULARIACEAE	MONKEYFLOWER, DEATH VALLEY	CA
2	MIMULUS SP./SP. NOV. INED. (KERN CO.)	SCROPHULARIACEAE		CA
2	MIMULUS SP./SP. NOV. INED. (TULARE CO.)	SCROPHULARIACEAE		CA
2	MINUARTIA DECUMBENS	CARYLOPHYLLACEAE	SANDWORT, LASSICS	CA
2	MINUARTIA GODFREYI	CARYOPHYLLACEAE		AL FL NC SC
2	MINUARTIA ROSEI	CARYOPHYLLACEAE	SANDWORT, PEANUT	CA
2	MIRABILIS ROTUNDIFOLIA	NYCTAGINACEAE		CO
2	MONARDELLA CRISPA	LAMIACEAE	MONARDELLA, CRISP	CA
2	MONARDELLA LINOIDES SSP. VIMINEA	LAMIACEAE	MONARDELLA, WILLOWY	CA
2	MONARDELLA NANA SSP. LEPTOSIPHON	LAMIACEAE	MONARDELLA, SAN FELIPE	CA
2	MONARDELLA ROBISONII	LAMIACEAE	MONARDELLA, ROBISON	CA
2	MONARDELLA SCELERATA /SP. NOV. INED.	LAMIACEAE	MONARDELLA, STONE CORRAL CANYON	CA
2	MONARDELLA STEBBINSII	LAMIACEAE	MONARDELLA, STEBBINS'	CA
2	MONARDELLA UNDULATA VAR. PRUTESCENS	LAMIACEAE	MONARDELLA, CURLY-LEAVED, SAN LUIS O	CA
2	MONOTROPSIS REYNOLDSIAE	ERICACEAE	PINESAP, SWEET	FL
2	MONTIA BOSTOCKII	PORTULACACEAE		AK, CANADA (YUKON)
1	MUHLENBERGIA TORREYANA	POACEAE	MUHLY, TORREY'S	DE GA MD NJ NY TN
2	MUILLA CLEVELANDII	LILIACEAE	GOLDENSTAR, SAN DIEGO	CA, MEXICO (BAJA CALIFORNIA)
2	MUNZOTHAMNUS BLAIRII	ASTERACEAE		CA
2	MUSINEON LINEARE	APIACEAE		UT
2	MYOSURUS MINIMUS SSP. APUS	RANUNCULACEAE		CA OR
1	MYRCIA PAGANII	MYRTACEAE	AUSU	PR
2	MYRCIANTHES FRAGRANS VAR. SIMPSONII	MYRTACEAE		FL

TABLE I (CONTINUED)

TAXA CURRENTLY UNDER REVIEW

2*	NAJAS CAESPITOSA	NAJADACEAE	NAIAD, FISH LAKE	UT
2	NASTURTIUM GAMBELII	BRASSICACEAE	WATERCRESS, GAMBEL'S	CA
2	NAVARRETIA FOSSALIS	POLEMONIACEAE	NAVARRETIA, NO-NAMED	CA, MEXICO (BAJA CALIFORNIA)
2	NAVARRETIA PAUCIFLORA	POLEMONIACEAE	NAVARRETIA, FEW-FLOWERED	CA
2	NAVARRETIA PLIEANTHA	POLEMONIACEAE	NAVARRETIA, MANY-FLOWERED	CA
2	NAVARRETIA SETILOBA	POLEMONIACEAE	NAVARRETIA, COVILLE'S	CA
2	NEMACLADUS TWISSELMANNII	CAMPANULACEAE	NEMACLADUS, TWISSELMANN'S	CA
2	NEMASTYLIS FLORIDANA	IRIDACEAE	IXIA, FALL-FLOWERING	FL
	NEMOPANTHUS COLLINUS	*** SEE ***	ILEX COLLINA	
2	NEOLLOYDIA ERECTOCENTRA VAR. ERECTOCENTRA	CACTACEAE		AZ
2	NEOLLOYDIA GAUTII	CACTACEAE		TX
2	NEOPARRYA LITHOPHILA	APIACEAE		CO
2	NEOSTAPFIA COLUSANA	POACEAE	GRASS, COLUSA	CA
2	NESTRONIA UMBELLULA	SANTALACEAE		AL GA NC SC TN VA
2	NEVIUSIA ALABAMENSIS	ROSACEAE		AL AR MS MO TN
2	NOLINA ATOPOCARPA	LILIACEAE	BEAR-GRASS,	FL
1	NOLINA INTERRATA	LILIACEAE	BEAR-GRASS, DEHESA (SAN DIEGO)	CA, MEXICO
2	NOTHOLAENA LEMMONII	POLYPODIACEAE		AZ, MEXICO
2	OENOTHERA ACUTISSIMA	ONAGRACEAE	EVENING-PRIMROSE,	CO UT
2	OENOTHERA ORGANENSIS	ONAGRACEAE		NM
1	OENOTHERA PILOSELLA SSP. SESSILIS	ONAGRACEAE	EVENING-PRIMROSE,	AR LA TX
2	OENOTHERA PSAMMOPHILA	ONAGRACEAE	EVENING-PRIMROSE,	ID
2	OENOTHERA WOLFII	ONAGRACEAE	EVENING-PRIMROSE, WOLF'S	CA OR
2	OPUNTIA ARENARIA	CACTACEAE		NM TX, MEXICO
2	OPUNTIA BASILARIS VAR. BRACHYCLADA	CACTACEAE		CA
1	OPUNTIA BASILARIS VAR. TRELEASEI	CACTACEAE	BEAVERTAIL CACTUS, KERN	CA
2	OPUNTIA MUNZII	CACTACEAE	CHOLLA, MUNZ	CA
2	OPUNTIA PARRYI VAR. SERPENTINA	CACTACEAE	CHOLLA, SNAKE	CA, MEXICO (BAJA CALIFORNIA)
2	OPUNTIA WIGGINSII	CACTACEAE	CHOLLA, WIGGINS	AZ CA
1	ORCUTTIA CALIFORNICA	POACEAE	ORCUTT GRASS, CALIFORNIA	CA, MEXICO
	ORCUTTIA CALIFORNICA VAR. INEQUALIS	*** SEE ***	ORCUTTIA INAEQUALIS	
	ORCUTTIA CALIFORNICA VAR. VISCIDA	*** SEE ***	ORCUTTIA VISCIDA	
	ORCUTTIA GREENEI	*** SEE ***	TUCTORIA GREENEI	
1	ORCUTTIA INEQUALIS	POACEAE	ORCUTT GRASS, SAN JOAQUIN	CA
1	ORCUTTIA VISCIDA	POACEAE	ORCUTT GRASS, SACRAMENTO	CA
2	OREONANA PURPURASCENS	APIACEAE		CA
2	OROBANCHE PARISHII SSP. BRACHYLOBA	OROBANCHACEAE	BROOMRAPE, SHORT-LOBED	CA
2	OROBANCHE VALIDA SSP. VALIDA	OROBANCHACEAE	BROOMRAPE, ROCK CREEK	CA
2	ORTHOCARPUS CAMPESTRIS VAR. SUCCULENTUS	SCROPHULARIACEAE	OWL'S-CLOVER, SUCCULENT	CA
2	ORTHOCARPUS CASTILLEJOIDES VAR. HUMBOLDTIENSIS	SCROPHULARIACEAE	OWL'S-CLOVER, HUMBOLDT	CA
2	ORTHOCARPUS FLORIBUNDUS	SCROPHULARIACEAE	OWL'S-CLOVER, SAN FRANCISCO	CA
2	ORYCTES NEVADENSIS	SOLANACEAE		CA NV
2	OSMORHIZA MEXICANA SSP. BIPATRIATA	APIACEAE		TX, MEXICO
	OXYBAPHUS ROTUNDIFOLIUS	*** SEE ***	MIRABILIS ROTUNDIFOLIA	
1	OXYPOLIS CANBYI	APIACEAE	DROPWORT, CANBY'S	DE GA MD SC
2	OXYPOLIS GREENMANII	APIACEAE	WATER-DROPWORT, GIANT (GREENMAN'S)	FL
2	OXYTROPIS KOBUKENSIS	FABACEAE	LOCOWEED, KOBUK	AK
2	OXYTROPIS KOKRINENSIS	FABACEAE	OXYTROPE, KOKRINES	AK
2	PALAFOXIA ARIDA VAR. GIGANTEA	ASTERACEAE	SPANISHNEEDLE, GIANT	CA
2	PARNASSIA CAROLINIANA	SAXIFRAGACEAE		FL MS NC SC
2	PARONYCHIA CHARTACEA	CARYOPHYLLACEAE	WHITLOW-WORT,	FL
2	PARONYCHIA MACCARTII	CARYOPHYLLACEAE	WHITLOW-WORT, MCCART'S	TX
2	PARONYCHIA VIRGINICA VAR. VIRGINICA	CARYOPHYLLACEAE		DC MD VA WV
2	PARVISEDUM LEIOCARPUM	CRASSULACEAE	STONECROP, LAKE COUNTY	CA
2	PECTIS IMBERBIS	ASTERACEAE		AZ

TABLE I (CONTINUED) TAXA CURRENTLY UNDER REVIEW

2	PEDIOCACTUS DESPAINII	CACTACEAE		UT
2	PEDIOCACTUS PAPYRACANTHUS	CACTACEAE		AZ NM, MEXICO
2	PEDIOCACTUS WINKLERI	CACTACEAE		UT
2	PENSTEMON ALAMOSENSIS	SCROPHULARIACEAE		NM
1	PENSTEMON ALBIFLUVIS	SCROPHULARIACEAE	BEARDTONGUE,	CO UT
2	PENSTEMON AMMOPHILUM	SCROPHULARIACEAE		UT
2	PENSTEMON ARENARIUS	SCROPHULARIACEAE		NV
2	PENSTEMON ATWOODII	SCROPHULARIACEAE		UT
2	PENSTEMON BARRETTIAE	SCROPHULARIACEAE		OR WA
2	PENSTEMON BICOLOR SSP. BICOLOR	SCROPHULARIACEAE		NV
2	PENSTEMON BICOLOR SSP. ROSEUS	SCROPHULARIACEAE		AZ NV
2	PENSTEMON CONCINNUS	SCROPHULARIACEAE	BEARDTONGUE, TUNNEL SPRINGS	NV UT
2	PENSTEMON DISTANS	SCROPHULARIACEAE		AZ
2	PENSTEMON FRUTICIFORMIS SSP. AMARGOSAE	SCROPHULARIACEAE	PENSTEMON, AMARGOSA	CA NV
2	PENSTEMON GIBBENSII	SCROPHULARIACEAE		CO WY
2	PENSTEMON GLAUCINUS	SCROPHULARIACEAE	BEARDTONGUE,	OR
1	PENSTEMON GRAHAMII	SCROPHULARIACEAE	BEARDTONGUE, GRAHAM	CO UT
2	PENSTEMON LEMHIENSIS	SCROPHULARIACEAE	BEARDTONGUE, LEMHI	ID MT
2	PENSTEMON LEPTANTHUS	SCROPHULARIACEAE		UT
2*	PENSTEMON PARVIFLORUS	SCROPHULARIACEAE		CO
2	PENSTEMON PECKII	SCROPHULARIACEAE		OR
2	PENSTEMON PERSONATUS	SCROPHULARIACEAE	BEARDTONGUE, CLOSED-LIP	CA
2	PENSTEMON PUDICUS	SCROPHULARIACEAE		NV
2	PENSTEMON TIDESTROMII	SCROPHULARIACEAE	BEARDTONGUE, TIDESTROM	UT
2	PENSTEMON WARDII	SCROPHULARIACEAE	BEARDTONGUE, WARD	UT
2	PENTACHAETA BELLIDIFLORA	ASTERACEAE	PENTACHAETA, WHITE-RAYED	CA
2	PENTACHAETA EXILIS SSP. AEOLICA	ASTERACEAE	PENTACHAETA, SLENDER	CA
2	PENTACHAETA LYONII	ASTERACEAE	PENTACHAETA, LYON'S	CA
2	PEPEROMIA FLORIDANA	PIPERACEAE		FL
2	PERIDERIDIA ERYTHRORHIZA	APIACEAE		OR
2	PERIDERIDIA GAIRDNERI SSP. GAIRDNERI	APIACEAE	YAMPAH, GAIRDNER'S	CA
2	PERITYLE AJOENSIS	ASTERACEAE	ROCK-DAISY, AJO	AZ
2	PERITYLE BISETOSA VAR. BISETOSA	ASTERACEAE	ROCK-DAISY, TWO-SPIKE,	TX
2	PERITYLE BISETOSA VAR. SCALARIS	ASTERACEAE	ROCK-DAISY, TWO-SPIKE,	TX
2	PERITYLE CERNUA	ASTERACEAE		NM
2	PERITYLE VILLOSA	ASTERACEAE	LAPHAMIA, HANAUPAH	CA
2	PERITYLE VITRECMONTANA	ASTERACEAE	ROCK-DAISY, GLASS MOUNTAIN	TX
2	PETALONYX THURBERI SSP. GILMANII	LOASACEAE	SANDPAPERPLANT, DEATH VALLEY	CA
2	PHACELIA AMABILIS	HYDROPHYLLACEAE	PHACELIA, SALINE VALLEY	CA
2	PHACELIA BEATLEYAE	HYDROPHYLLACEAE	PHACELIA, BEATLEY	NV
2	PHACELIA CAPITATA	HYDROPHYLLACEAE	PHACELIA,	OR
2	PHACELIA COOKEI	HYDROPHYLLACEAE	PHACELIA, COOKE'S	CA
2	PHACELIA FLORIBUNDA	HYDROPHYLLACEAE		CA
2	PHACELIA INCONSPICUA	HYDROPHYLLACEAE		ID NV
2	PHACELIA INDECORA	HYDROPHYLLACEAE	PHACELIA, DRAB	UT
2	PHACELIA INSULARIS VAR. INSULARIS	HYDROPHYLLACEAE	PHACELIA, ISLAND	CA
1	PHACELIA LENTA	HYDROPHYLLACEAE	PHACELIA, STICKY	WA
2	PHACELIA MONOENSIS	HYDROPHYLLACEAE	PHACELIA, MONO	CA NV
2	PHACELIA NOVENMILLENSIS	HYDROPHYLLACEAE	PHACELIA, NINE MILE CANYON	CA
2	PHACELIA PHACELIOIDES	HYDROPHYLLACEAE	PHACELIA, MT. DIABLO	CA
2	PHACELIA SUBMUTICA	HYDROPHYLLACEAE	PHACELIA,	CO
2	PHACELIA VERNA	HYDROPHYLLACEAE		OR
2	PHLOX BIFIDA SSP. STELLARIA	POLEMONIACEAE	PHLOX, CLEFT,	AR IL IN KY MO TN
2	PHLOX DOLICHANTHA	POLEMONIACEAE	PHLOX, BEAR VALLEY	CA
2	PHLOX HIRSUTA	POLEMONIACEAE	PHLOX, YREKA	CA
2	PHYLLANTHUS PENTAPHYLLUS SSP. FLORIDANUS	EUPHORBIACEAE		FL
2	PHYLLITIS SCOLOPENDRIUM VAR. AMERICANUM	POLYPODIACEAE	FERN, AMERICAN	AL MI NY TN, CANADA

TABLE I (CONTINUED) TAXA CURRENTLY UNDER REVIEW

2	PHYSARIA OBCORDATA	BRASSICACEAE		CO
2	PHYSOSTEGIA CORRELLII	LAMIACEAE	FALSE DRAGON-HEAD, CORRELL'S	TX
2	PHYSOSTEGIA LEPTOPHYLLA	LAMIACEAE		FL GA NC SC VA
2	PINGUICULA IONANTHA	LENTIBULARIACEAE	BUTTERWORT,	FL
2	PINUS TORREYANA	PINACEAE	PINE, TORREY	CA
2	PITYOPSIS FLEXUOSA	ASTERACEAE		FL
1	PITYOPSIS RUTHII	ASTERACEAE	GOLDEN-ASTER, RUTH'S	TN
2*	PLAGIOBOTHRYS DIFFUSUS	BORAGINACEAE	POPCORNFLOWER, SAN FRANCISCO	CA
2	PLAGIOBOTHRYS GLABER	BORAGINACEAE	ALLOCARYA, GLABROUS	CA
2	PLAGIOBOTHRYS GLYPTOCARPUS VAR. MODESTUS	BORAGINACEAE	ALLOCARYA, CEDAR VALLEY	CA
2*	PLAGIOBOTHRYS HIRTUS VAR. CORALLICARPUS	BORAGINACEAE		OR
2	PLAGIOBOTHRYS HIRTUS VAR. HIRTUS	BORAGINACEAE	POPCORNFLOWER,	OR
2	PLAGIOBOTHRYS HYSTRICULUS	BORAGINACEAE	ALLOCARYA, BEARDED	CA
2*	PLAGIOBOTHRYS LAMPROCARPUS	BORAGINACEAE	POPCORNFLOWER,	OR
2	PLAGIOBOTHRYS MOLLIS VAR. VESTITUS	BORAGINACEAE	ALLOCARYA, PETALUMA	CA
2	PLAGIOBOTHRYS SCRIPTUS	BORAGINACEAE	ALLOCARYA, SCRIBE	CA
2	PLAGIOBOTHRYS STRICTUS	BORAGINACEAE	ALLOCARYA, CALISTOGA	CA
2	PLANTAGO CORDATA	PLANTAGINACEAE	PLANTAIN, HEART-LEAVED	AL AR DC FL GA IL IN KY MD MI MO NY NC OH VA WI, CANADA (ONT.)
2	PLATANTHERA INTEGRILABIA	ORCHIDACEAE		AL KY MS NC SC TN
2	PLATANTHERA LEUCOPHAEA	ORCHIDACEAE	ORCHID, WHITE-FRINGED, PRAIRIE	AR IL IN IA KS LA ME MI MN MO NE NY ND OH OK PA SD VA WI, CANADA (ONT.)
2	PLATYSTEMON CALIFORNICUS VAR. CILIATUS	PAPAVERACEAE		CA
1	PLEODENDRON MACRANTHUM	CANELLACEAE	CHUPAGALLO (CHUPACALLOS)	PR
2	PLEUROPOGON HOOVERANUS	POACEAE	SEMAPHORE GRASS, HOOVER'S	CA
2	PLEUROPOGON OREGONUS	POACEAE	SEMAPHORE GRASS, OREGON	OR
2	POA FIBRATA	POACEAE	BLUE GRASS, LASSEN COUNTY	CA
2	POA INVOLUTA	POACEAE	BLUE GRASS, BIG BEND	TX
2	POA NAPENSIS	POACEAE	BLUE GRASS, NAPA	CA
2	POA PALUDIGENA	POACEAE	BLUE GRASS,	IL IN MI MN NY OH PA WI
2	POA RHIZOMATA	POACEAE		CA
2	PODISTERA YUKONENSIS	APIACEAE		AK, CANADA (YUKON)
2	POGOGYNE CLAREANA	LAMIACEAE	POGOGYNE, SANTA LUCIA	CA
2*	POLEMONIUM OCCIDENTALE VAR. LACUSTRE	POLEMONIACEAE	JACOB'S LADDER,	MN
2	POLEMONIUM VANBRUNTIAE	POLEMONIACEAE	JACOB'S LADDER,	CT MD NJ NY PA VT WV, CANADA (N.B., QUE.)
2	POLIANTHES RUNYONII	LILIACEAE	HUACO, RUNYON	TX
2	POLYGALA BOYKINII VAR. SPARSIFOLIA	POLYGALACEAE		FL
2	POLYGALA COWELLII	POLYGALACEAE	PALO DE VIOLETA (VIOLET TREE)	PR
2	POLYGONUM MARINENSE	POLYGONACEAE	KNOTWEED, MARIN	CA
2	POLYGONUM PENSYLVANICUM VAR. EGLANDULOSUM	POLYGONACEAE	PINKWEED, LAKE ERIE	MO OH, CANADA (ONT.)
2	POLYSTICHUM ALEUTICUM	POLYPODIACEAE	SHIELD FERN (HOLLY FERN), ALEUTIAN	AK
2	PORTULACA CAULERPOIDES	PORTULACACEAE		PR
2	POTAMOGETON CLYSTOCARPUS	POTAMOGETONACEAE	PONDWEED,	TX
2	POTENTILLA HICKMANII VAR. HICKMANII	ROSACEAE	CINQUEFOIL, HICKMAN'S	CA
2	POTENTILLA HICKMANII VAR. ULIGINOSA /INED.	ROSACEAE	CINQUEFOIL, CUNNINGHAM MARSH	CA
	POTENTILLA ULIGINOSA	*** SEE ***	POTENTILLA HICKMANII VAR. ULIGINOSA /VAR. NOV. INED.	
2	PRIMULA CAPILLARIS	PRIMULACEAE	PRIMROSE,	NV
2	PRIMULA NEVADENSIS	PRIMULACEAE	PRIMROSE,	NV
2	PRIMULA WILCOXIANA /SP. NOV. INED.	PRIMULACEAE		ID
1*	PRIVA PORTORICENSIS	VERBENACEAE		PR
2	PRUNUS MARITIMA VAR. GRAVESII	ROSACEAE	PLUM, BEACH, GRAVE'S	CT
2	PSEUDOBAHIA BAHIAEFOLIA	ASTERACEAE	PSEUDOBAHIA, HARTWEG'S	CA
2	PSEUDOBAHIA PEIRSONII	ASTERACEAE	PSEUDOBAHIA, TULARE	CA
	PSEUDOTAENIDIA MONTANA	*** SEE ***	TAENIDIA MONTANA	

TABLE I (CONTINUED) TAXA CURRENTLY UNDER REVIEW

2	PTEROGLOSSASPIS ECRISTATA	ORCHIDACEAE		FL GA LA MS NC SC, CUBA
2	PTILAGROSTIS MONGHOLICA SSP. PORTERI	POACEAE	NEEDLE GRASS, PORTER'S	CO
	PTILAGROSTIS PORTERI	*** SEE ***	PTILAGROSTIS MONGHOLICA SSP. PORTERI	
2	PTILIMNIUM FLUVIATILE	APIACEAE	HARPERELLA,	AL MD NC WV
2	PTILIMNIUM NODOSUM	APIACEAE		GA SC
2	PUCCINELLIA PARISHII	POACEAE	ALKALI GRASS, PARISH'S	A2 CA
	PYRROCOMA UNIFLORA VAR. GOSSYPINA	*** SEE ***	HAPLOPAPPUS UNIFLORUS SSP. GOSSYPINUS	
2	RANUNCULUS ACRIFORMIS VAR. AESTIVALIS	RANUNCULACEAE	BUTTERCUP, SHARP, AUTUMN	UT
2	RANUNCULUS AUSTRO-OREGANUS	RANUNCULACEAE		OR
2	RHEXIA ARISTOSA	MELASTOMATACEAE	MEADOWBEAUTY, AWNED	AL DE GA NC NJ SC VA
2	RHEXIA PARVIFLORA	MELASTOMATACEAE	MEADOWBEAUTY,	FL GA
2	RHEXIA SALICIPOLIA	MELASTOMATACEAE	MEADOWBEAUTY, PANHANDLE	AL FL
2	RHYNCHOSIA CINEREA	FABACEAE		FL
2	RHYNCHOSPORA CALIFORNICA	CYPERACEAE	BEAKED-RUSH, CALIFORNIA	CA
2	RHYNCHOSPORA CRINIPES	CYPERACEAE	BEAKED-RUSH,	AL
1	RHYNCHOSPORA KNIESKERNII	CYPERACEAE	BEAKED-RUSH, KNIESKERN'S	DE NJ
2	RUBUS WHARTONIAE	ROSACEAE		KY TN
2	RUDBECKIA HELIOPSIDIS	ASTERACEAE		AL GA NC SC VA
2	SALIX FLORIDANA	SALICACEAE	WILLOW, FLORIDA	FL GA
2	SALIX OVALIPOLIA VAR. GLACIALIS	SALICACEAE	WILLOW, ROUND-LEAF	AK
2	SALVIA BRANDEGEI	LAMIACEAE	SAGE, BRANDEGEE'S	CA
2	SANICULA MARITIMA	APIACEAE	SANICLE, ADOBE	CA
2	SANICULA SAXATILIS	APIACEAE	SANICLE, ROCK	CA
2	SANICULA TRACYI	APIACEAE	SANICLE, TRACY'S	CA OR
2	SARRACENIA RUBRA SSP. ALABAMENSIS	SARRACENIACEAE	PITCHERPLANT, ALABAMA CANEBREAK	AL
2	SARRACENIA RUBRA SSP. WHERRYI	SARRACENIACEAE		AL MS
2	SATUREJA CHANDLERI	LAMIACEAE	SAVORY, SAN MIGUEL	CA, MEXICO
2	SAXIFRAGA CAREYANA	SAXIFRAGACEAE	SAXIFRAGE,	GA NC SC TN VA
2	SAXIFRAGA CAROLINIANA	SAXIFRAGACEAE	SAXIFRAGE, GRAY'S	GA NC TN VA WV
2	SAXIFRAGA OCCIDENTALIS VAR. LATIPETIOLATA	SAXIFRAGACEAE		OR
2	SCHIZACHYRIUM NIVEUM	POACEAE		FL GA
2	SCHIZAEA GERMANII	SCHIZAEACEAE	FERN, CURLY-GRASS	FL, BELIZE, CUBA, GUADELOUPE
2	SCHIZAEA PUSILLA	SCHIZAEACEAE	FERN, CURLY-GRASS	NJ NY, CANADA (NFLD., N.S., ONT.), ST. PIERRE & MIQUELON
2	SCHOENOCRAMBE BARNEBYI	BRASSICACEAE		UT
	SCHOENOLIRION BRACTEOSUM	*** SEE ***	HASTINGSIA BRACTEOSA	
2	SCHOENOLIRION WRIGHTII	LILIACEAE	SUNNYBELL, TEXAS	AL AR TX
2	SCHWALBEA AMERICANA	SCROPHULARIACEAE	CHAFFSEED	CT DE KY LA MD MA MS NJ NY SC TN VA
2	SCIRPUS LONGII	CYPERACEAE	BULRUSH, LONG'S	CT ME MA NJ NY, CANADA (N.S.)
2	SCLEROCACTUS POLYANCISTRUS	CACTACEAE	FISHHOOK CACTUS, MOHAVE	CA NV
2	SCLEROCACTUS SPINOSIOR	CACTACEAE		UT
2	SCLEROCACTUS WHIPPLEI VAR. HEILII	CACTACEAE		NM
2	SCROPHULARIA ATRATA	SCROPHULARIACEAE	FIGWORT, BLACK-FLOWERED	CA
2	SCROPHULARIA VILLOSA	SCROPHULARIACEAE	FIGWORT, SANTA CATALINA	CA
2	SCUTELLARIA FLORIDANA	LAMIACEAE		FL
2	SCUTELLARIA HOLMGRENIORUM	LAMIACEAE	SKULLCAP, RAVENDALE	CA
2	SCUTELLARIA MONTANA	LAMIACEAE	SKULLCAP, LARGE-FLOWERED	GA TN
2	SCUTELLARIA OVATA SSP. PSEUDOARGUTA	LAMIACEAE	SKULLCAP, HEART-LEAVED,	VA WV
2	SCUTELLARIA THIERETII	LAMIACEAE		LA
2	SEDUM ALBOMARGINATUM	CRASSULACEAE	STONECROP, FEATHER RIVER	CA
2	SEDUM LAXUM SSP. FLAVIDUM	CRASSULACEAE	STONECROP, PALE YELLOW	CA
2	SEDUM MORANII	CRASSULACEAE	STONECROP,	OR
2	SEDUM NEVII	CRASSULACEAE	STONECROP,	AL GA TN

TABLE I (CONTINUED)

TAXA CURRENTLY UNDER REVIEW

2	SEDUM OBLANCEOLATUM	CRASSULACEAE		OR
2	SEDUM OBTUSATUM SSP. PARADISUM	CRASSULACEAE	STONECROP, CANYON CREEK	CA
2*	SEDUM PINETORUM	CRASSULACEAE	STONECROP, PINE CITY	CA
2	SEDUM PUSILLUM	CRASSULACEAE		GA NC SC
2	SENECIO BERNARDINUS	ASTERACEAE	BUTTERWEED, SAN BERNARDINO	CA
2	SENECIO DIMORPHOPHYLLUS VAR. INTERMEDIUS	ASTERACEAE	GROUNDSEL, INTERMEDIATE	CO UT
2	SENECIO GANDERI	ASTERACEAE	BUTTERWEED, GANDER	CA
2	SENECIO HESPERIUS	ASTERACEAE		OR
2	SENECIO LAYNEAE	ASTERACEAE	BUTTERWEED, LAYNE'S	CA
1	SERIANTHES NELSONII	FABACEAE	HAYUN LAGU	GU, ROTA
2	SHORTIA GALACIFOLIA	DIAPENSIACEAE	OCONEE-BELLS	GA NC SC
2	SHOSHONEA PULVINATA	APIACEAE		WY
2	SIBARA GRISEA	BRASSICACEAE		NM
2	SIDA HERMAPHRODITA	MALVACEAE	MALLOW, VIRGINIA	DC IN KY MD MI OH PA TN VA WV
2	SIDA INFLEXA	MALVACEAE		VA
2	SIDA RUBROMARGINATA	MALVACEAE		FL
2	SIDALCEA CAMPESTRIS	MALVACEAE	CHECKER-MALLOW, MEADOW	OR
2	SIDALCEA CUSICKII	MALVACEAE		OR
2	SIDALCEA NELSONIANA	MALVACEAE	CHECKER-MALLOW, NELSON'S	OR
2	SIDALCEA OREGANA SSP. VALIDA	MALVACEAE	CHECKER-MALLOW, KENWOOD MARSH	CA
2	SIDALCEA OREGANA VAR. CALVA	MALVACEAE		WA
2	SIDALCEA ROBUSTA	MALVACEAE	SIDALCEA, BUTTE COUNTY	CA
2	SILENE CLOKEYI	CARYOPHYLLACEAE		NV
2	SILENE DOUGLASII VAR. ORARIA	CARYOPHYLLACEAE	CATCHFLY, CASCADE HEAD	OR
2	SILENE INVISA	CARYOPHYLLACEAE	CATCHFLY, RED FIR	CA
2	SILENE MARMORENSIS	CARYOPHYLLACEAE	CATCHFLY, MARBLE MOUNTAINS	CA
2	SILENE OCCIDENTALIS SSP. LONGISTIPITATA	CARYOPHYLLACEAE	CAMPION, BUTTE COUNTY	CA
2	SILENE PETERSONII VAR. PETERSONII	CARYOPHYLLACEAE	CATCHFLY, PLATEAU	UT
1	SILENE POLYPETALA	CARYOPHYLLACEAE		FL GA
2	SILENE RECTIRAMEA	CARYOPHYLLACEAE		AZ
2	SILENE REGIA	CARYOPHYLLACEAE		AL AR GA IL IN KS KY MO OH OK
2	SILENE SCAPOSA VAR. SCAPOSA	CARYOPHYLLACEAE		OR
2	SILENE SEELYI	CARYOPHYLLACEAE		WA
2	SILENE SPALDINGII	CARYOPHYLLACEAE		ID MT OR WA
2	SILENE VERECUNDA SSP. VERECUNDA	CARYOPHYLLACEAE	CAMPION, DOLORES	CA
2	SILPHIUM BRACHIATUM	ASTERACEAE	ROSINWEED,	AL TN
2	SILPHIUM CONFERTIFOLIUM	ASTERACEAE		AL
2	SIUM FLORIDANUM	APIACEAE	WATER-PARSNIP, FLORIDA	FL
2	SMELOWSKIA BOREALIS VAR. VILLOSA	BRASSICACEAE		AK
2	SMELOWSKIA PYRIFORMIS	BRASSICACEAE		AK
2*	SOLIDAGO PORTERI	ASTERACEAE	GOLDENROD, PORTER'S	GA
1	SOLIDAGO SPITHAMAEA	ASTERACEAE		NC TN
2	SOLIDAGO VERNA	ASTERACEAE		NC SC
2	SOPHORA GYPSOPHILA VAR. GUADALUPENSIS	FABACEAE		NM TX
2	SPHAERALCEA CAESPITOSA	MALVACEAE	GLOBE-MALLOW, JONES	NV UT
2	SPHAERALCEA PROCERA	MALVACEAE		NM
2	SPHAERALCEA RUSBYI SSP. EREMICOLA	MALVACEAE	MALLOW, DESERT, RUSBY	CA
2	SPHAEROMERIA RUTHIAE	ASTERACEAE	TANSY, ZION	UT
2	SPHAEROMERIA SIMPLEX	ASTERACEAE	FALSE SAGEBRUSH, LARAMIE	WY
2	SPIGELIA GENTIANOIDES	LOGANIACEAE	PINKROOT,	FL
2	SPIRAEA VIRGINIANA	ROSACEAE	SPIRAEA, VIRGINIA	GA NC PA TN WV
2	SPIRANTHES LANCEOLATA VAR. PALUDICOLA	ORCHIDACEAE	LADIES'-TRESSES,	FL
2	SPOROBOLUS OZARKANUS	POACEAE		KS MO
2	STACHYS HYSSOPIFOLIA VAR. LYTHROIDES	LAMIACEAE		FL
	STACHYS LYTHROIDES	*** SEE ***	STACHYS HYSSOPIFOLIA VAR. LYTHROIDES	

TABLE I (CONTINUED) TAXA CURRENTLY UNDER REVIEW

2	STIPA LEMMONII VAR. PUBESCENS	POACEAE	NEEDLE GRASS, HAIRY LEMMON'S	CA
2	STREPTANTHUS ALBIDUS SSP. ALBIDUS	BRASSICACEAE	JEWELFLOWER, METCALF CANYON	CA
2	STREPTANTHUS BRACHIATUS	BRASSICACEAE	STREPTANTHUS, CONTACT MINE	CA
2	STREPTANTHUS CALLISTUS	BRASSICACEAE	JEWELFLOWER, ROYAL	CA
2	STREPTANTHUS CORDATUS VAR. PIUTENSIS	BRASSICACEAE		CA
2	STREPTANTHUS INSIGNIS SSP. LYONII /INED.	BRASSICACEAE	JEWELFLOWER, BRUHA RANCH	CA
2	STREPTANTHUS LEMMONII	BRASSICACEAE	JEWELFLOWER, LEMMON'S	AZ
2	STREPTANTHUS MORRISONII	BRASSICACEAE	JEWELFLOWER, MORRISON'S	CA
2	STREPTANTHUS SQUAMIFORMIS	BRASSICACEAE	JEWELFLOWER,	AR OK
2	STYLISMA PICKERINGII VAR. PICKERINGII	CONVOLVULACEAE	MORNING-GLORY, PICKERING'S	GA NC NJ SC
1*	STYRAX PORTORICENSIS	STYRACACEAE	PALO DE JAZMIN	PR
2	STYRAX YOUNGAE	STYRACACEAE		TX, MEXICO
2	SULLIVANTIA RENIFOLIA	SAXIFRAGACEAE	SULLIVANTIA, KIDNEY-LEAVED	IL IA MN MO WI
2	SYNANDRA HISPIDULA	LAMIACEAE	SYNANDRA,	AL IL IN KY NC OH TN VA WV
2*	SYNTHYRIS MISSURICA SSP. HIRSUTA	SCROPHULARIACEAE		OR
2	TAENIDIA MONTANA	APIACEAE		MD PA VA WV
2	TALINUM APPALACHIANUM	PORTULACACEAE		AL
2	TALINUM MARGINATUM	PORTULACACEAE		AZ, MEXICO
2	TARAXACUM CARNEOCOLORATUM	ASTERACEAE		AK, CANADA (YUKON)
2	TAUSCHIA HOOVERI	APIACEAE		WA
1	TERNSTROEMIA SUBSESSILIS	THEACEAE		PR
2	TETRACOCCUS DIOICUS	EUPHORBIACEAE	TETRACOCCUS, PARRY'S	CA, MEXICO
2	THALICTRUM HELIOPHILUM	RANUNCULACEAE		CO
2	THALICTRUM STEELEANUM	RANUNCULACEAE	MEADOW-RUE, STEELE'S	DC MD PA VA WV
2	THALICTRUM TEXANUM	RANUNCULACEAE		TX
2	THELYPODIUM EUCOSMUM	BRASSICACEAE		OR
2	THERMOPSIS MACROPHYLLA VAR. AGNINA	FABACEAE	FALSE LUPINE, SANTA BARBARA	CA
2	THLASPI ARCTICUM	BRASSICACEAE		AK, CANADA (B.C., YUKON)
2	THYSANOCARPUS CONCHULIFERUS	BRASSICACEAE	FRINGEPOD, ISLAND	CA
2	TRACYINA ROSTRATA	ASTERACEAE	TRACYINA, BEAKED	CA
2	TRADESCANTIA OZARKANA	COMMELINACEAE		AR MO OK
2	TRAGIA SAXICOLA	EUPHORBIACEAE		FL
2	TRIFOLIUM AMOENUM	FABACEAE	CLOVER, SHOWY INDIAN	CA
2	TRIFOLIUM LEIBERGII	FABACEAE		OR
2	TRIFOLIUM OWYHEENSE	FABACEAE	CLOVER, OWYHEE	ID OR
2	TRIFOLIUM POLYODON	FABACEAE	CLOVER, PACIFIC GROVE	CA
2*	TRIFOLIUM STOLONIFERUM	FABACEAE		AR IL IN KS KY MO OH WV
2	TRIFOLIUM THOMPSONII	FABACEAE	CLOVER, THOMPSON	WA
2	TRIFOLIUM TRICHOCALYX	FABACEAE	CLOVER, DEL MONTE	CA
2	TRILLIUM PUSILLUM VAR. MONTICULUM	LILIACEAE		VA WV
2	TRILLIUM PUSILLUM VAR. PUSILLUM	LILIACEAE		AL GA MS NC SC TN
2	TRILLIUM PUSILLUM VAR. VIRGINIANUM	LILIACEAE	TRILLIUM, LEAST, VIRGINIA	MD VA
2	TRILLIUM RELIQUUM	LILIACEAE		AL GA SC
2*	TRIPHORA LATIFOLIA	ORCHIDACEAE	NODDING-CAPS,	FL
2	TRITELEIA CLEMENTINA	LILIACEAE		CA
2	TROLLIUS LAXUS SSP. LAXUS	RANUNCULACEAE		CT NJ NY OH PA
2	TROPIDOCARPUM CAPPARIDEUM	BRASSICACEAE	TROPIDOCARPUM, CAPER-FRUITED	CA
1	TUCTORIA GREENEI	POACEAE	ORCUTT GRASS, GREENE'S	CA
2	URTICA CHAMAEDRYOIDES VAR. RUNYONII	URTICACEAE	ORTIGUILLA,	TX
2	VAUQUELINIA PAUCIFLORA	ROSACEAE		AZ NM, MEXICO
2	VIBURNUM BRACTEATUM	CAPRIFOLIACEAE	ARROWWOOD,	AL GA
2	VIOLA NOVAE-ANGLIAE	VIOLACEAE	VIOLET, NEW ENGLAND	ME MN NY WI, CANADA (MAN., N.B., ONT.)
2	WAREA AMPLEXIFOLIA	BRASSICACEAE		AL FL
2	XYLORHIZA CRONQUISTII	ASTERACEAE		UT
2	XYRIS TENNESSEENSIS	XYRIDACEAE		GA TN
2	ZANTHOXYLUM PARVUM	RUTACEAE	TICKLE-TONGUE, SHINNER'S	TX

TABLE II

TAXA NO LONGER UNDER REVIEW

CAT	TAXON	FAMILY	COMMON NAME	HISTORICAL DISTRIBUTION
3C	ABRONIA BIGELOVII	NYCTAGINACEAE		NM
3C	ACER GRANDIDENTATUM VAR. SINUOSUM	ACERACEAE		TX
3C	AGASTACHE CUSICKII	LAMIACEAE		ID NV OR
3C	AGAVE TOUMEYANA VAR. BELLA	LILIACEAE		AZ
3C	AGAVE UTAHENSIS VAR. EBORISPINA	LILIACEAE		CA NV
3C	AGAVE UTAHENSIS VAR. NEVADENSIS	LILIACEAE		CA NV
3B	ALLIONIA CRISTATA	NYCTAGINACEAE		AZ
3C	ALLIUM PASSEYI	LILIACEAE	ONION, PASSEY'S	UT
3C	ALLIUM PERDULCE VAR. SPERRYI	LILIACEAE		TX
3B	ALLIUM PLEIANTHUM	LILIACEAE		OR
3C	ALLIUM ROBINSONII	LILIACEAE		OR WA
3C	ALLIUM SCILLOIDES	LILIACEAE		WA
3C	ALLIUM TOLMIEI VAR. PERSIMILE	LILIACEAE		ID
3C	ALLIUM YOSEMITENSE	LILIACEAE	ONION, YOSEMITE	CA
3C	ALLOWISSADULA HOLOSERICEA	MALVACEAE		TX
3C	AMMOBROMA SONORAE	LENNOACEAE	SANDFOOD	AZ CA, MEXICO
3C	AMORPHA ROEMERANA	FABACEAE		TX
3B	AMORPHA TEXANA	FABACEAE		TX
3C	AMSONIA REPENS	APOCYNACEAE		TX
3C	ANDRACHNE ARIDA	EUPHORBIACEAE		TX
3C	ANDROPOGON ARCTATUS	POACEAE	BEARD GRASS,	AL FL
3C	ANEMONE OREGANA VAR. FELIX	RANUNCULACEAE		OR WA
3C	ANODA ABUTILOIDES	MALVACEAE	FALSE INDIAN-MALLOW	AZ, MEXICO
3C	APACHERIA CHIRICAHUENSIS	CROSSOSOMATACEAE		AZ NM
3C	AQUILEGIA BARNEBYI	RANUNCULACEAE		CO UT
3B	AQUILEGIA CAERULEA VAR. DAILEYAE	RANUNCULACEAE		CO
3C	AQUILEGIA CHAPLINEI	RANUNCULACEAE	COLUMBINE,	NM TX
3C	AQUILEGIA DESERTORUM	RANUNCULACEAE		AZ
3B	AQUILEGIA LONGISSIMA	RANUNCULACEAE	COLUMBINE, LONG SPUR	MEXICO
3C	AQUILEGIA SAXIMONTANA	RANUNCULACEAE		CO
3C	ARABIS ACULEOLATA	BRASSICACEAE		CA OR
3C	ARABIS BLEPHAROPHYLLA	BRASSICACEAE	ROCK CRESS, COAST	CA
3B	ARABIS FRUCTICOSA	BRASSICACEAE	ROCK CRESS, FRUIT	WY
3C	ARABIS GUNNISONIANA	BRASSICACEAE	ROCK CRESS,	CO
3C	ARABIS MODESTA	BRASSICACEAE	ROCK CRESS, MODEST	CA OR
3C	ARABIS PYGMAEA	BRASSICACEAE		CA
3C	ARABIS SP. NOV. /INED. (JONES HOLE, UINTA CO.)	BRASSICACEAE	ROCK CRESS (JONES HOLE, UINTAH CO.)	UT
3C	ARCTOMECON MERRIAMII	PAPAVERACEAE	DESERT-POPPY,	CA NV
3C	ARCTOSTAPHYLOS AURICULATA	ERICACEAE	MANZANITA, MT. DIABLO	CA
3C	ARCTOSTAPHYLOS CRUZENSIS	ERICACEAE	MANZANITA, ARROYO DE LA CRUZ	CA
	ARCTOSTAPHYLOS EDMUNDSII VAR. PARVIFOLIA	*** SEE ***	ARCTOSTAPHYLOS UVA-URSI VAR. PARVIFOLIA	
3C	ARCTOSTAPHYLOS HISPIDULA	ERICACEAE		CA OR
3C	ARCTOSTAPHYLOS LUCIANA	ERICACEAE	MANZANITA, SANTA LUCIA	CA
3C	ARCTOSTAPHYLOS MONTEREYENSIS	ERICACEAE	MANZANITA, MONTERREY	CA
3C	ARCTOSTAPHYLOS REFUGIOENSIS	ERICACEAE	MANZANITA, REFUGIO	CA
3C	ARCTOSTAPHYLOS UVA-URSI VAR. PARVIPOLIA	ERICACEAE	MANZANITA, HANGING GARDENS	CA
3C	ARENARIA STENOMERES	CARYOPHYLLACEAE		NV
3C	ARGYTHAMNIA ARGYRAEA	EUPHORBIACEAE	MERCURY, WILD,	TX
3C	ARNICA VISCOSA	ASTERACEAE	ARNICA, SHASTA	CA OR
3C	ASCLEPIAS RUTHIAE	ASCLEPIADACEAE	MILKWEED, RUTH	UT
3B	ASTER BRACHYPHOLIS	ASTERACEAE		FL
3C	ASTER GLAUCESCENS	ASTERACEAE		WA
3B	ASTER PALUDICOLA	ASTERACEAE		CA OR
3B	ASTER PLUMOSUS	ASTERACEAE		FL

TABLE II (CONTINUED) TAXA NO LONGER UNDER REVIEW

3C	ASTRAGALUS ACKERMANNII	FABACEAE		NV
3C	ASTRAGALUS BEATHII	FABACEAE	MILK-VETCH, BEATH	AZ
3C	ASTRAGALUS CALLITHRIX	FABACEAE	MILK-VETCH, CALLOWAY	NV UT
3C	ASTRAGALUS CALYCOSUS VAR. MONOPHYLLIDIUS	FABACEAE		NV
3C	ASTRAGALUS CASTETTERI	FABACEAE	MILK-VETCH, CASTETTER	NM
3C	ASTRAGALUS CERAMICUS VAR. APUS	FABACEAE		ID
3C	ASTRAGALUS CHLOODES	FABACEAE	MILK-VETCH, GRASS	UT
3C	ASTRAGALUS CIMAE VAR. CIMAE	FABACEAE	RATTLEWEED, CIMA	CA NV
3C	ASTRAGALUS CIMAE VAR. SUFFLATUS	FABACEAE		CA
3C	ASTRAGALUS CONSOBRINUS	FABACEAE		UT
3C	ASTRAGALUS CONVALLARIUS VAR. FINITIMUS	FABACEAE		UT NV
3C	ASTRAGALUS COTTAMII	FABACEAE	MILK-VETCH, COTTAM	AZ UT
3C	ASTRAGALUS DETERIOR	FABACEAE	MILK-VETCH, CLIFF-PALACE	CO
3C	ASTRAGALUS HENRIMONTANENSIS	FABACEAE		UT
3C	ASTRAGALUS HOODIANUS	FABACEAE		OR WA
3C	ASTRAGALUS JOHANNIS-HOWELLII	FABACEAE		CA NV
3C	ASTRAGALUS LENTIGINOSUS VAR. LATUS	FABACEAE		NV
3C	ASTRAGALUS LENTIGINOSUS VAR. POHLII	FABACEAE	MILK-VETCH,	UT
3C	ASTRAGALUS LIMNOCHARIS VAR. LIMNOCHARIS	FABACEAE		UT
3C	ASTRAGALUS MALACOIDES	FABACEAE	MILK-VETCH, KAIPAROWITS	UT
3C	ASTRAGALUS MONUMENTALIS	FABACEAE		AZ NM UT
3C	ASTRAGALUS OOPHORUS VAR. LONCHOCALYX	FABACEAE		NV UT
3C	ASTRAGALUS PORRECTUS	FABACEAE	MILK-VETCH,	NV
3C	ASTRAGALUS PROIMANTHUS	FABACEAE	MILK-VETCH,	WY
3C	ASTRAGALUS PSEUDIODANTHUS	FABACEAE		CA NV
3C	ASTRAGALUS PTEROCARPUS	FABACEAE		NV
3B	ASTRAGALUS PUNICEUS VAR. GERTRUDIS	FABACEAE		NM
3C	ASTRAGALUS PURSHII VAR. OPHIOGENES	FABACEAE	MILK-VETCH,	ID
3C	ASTRAGALUS RAFAELENSIS	FABACEAE	MILK-VETCH, SAN RAFAEL	UT
3C	ASTRAGALUS SAURINUS	FABACEAE	MILK-VETCH, DINOSAUR	UT
3C	ASTRAGALUS SCHMOLLIAE	FABACEAE	MILK-VETCH, SCHMOLL	CO
3C	ASTRAGALUS SERENOI VAR. SORDESCENS	FABACEAE	MILK-VETCH,	NV
3C	ASTRAGALUS SILICEUS	FABACEAE	MILK-VETCH,	NM
3C	ASTRAGALUS SUBVESTITUS	FABACEAE		CA
3C	ASTRAGALUS TOQUIMANUS	FABACEAE		NV
3C	ASTRAGALUS TROGLODYTUS	FABACEAE		AZ
3C	ASTRAGALUS TWEEDYI	FABACEAE		OR WA
3C	ASTRAGALUS WETHERILLII	FABACEAE		CO UT
3C	ASTRAGALUS WITTMANNII	FABACEAE		NM
3C	ASTRANTHIUM ROBUSTUM	ASTERACEAE		TX
3C	ATRIPLEX KLEBERGORUM	CHENOPODIACEAE	SALTBUSH, KLEBERG'S	TX
3C	ATRIPLEX WELSHII	CHENOPODIACEAE	SALTBUSH, WELSH	UT
3C	BAHIA BIGELOVII	ASTERACEAE		TX
3C	BALSAMORHIZA ROSEA	ASTERACEAE		OR WA
3C	BAPTISIA MEGACARPA	FABACEAE	WILD INDIGO, APALACHICOLA	AL FL
3B	BAPTISIA RIPARIA	FABACEAE	WILD INDIGO,	FL
3C	BARTONIA TEXANA	GENTIANACEAE	SCREWSTEM, TEXAS	TX
3C	BENITOA OCCIDENTALIS	ASTERACEAE	BENITOA	CA
3C	BIDENS BIDENTOIDES VAR. BIDENTOIDES	ASTERACEAE	BUR-MARIGOLD,	DE NJ NY PA
3C	BOTHRIOCHLOA EXARISTATA	POACEAE		LA TX
3C	BRICKELLIA DENTATA	ASTERACEAE		TX
3C	BRICKELLIA KNAPPIANA	ASTERACEAE	BRICKELLIA, KNAPP'S	CA NV
3C	BRICKELLIA LEPTOPHYLLA	ASTERACEAE		TX, MEXICO
3C	BRICKELLIA SHINERI	ASTERACEAE		TX, MEXICO
3C	BROMUS TEXENSIS	POACEAE		TX, MEXICO
3C	CAESALPINIA BRACHYCARPA	FABACEAE		TX
3C	CAESALPINIA DRUMMONDII	FABACEAE		TX, MEXICO

TABLE II (CONTINUED) TAXA NO LONGER UNDER REVIEW

3C	CALOCHORTUS NITIDIS	LILIACEAE		ID WA
3C	CALOCHORTUS STRIATUS	LILIACEAE	MARIPOSA, ALKALI	CA NV
3C	CALOCHORTUS VENUSTUS VAR. SANGUINEUS	LILIACEAE		CA
3C	CAMASSIA CUSICKII	LILIACEAE		ID OR
3C	CAMASSIA LEICHTLINII VAR. LEICHTLINII	LILIACEAE	CAMASSIA, LEICHTLIN	OR
3C	CAMISSONIA NEVADENSIS	ONAGRACEAE		NV
3C	CAMISSONIA SPECUICOLA SSP. SPECUICOLA	ONAGRACEAE		AZ
3C	CAMPANULA PIPERI	CAMPANULACEAE	HAREBELL, OLYMPIC	WA
3C	CAMPANULA REVERCHONII	CAMPANULACEAE		TX
3C	CAMPANULA SHETLERI	CAMPANULACEAE	CAMPANULA, CASTLE	CA
3C	CAMPANULA WILKINSIANA	CAMPANULACEAE	HAREBELL, WILKIN'S	CA
	CAREX CURATORUM	*** SEE ***	CAREX SCIRPOIDEA VAR. CURATORUM	
3B	CAREX JACOBI-PETERI	CYPERACEAE	SEDGE, ANDERSON	AK
3C	CAREX OBISPOENSIS	CYPERACEAE	SEDGE, SAN LUIS	CA
3B	CAREX ONUSTA	CYPERACEAE		TX
3C	CAREX SCIRPOIDEA VAR. CURATORUM	CYPERACEAE		AZ UT
3C	CAREX SOCIALIS	CYPERACEAE		IL KY MO
3C	CAREX TOMPKINSII	CYPERACEAE	SEDGE, THOMPKINS'	CA
3B	CASSIA EXUNGUIS	FABACEAE	TAMARINDILLO	PR
3C	CASSIA RIPLEYANA	FABACEAE		TX
3C	CASTILLEJA GLANDULIFERA	SCROPHULARIACEAE		OR
3B	CASTILLEJA LUDOVICIANA	SCROPHULARIACEAE	INDIAN PAINTBRUSH, JEFF DAVIS PARISH	LA
3C	CASTILLEJA PARVULA	SCROPHULARIACEAE	INDIAN PAINTBRUSH, TUSEAR	UT
3C	CHAENACTIS NEVII	ASTERACEAE		OR
3C	CHAENACTIS RAMOSA	ASTERACEAE		WA
3C	CHAENACTIS THOMPSONII	ASTERACEAE		WA
3C	CHELONE OBLIQUA VAR. SPECIOSA	SCROPHULARIACEAE		AR IA IL IN KY MI MO
3C	CHOISYA ARIZONICA	RUTACEAE		AZ
3B	CHRYSOTHAMNUS NAUSEOSUS SSP. TEXENSIS	ASTERACEAE		NM TX
3C	CIRSIUM TURNERI	ASTERACEAE		TX
3C	CLARKIA AMOENA SSP. WHITNEYI	ONAGRACEAE		CA
3A	CLARKIA MOSQUINII SSP. XEROPHILA	ONAGRACEAE		CA
3C	CLAYTONIA MEGARHIZA VAR. NIVALIS	PORTULACACEAE		WA
3C	CLEMATIS ALBICOMA	RANUNCULACEAE	LEATHERFLOWER, WHITE-HAIRED	VA WV
3B	CLEMATIS MICRANTHA	RANUNCULACEAE	OLD MAN'S BEARD	FL
3C	CLEMATIS OCCIDENTALIS VAR. DISSECTA	RANUNCULACEAE		WA
3C	CLEOME MULTICAULIS	CAPPARACEAE		AZ CO NM TX WY, MEXICO
3C	CLUSIA FLAVA	HYPERICACEAE		FL, WEST INDIES
3C	COLLOMIA LARSENII	POLEMONIACEAE		CA OR WA
3C	COLUBRINA CALIFORNICA	RHAMNACEAE		AZ CA
3C	COREOPSIS INTERMEDIA	ASTERACEAE	TICKSEED, GOLDEN WAVE	LA TX
3C	COREOPSIS PULCHRA	ASTERACEAE		AL
3C	CORYPHANTHA DASYACANTHA VAR. VARICOLOR	CACTACEAE		TX
3C	CORYPHANTHA DUNCANII	CACTACEAE		NM TX
3C	CORYPHANTHA HESTERI	CACTACEAE		TX
3C	CORYPHANTHA SCHEERI VAR. UNCINATA	CACTACEAE		TX
3C	CORYPHANTHA VIVIPARA VAR. ROSEA	CACTACEAE		AZ CA NV UT
3C	COURSETIA AXILLARIS	FABACEAE		TX, MEXICO
3B	CRATAEGUS STENOSEPALA	ROSACEAE		TX
3B	CRATAEGUS SUTHERLANDENSIS	ROSACEAE		TX
3C	CROSSOSOMA PARVIFLORUM	CROSSOSOMATACEAE		AZ
3C	CRYPTANTHA ATWOODII	BORAGINACEAE	CATSEYE, ATWOOD'S	AZ
3C	CRYPTANTHA HOFFMANNII	BORAGINACEAE		CA NV
3C	CRYPTANTHA JOHNSTONII	BORAGINACEAE	CATSEYE, JOHNSTON	UT
3C	CRYPTANTHA MENSANA	BORAGINACEAE		UT
3C	CRYPTANTHA SEMIGLABRA	BORAGINACEAE	CATSEYE,	AZ
3C	CRYPTANTHA THOMPSONII	BORAGINACEAE		OR WA

TABLE II (CONTINUED) TAXA NO LONGER UNDER REVIEW

3C	CRYPTANTHA TUMULOSA	BORAGINACEAE		CA NV
3C	CTENIUM FLORIDANUM	POACEAE		FL GA
3C	CUPRESSUS NEVADENSIS	CUPRESSACEAE		CA
3C	CUSCUTA HARPERI	CUSCUTACEAE		AL GA
3C	CYMOPTERUS BASALTICUS	APIACEAE		NV UT
3C	CYMOPTERUS COULTERI	APIACEAE	BISCUITROOT, COULTER	UT
3C	CYNANCHUM WIGGINSII	ASCLEPIADACEAE		AZ
3C	CYPRIPEDIUM CALIFORNICUM	ORCHIDACEAE	LADY'S-SLIPPER, CALIFORNIA	CA OR
3C	CYPRIPEDIUM MONTANUM	ORCHIDACEAE		AK CA MT OR WA WY, CANADA (ALTA., B.C.)
3C	DARLINGTONIA CALIFORNICA	SARRACENIACEAE	PITCHERPLANT, CALIFORNIA	CA OR
3C	DELPHINIUM ALABAMICUM	RANUNCULACEAE		AL
3C	DELPHINIUM MULTIPLEX	RANUNCULACEAE	LARKSPUR,	WA
3C	DELPHINIUM NEWTONIANUM	RANUNCULACEAE		AR
3C	DELPHINIUM PARISHII SSP. PURPUREUM	RANUNCULACEAE		CA
3C	DELPHINIUM TRELEASEI	RANUNCULACEAE		AR MO
3C	DELPHINIUM XANTHOLEUCUM	RANUNCULACEAE	LARKSPUR, NORTHWESTERN	WA
3C	DESMANTHUS BICORNUTUS	FABACEAE	BUNDLEFLOWER, RUBY	MEXICO
3C	DICENTRA FORMOSA SSP. OREGANA	FUMARIACEAE	BLEEDINGHEART, PACIFIC	CA OR
3C	DICHELOSTEMMA LACUNA-VERNALIS	LILIACEAE	BRODIAEA, VERNAL POOL	CA
3B	DICLIPTERA KRUGII	ACANTHACEAE		PR
3C	DIONAEA MUSCIPULA	DROSERACEAE	VENUS' FLY-TRAP	NC SC
3C	DOWNINGIA HUMILIS	CAMPANULACEAE		CA
3C	DRABA ASPRELLA VAR. ASPRELLA	BRASSICACEAE		AZ
3B	DRABA ASPRELLA VAR. KAIBABENSIS	BRASSICACEAE		AZ
3B	DRABA ASPRELLA VAR. STELLIGERA	BRASSICACEAE		AZ
3C	DRABA ASPRELLA VAR. ZIONENSIS	BRASSICACEAE	WHITLOW-GRASS, ZION	UT
3C	DRABA ASTEROPHORA VAR. ASTEROPHORA	BRASSICACEAE	DRABA, LAKE TAHOE	CA NV
3C	DRABA CRASSIFOLIA VAR. NEVADENSIS	BRASSICACEAE		CA NV
3C	DRABA CRUCIATA VAR. CRUCIATA	BRASSICACEAE	DRABA, MINERAL KING	CA
3C	DRABA CRUCIATA VAR. INTEGRIFOLIA	BRASSICACEAE	DRABA, WHITNEY	CA
3C	DRABA DOUGLASII VAR. CROCKERI	BRASSICACEAE		CA NV
3C	DRABA MAGUIREI VAR. MAGUIREI	BRASSICACEAE		UT
3C	DRABA QUADRICOSTATA	BRASSICACEAE	DRABA, BODIE HILLS	CA NV
3C	DRABA SOBOLIFERA	BRASSICACEAE	WHITLOW-GRASS, STOLON	UT
3C	DRABA STENOLOBA VAR. RAMOSA	BRASSICACEAE		CA NV
3C	ECHINOCEREUS LEDINGII	CACTACEAE		AZ
3B	ECHINOCEREUS RUSSANTHUS	CACTACEAE	HEDGEHOG CACTUS, RUSTY	TX
3C	ECHINOCEREUS VIRIDIFLORUS VAR. CORRELLII	CACTACEAE		TX
3C	ELEOCHARIS AUSTROTEXANA	CYPERACEAE		TX
3C	ELLIOTTIA RACEMOSA	ERICACEAE	PLUME, GEORGIA	GA SC
3A	ELODEA BRANDEGEAE	HYDROCHARITACEAE	WATERWEED, TRUCKEE	CA
3A	ELODEA SCHWEINITZII	HYDROCHARITACEAE	WATERWEED, SCHWEINITZ'S	PA
3C	ENCELIA FRUTESCENS VAR. RESINOSA	ASTERACEAE		AZ
3B	EPIDENDRUM BRITTONIANUM	ORCHIDACEAE		PR
3C	EPIDENDRUM KRANZLINII	ORCHIDACEAE		PR
3C	EPILOBIUM NIVIUM	ONAGRACEAE	WILLOWHERB, SNOW MOUNTAIN	CA
3C	EPILOBIUM SISKIYOUENSE	ONAGRACEAE	ROCK-FRINGE, SISKIYOU	CA OR
3C	EPITHELANTHA BOKEI	CACTACEAE		TX, MEXICO
3C	ERIGERON ARIZONICUS	ASTERACEAE		AZ
3C	ERIGERON BIGELOVII	ASTERACEAE		TX, MEXICO
3B	ERIGERON DELICATUS	ASTERACEAE	FLEABANE, DEL NORTE	CA OR
3C	ERIGERON PLETTII	ASTERACEAE		WA
3C	ERIGERON FOLIOSUS VAR. BLOCHMANIAE	ASTERACEAE	LEAFY-DAISY, BLOCKMAN'S	CA
3C	ERIGERON LEIBERGII	ASTERACEAE		WA
3A	ERIGERON PERGLABER	ASTERACEAE		AZ
3C	ERIGERON PIPERANUS	ASTERACEAE		WA

TABLE II (CONTINUED) TAXA NO LONGER UNDER REVIEW

3C	ERIGERON UNCIALIS VAR. CONJUGANS	ASTERACEAE		NV
3C	ERIOGONUM ALLENII	POLYGONACEAE		VA WV
3C	ERIOGONUM APACHENSE	POLYGONACEAE		AZ
3C	ERIOGONUM CLAVELLATUM	POLYGONACEAE	WILD BUCKWHEAT, COMB WASH	CO UT
3C	ERIOGONUM CORRELLII	POLYGONACEAE		TX
3B	ERIOGONUM CORYMBOSUM VAR. DAVIDSEI	POLYGONACEAE	WILD BUCKWHEAT, CORYMBED, DAVIDSE	UT
3C	ERIOGONUM CORYMBOSUM VAR. MATTHEWSAE	POLYGONACEAE	WILD BUCKWHEAT, MATTHEW'S	UT
3B	ERIOGONUM DENSUM	POLYGONACEAE		AZ NM
3C	ERIOGONUM EREMICUM	POLYGONACEAE	WILD BUCKWHEAT, LIMESTONE	UT
3C	ERIOGONUM ERICIPOLIUM VAR. ERICIPOLIUM	POLYGONACEAE	WILD BUCKWHEAT,	AZ
3C	ERIOGONUM GILMANII	POLYGONACEAE	WILD BUCKWHEAT, GILMAN'S	CA
3C	ERIOGONUM HEERMANNII VAR. SUBRACEMOSUM	POLYGONACEAE		AZ UT
3C	ERIOGONUM JAMESII VAR. RUPICOLA	POLYGONACEAE	WILD BUCKWHEAT, SANDSTONE	UT
3C	ERIOGONUM LEMMONII	POLYGONACEAE	WILD BUCKWHEAT,	NV
3C	ERIOGONUM LIBERTINI	POLYGONACEAE		CA
3B	ERIOGONUM NUMMULARE	POLYGONACEAE		UT
3C	ERIOGONUM OSTLUNDII	POLYGONACEAE	WILD BUCKWHEAT, OSTLUND	UT
3C	ERIOGONUM PANGUICENSE VAR. ALPESTRE	POLYGONACEAE	WILD BUCKWHEAT, PANGUITCH	UT
	ERIOGONUM SP. (TRINITY, TEHAMA COS., CA)	*** SEE ***	ERIOGONUM LIBERTINI	
3C	ERIOGONUM TUMULOSUM	POLYGONACEAE		CO UT
3C	ERIOGONUM UMBELLATUM VAR. MINUS	POLYGONACEAE	WILD BUCKWHEAT, SULPUR-FLOWERED, ALP	CA
3C	ERIOGONUM UMBELLATUM VAR. TORREYANUM	POLYGONACEAE	WILD BUCKWHEAT, SULFUR-FLOWERED, TOR	CA
3C	ERIOGONUM VESTITUM	POLYGONACEAE	ERIOGONUM, IDRIA	CA
3C	ERIOGONUM ZIONIS VAR. COCCINEUM	POLYGONACEAE	WILD BUCKWHEAT, ZION,	AZ
3C	ERIOPHYLLUM CONGDONII	ASTERACEAE	ERIOPHYLLUM, CONGDON'S	CA
3C	ERRAZURIZIA ROTUNDATA	FABACEAE		AZ
3C	ERYTHRONIUM CLIFTONII /SP. NOV. INED.	LILIACEAE		CA
3C	ERYTHRONIUM GRANDIFLORUM SSP. PUSATERI	LILIACEAE	FAWN-LILY,	CA
3B	EUPATORIUM RESINOSUM VAR. KENTUCKIENSE	ASTERACEAE	THOROUGHWORT,	KY
3C	EUPATORIUM SHASTENSE	ASTERACEAE	EUPATORIUM, SHASTA	CA
3B	EUPHORBIA AUSTRINA	EUPHORBIACEAE		FL
3C	EUPHORBIA DISCOIDALIS	EUPHORBIACEAE		FL
3C	EUPHORBIA EXSERTA	EUPHORBIACEAE		FL GA NC SC
3C	EUPHORBIA INNOCUA	EUPHORBIACEAE		TX
3C	EUPHORBIA JEJUNA	EUPHORBIACEAE		TX
3C	EUPHORBIA ROEMERANA	EUPHORBIACEAE		TX
3C	EUPHORBIA STRICTIOR	EUPHORBIACEAE		NM TX
3C	EURYTAENIA HINCKLEYI	APIACEAE		TX
3C	EUTREMA PENLANDII	BRASSICACEAE		CO
3C	FEROCACTUS EASTWOODIAE /COMB. NOV. INED.	CACTACEAE		AZ
3C	FILIPENDULA OCCIDENTALIS	ROSACEAE	QUEEN-OF-THE-FOREST	OR
3C	FLAVERIA MACDOUGALLII	ASTERACEAE		AZ
3C	FORSELLESIA PUNGENS VAR. GLABRA	CROSSOSOMATACEAE		CA NV
3C	FRAXINUS CUSPIDATA VAR. MACROPETALA	OLEACEAE	ASH,	AZ CA NV NM
3C	FRAXINUS GOODDINGII	OLEACEAE	ASH, GOODDING'S	AZ, MEXICO
3C	FRITILLARIA BRANDEGEI	LILIACEAE	FRITILLARY, GREENHORN	CA
3C	GALIUM SERPENTICUM SSP. SCOTTICUM	RUBIACEAE	BEDSTRAW,	CA
3C	GAURA DEMAREEI	ONAGRACEAE		AR
3C	GENTIANA AUSTROMONTANA	GENTIANACEAE		NC TN VA WV
3C	GILIA NYENSIS	POLEMONIACEAE		NV
3C	GILIA PENTSTEMONOIDES	POLEMONIACEAE		CO
3C	GRAPTOPETALUM RUSBYI	CRASSULACEAE		AZ NM
3B	GREENELLA DISCOIDEA	ASTERACEAE		AZ
3C	GRINDELIA HALLII	ASTERACEAE		CA
3C	GUTIERREZIA SAROTHRAE VAR. POMARIENSIS	ASTERACEAE		UT
3C	HACKELIA DAVISII	BORAGINACEAE	STICKSEED, DAVIS'	ID
3C	HACKELIA OPHIOBIA	BORAGINACEAE	STICKSEED,	NV OR

3C	HALIMOLOBOS PERPLEXA VAR. LEMHIENSIS	BRASSICACEAE		ID
3C	HAPLOPAPPUS CERVINUS	ASTERACEAE		AZ NV UT
3B	HAPLOPAPPUS CONTRACTUS	ASTERACEAE	GOLDENWEED,	WY
3C	HAPLOPAPPUS OPHITIDIS	ASTERACEAE	MACRONEMA, SERPENTINE	CA
3C	HAPLOPAPPUS RACEMOSUS SSP. CONGESTUS	ASTERACEAE		CA OR
3C	HAPLOPAPPUS SALICINUS	ASTERACEAE	GOLDENWEED,	AZ
3B	HECHTIA TEXENSIS	BROMELIACEAE		TX
3C	HEDYSARUM BOREALE VAR. GREMIALE	FABACEAE		UT
3C	HEIMIA LONGIPES	LYTHRACEAE		TX
3C	HELIANTHUS EXILIS	ASTERACEAE	SUNFLOWER, SERPENTINE	CA
3B	HELIANTHUS LACINIATUS SSP. CRENATUS	ASTERACEAE		NM
3B	HELIANTHUS LUDENS	ASTERACEAE	GOLDENEYE, FIELD	TX
3C	HESPEROLINON ADENOPHYLLUM	LINACEAE	DWARF-FLAX, GLANDULAR	CA
3C	HESPEROLINON BICARPELLATUM	LINACEAE	DWARF-FLAX, TWO CARPEL	CA
3C	HESPEROLINON DRYMARIOIDES	LINACEAE	DWARF-FLAX, DRYMARIA	CA
3C	HEXALECTRIS GRANDIFLORA	ORCHIDACEAE	HEXALECTRIS, GREENMAN'S	TX, MEXICO
3C	HEXASTYLIS SPECIOSA	ARISTOLOCHIACEAE	HEARTLEAF, HARPER'S	AL
3C	HORKELIA TRUNCATA	ROSACEAE		CA
3B	HOUSTONIA CAERULEA VAR. FAXONORUM	RUBIACEAE	BLUET, ALPINE	NH, ST. PIERRE & MIQUELON
3C	HULSEA CALIFORNICA	ASTERACEAE		CA
3C	HYMENOCALLIS LATIFOLIA	LILIACEAE		FL, BAHAMAS, CAYMAN ISLANDS, CUBA, HISPANIOLA, JAMAICA
3C	HYMENOXYS QUINQUESQUAMATA	ASTERACEAE		AZ
3C	ILEX OPACA VAR. ARENICOLA	AQUIFOLIACEAE		FL
3C	IPOMOEA CARDIOPHYLLA	CONVOLVULACEAE		TX
3B	IPOMOEA EGREGIA	CONVOLVULACEAE	MORNING-GLORY,	AZ NM
3B	ISOETES LOUISIANENSIS	ISOETACEAE	QUILLWORT, LOUISIANA	GA LA
3C	IVESIA ARGYROCOMA	ROSACEAE	IVESIA, SILVER-HAIRED	CA
	IVESIA MULTIFOLIOLATA	*** SEE ***	POTENTILLA MULTIFOLIOLATA	
3C	IVESIA PICKERINGII	ROSACEAE	IVESIA, PICKERING	CA
3B	JUNCUS SLWOOKOORUM	JUNCACEAE		AK
3C	JUSTICIA WARNOCKII	ACANTHACEAE		TX
3C	JUSTICIA WRIGHTII	ACANTHACEAE		TX
3C	KALMIOPSIS LEACHIANA	ERICACEAE		OR
3C	LATHYRUS HITCHCOCKIANUS	FABACEAE	WILD PEA, BULLFROG MOUNTAIN	CA NV
3C	LAVATERA ASSURGENTIFLORA	MALVACEAE	MALVA ROSA	CA
3C	LEAVENWORTHIA STYLOSA	BRASSICACEAE		AL TN
3C	LEAVENWORTHIA TORULOSA	BRASSICACEAE	GLADECRESS, NECKLACE	AL KY TN
3C	LEITNERIA FLORIDANA	LEITNERIACEAE		AR FL GA MO TX
3C	LEPIDIUM NANUM	BRASSICACEAE		NV
3C	LEPTODACTYLON HAZELAE	POLEMONIACEAE		OR
3C	LESQUERELLA AUREA	BRASSICACEAE	BLADDERPOD, GOLDEN	NM
3C	LESQUERELLA GARRETTII	BRASSICACEAE	BLADDERPOD, GARRETT	UT
3B	LESQUERELLA GOODINGII	BRASSICACEAE	BLADDERPOD,	AZ NM
3C	LESQUERELLA HITCHCOCKII	BRASSICACEAE	BLADDERPOD,	NV
3B	LESQUERELLA LATA	BRASSICACEAE	BLADDERPOD,	NM
3C	LESQUERELLA MACROCARPA	BRASSICACEAE	BLADDERPOD, LARGE-FRUITED	WY
3C	LESQUERELLA MCVAUGHIANA	BRASSICACEAE	BLADDERPOD,	TX
3C	LESQUERELLA RUBICUNDULA	BRASSICACEAE	BLADDERPOD, BRYCE	UT
3C	LEWISIA CONGDONII	PORTULACACEAE		CA
3C	LEWISIA OPPOSITIFOLIA	PORTULACACEAE		CA OR
3C	LEWISIA TWEEDYI	PORTULACACEAE		WA, CANADA (B.C.)
3C	LILIUM VOLLMERI	LILIACEAE	LILY, VOLLMER	CA OR
3B	LILIUM WASHINGTONIANUM VAR. MINUS	LILIACEAE		CA
3C	LILIUM WIGGINSII	LILIACEAE	LILY, WIGGINS	CA OR
3C	LOEFLINGIA SQUARROSA SSP. ARTEMISIARUM	CARYOPHYLLACEAE		CA

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3C	LOMATIUM CUSPIDATUM	APIACEAE		WA
3C	LOMATIUM MINIMUM	APIACEAE		UT
3C	LOMATIUM QUINTUPLEX	APIACEAE		WA
3C	LOMATIUM THOMPSONII	APIACEAE		WA
3C	LUPINUS CERVINUS	FABACEAE	LUPINE, SANTA LUCIA	CA
3C	LUPINUS CUTLERI	FABACEAE		AZ
3C	LUPINUS JONESII	FABACEAE		UT
3C	LUPINUS MALACOPHYLLUS	FABACEAE		NV
3C	LUPINUS PEIRSONII	FABACEAE		CA
3C	LUPINUS SABINII	FABACEAE		OR WA
3C	LUPINUS TRACYI	FABACEAE	LUPINE, TRACY'S	CA OR
3C	LYCIUM TEXANUM	SOLANACEAE		TX
3C	LYSILOMA MICROPHYLLA VAR. THORNBERI	FABACEAE		AZ
3C	LYTHRUM OVALIFOLIUM	LYTHRACEAE		TX
3B	MACHAERANTHERA ARIZONICA	ASTERACEAE		AZ
3C	MACHAERANTHERA AUREA	ASTERACEAE	MACHAERANTHERA, HOUSTON	TX
3C	MACHAERANTHERA KINGII	ASTERACEAE		UT
3C	MACHAERANTHERA MUCRONATA	ASTERACEAE		AZ
3C	MADIA STEBBINSII	ASTERACEAE		CA
3C	MAMMILLARIA ORESTERA	CACTACEAE		AZ
3C	MANIHOT DAVISIAE	EUPHORBIACEAE		AZ
3C	MATELEA BREVICORONATA	ASCLEPIADACEAE		TX
3C	MATELEA PARVIFLORA	ASCLEPIADACEAE		TX
3A	MATELEA TEXENSIS	ASCLEPIADACEAE		TX
3C	MENTZELIA ARGILLOSA	LOASACEAE		CO UT
3C	MERTENSIA TOYABENSIS	BORAGINACEAE	BLUEBELLS,	NV
3C	MICROSERIS DETLINGII	ASTERACEAE		OR
3C	MIMULUS PICTUS	SCROPHULARIACEAE	MONKEYFLOWER, CALICO	CA
3C	MONARDELLA BENITENSIS	LAMIACEAE	MONARDELLA, SAN BENITO	CA
3B	MUHLENBERGIA PILOSA	POACEAE		TX
3B	MUHLENBERGIA VILLOSA	POACEAE	MUHLY, VILLOUS	NM TX
3C	NAMA XYLOPODUM	HYDROPHYLLACEAE		NM TX
3C	NAVARRETIA PROLIFERA SSP. LUTEA	POLEMONIACEAE	NAVARRETIA, YELLOW-BUR	CA
3C	NEOLLOYDIA WARNOCKII	CACTACEAE		TX
3C	NOTHOLAENA SCHAFFNERI VAR. NEALLEYI	POLYPODIACEAE		TX
3C	ONOSMODIUM HELLERI	BORAGINACEAE		TX
3C	ONOSMODIUM MOLLE SSP. MOLLE	BORAGINACEAE		AL IL KY TN
3B	OPUNTIA BASILARIS VAR. LONGIAREOLATA	CACTACEAE		AZ
3C	OPUNTIA PHAEACANTHA VAR. PLAVISPINA	CACTACEAE		AZ
3B	OPUNTIA PHAEACANTHA VAR. MOJAVENSIS	CACTACEAE		AZ CA
3B	OPUNTIA PHAEACANTHA VAR. SUPERBOSPINA	CACTACEAE		AZ
3C	OPUNTIA WHIPPLEI VAR. MULTIGENICULATA	CACTACEAE		AZ NV
3C	OXYTHECA WATSONII	POLYGONACEAE		NV
3B	PANICUM LITHOPHILUM	POACEAE		GA SC
3B	PARNASSIA KOTZEBUEI VAR. PUMILA	SAXIFRAGACEAE	GRASS-OF-PARNASSUS, KOTZEBUE'S,	WA
3B	PARONYCHIA ARGYROCOMA VAR. ALBIMONTANA	CARYOPHYLLACEAE	SILVERLING	MA ME NH
3C	PARONYCHIA CHORIZANTHOIDES	CARYOPHYLLACEAE		TX
3C	PARONYCHIA DRUMMONDII SSP. PARVIFLORA	CARYOPHYLLACEAE		TX
3C	PARONYCHIA VIRGINICA VAR. PARKSII	CARYOPHYLLACEAE		TX
3C	PARRYA RYDBERGII	BRASSICACEAE	PARRYA, RYDBERG	UT
3C	PEDICULARIS DUDLEYI	SCROPHULARIACEAE	LOUSEWORT, DUDLEY'S	CA
3C	PEDICULARIS RAINIERENSIS	SCROPHULARIACEAE		WA
3C	PENSTEMON ANGUSTIFOLIUS VAR. VERNALENSIS	SCROPHULARIACEAE		UT
3C	PENSTEMON CALCAREUS	SCROPHULARIACEAE	PENSTEMON, LIMESTONE	CA NV
3C	PENSTEMON CALIFORNICUS	SCROPHULARIACEAE	PENSTEMON, CALIFORNIA	CA, MEXICO
3C	PENSTEMON ELEGANTULUS	SCROPHULARIACEAE		ID OR
3C	PENSTEMON FILIFORMIS	SCROPHULARIACEAE	PENSTEMON, THREAD-LEAVED	CA

TABLE II (CONTINUED) TAXA NO LONGER UNDER REVIEW 26

3C	PENSTEMON FRANCISCI-PENNELLII	SCROPHULARIACEAE		NV
3B	PENSTEMON GARRETTII	SCROPHULARIACEAE	BEARDTONGUE, GARRETT'S	UT
3C	PENSTEMON HUMILIS VAR. OBTUSIPOLIUS	SCROPHULARIACEAE		UT
3C	PENSTEMON KECKII	SCROPHULARIACEAE	BEARDTONGUE,	NV
3C	PENSTEMON MORIAHENSIS	SCROPHULARIACEAE		NV
3C	PENSTEMON PAPILLATUS	SCROPHULARIACEAE	PENSTEMON, INYO	CA
3C	PENSTEMON PARVUS	SCROPHULARIACEAE	BEARDTONGUE, SMALL	UT
3C	PENSTEMON PATRICUS	SCROPHULARIACEAE		NV UT
3C	PENSTEMON PROCERUS VAR. MODESTUS	SCROPHULARIACEAE		NV
3C	PENSTEMON RUBICUNDUS	SCROPHULARIACEAE	BEARDTONGUE,	NV
3C	PENSTEMON SP. /SP. NOV. INED.	SCROPHULARIACEAE	BEARDTONGUE (RANDLETT, UINTAH CO.)	UT
3C	PENSTEMON THOMPSONIAE SSP. JAEGERI	SCROPHULARIACEAE		NV
3C	PENSTEMON VIRGATUS SSP. PSEUDOPUTUS	SCROPHULARIACEAE		AZ
3C	PENSTEMON YAMPAENSIS	SCROPHULARIACEAE		CO
3C	PERIDERIDIA BACIGALUPII	APIACEAE	YAMPAH, MOTHER LODE	CA
3C	PERITYLE COCHISENSIS	ASTERACEAE		AZ
3C	PERITYLE LINDHEIMERI	ASTERACEAE	ROCK-DAISY,	TX
3B	PERITYLE LINDHEIMERI VAR. HALIMIPOLIA	ASTERACEAE	ROCK-DAISY,	TX
3C	PERITYLE MEGALOCEPHALA VAR. INTRICATA	ASTERACEAE		CA NV
3C	PERITYLE PARRYI	ASTERACEAE		TX
3C	PERITYLE SAXICOLA	ASTERACEAE		AZ
3C	PERSEA BORBONIA VAR. HUMILIS	LAURACEAE		FL GA
3C	PETROPHYTUM HENDERSONII	ROSACEAE		WA
3C	PHACELIA ANELSONII	HYDROPHYLLACEAE	PHACELIA, MACBRIDE	CA NV UT
3C	PHACELIA CEPHALOTES	HYDROPHYLLACEAE	PHACELIA, VIRGIN	AZ UT
3B	PHACELIA FILIFORMIS	HYDROPHYLLACEAE	PHACELIA,	AZ
3C	PHACELIA GLABERRIMA	HYDROPHYLLACEAE		NV
3C	PHACELIA HOWELLIANA	HYDROPHYLLACEAE	PHACELIA, HOWELL	AZ UT
3C	PHACELIA MAMMILLARENSIS	HYDROPHYLLACEAE	PHACELIA, NIPPLE BENCH	UT
3C	PHACELIA OROGENES	HYDROPHYLLACEAE	PHACELIA, MOUNTAIN	CA
3C	PHACELIA PARISHII	HYDROPHYLLACEAE		CA NV
3C	PHACELIA UTAHENSIS	HYDROPHYLLACEAE	PHACELIA, UTAH	UT
3C	PHACELIA WELSHII	HYDROPHYLLACEAE	PHACELIA,	AZ
3C	PHASEOLUS SUPINUS	FABACEAE	BEAN, SUPINE	AZ UT
3C	PHILADELPHUS ERNESTII	SAXIFRAGACEAE		TX
3C	PHILADELPHUS TEXENSIS VAR. TEXENSIS	SAXIFRAGACEAE		TX
3C	PHLOX BUCKLEYI	POLEMONIACEAE		VA WV
3C	PHLOX CLUTEANA	POLEMONIACEAE	PHLOX, NAVAJO MOUNTAIN	AZ UT
3C	PHLOX GLADIFORMIS	POLEMONIACEAE	PHLOX, RED CANYON	NV UT
3B	PHLOX PECKII	POLEMONIACEAE		OR
3C	PHLOX PULCHRA	POLEMONIACEAE	PHLOX,	AL
3C	PHYLLANTHUS ERICOIDES	EUPHORBIACEAE	LEAF-FLOWER,	TX, MEXICO
3C	PHYSALIS VISCOSA VAR. ELLIOTII	SOLANACEAE		FL
3C	PHYSARIA CONDENSATA	BRASSICACEAE	TWINPOD, DENSE	WY
3C	PHYSARIA GEYERI VAR. PURPUREA	BRASSICACEAE		ID
3B	PHYSOSTEGIA MICRANTHA	LAMIACEAE		OK TX
3A	PISONIA FLORIDANA	NYCTAGINACEAE		FL
3C	PLATANTHERA INTEGRA	ORCHIDACEAE		AL FL GA LA MS NJ NC SC TN TX
3C	PLUMMERA AMBIGENS	ASTERACEAE		AZ
3B	PLUMMERA FLORIBUNDA	ASTERACEAE		AZ
3C	POA CURTIFOLIA	POACEAE		WA
3C	POA LAXIFLORA	POACEAE		AK OR WA, CANADA (B.C.)
3C	POA MARCIDA	POACEAE		OR WA, CANADA (B.C.)
3C	POA PIPERI	POACEAE		CA OR
3C	POLIANTHES MACULOSA	LILIACEAE		TX
3B	POLYGALA PILIOPHORA	POLYGALACEAE		AZ

3C	POLYGALA SUBSPINOSA VAR. HETEROPHYNCA	POLYGALACEAE		CA NV
3C	POLYGONELLA MYRIOPHYLLA	POLYGONACEAE	JOINTWEED,	FL
3C	POLYGONUM BIDWELLIAE	POLYGONACEAE	KNOTWEED, BIDWELL	CA
3C	POLYGONUM STRIATULUM	POLYGONACEAE		TX
3B	POLYGONUM UTAHENSE	POLYGONACEAE		UT
3C	POLYSTICHUM DUDLEYI	POLYPODIACEAE	SWORD FERN, DUDLEY'S	CA
3B	POPULUS HINCKLEYANA	SALICACEAE	COTTONWOOD, GOAT CANYON	TX
3C	POROPHYLLUM GREGGII	ASTERACEAE		TX
3C	POTAMOGETON HILLII	POTAMOGETONACEAE	PONDWEED, HILL'S	CT MA MI NY OH PA VT, CANADA (ONT.)
3C	POTENTILLA MULTIPOLIOLATA	ROSACEAE		AZ
3C	PRENANTHES ROANENSIS	ASTERACEAE	RATTLESNAKE ROOT, MOUNTAIN	NC TN VA
3C	PRUNUS HAVARDII	ROSACEAE		TX
3C	PRUNUS MURRAYANA	ROSACEAE		TX
3C	PRUNUS TEXANA	ROSACEAE		TX
3B	PYCNANTHEMUM CURVIPES	LAMIACEAE	MOUNTAIN-MINT,	AL GA TN
3C	PYCNANTHEMUM FLORIDANUM	LAMIACEAE		FL
3C	QUERCUS ARKANSANA	FAGACEAE		AL AR
3C	QUERCUS GRACILIFORMIS	FAGACEAE	OAK, SLENDER	TX
3C	QUERCUS PARVULA	FAGACEAE	OAK, SANTA CRUZ ISLAND	CA
3C	QUERCUS TOMENTELLA	FAGACEAE	OAK, ISLAND	CA, MEXICO
3C	RAILLARDELLA MUIRII	ASTERACEAE	RAILLARDELLA, MUIR'S	CA
3C	RAILLARDELLA PRINGLEI	ASTERACEAE	RAILLARDELLA, SHOWY	CA
3C	RAILLARDELLA SCABRIDA	ASTERACEAE		CA
3B	RANUNCULUS FASCICULARIS VAR. CUNEIFORMIS	RANUNCULACEAE	CROWFOOT, KERR	TX
3B	RANUNCULUS SUBCORDATUS	RANUNCULACEAE	BUTTERCUP, BLADEN	NC
3C	RHIPSALIS BACCIFERA	CACTACEAE		FL, MEXICO, SRI LANKA, APRICA, CENTRAL AMERICA, SOUTH AMERICA, WEST INDIES
3C	RHYNCHOSPORA CULIXA	CYPERACEAE		FL GA
3C	ROMANZOFFIA THOMPSONII /SP. NOV. INED.	HYDROPHYLLACEAE		OR
3C	RUDBECKIA AURICULATA	ASTERACEAE		AL
3C	RUELLIA DRUMMONDIANA	ACANTHACEAE		TX
3C	RUMEX SPIRALIS	POLYGONACEAE		TX
3C	SALIX ARIZONICA	SALICACEAE		AZ
3B	SALIX INTERIOR VAR. EXTERIOR	SALICACEAE	WILLOW, SANDBAR, INSIDE-OUTSIDE	ME PA
3B	SALVIA BLODGETTII	LAMIACEAE	SAGE, BLODGETT'S	FL
3C	SAUSSUREA WEBERI	ASTERACEAE		CO MT
3C	SAXIFRAGA FORBESII	SAXIFRAGACEAE	SAXIFRAGE, FORBES	IL IN IA MN MO WI
3C	SCLEROCACTUS PUBISPINUS	CACTACEAE	FISHHOOK CACTUS, GREAT BASIN	NV UT
3C	SCLEROCACTUS SP. /SP. NOV. INED.	CACTACEAE	CACTUS (DUCHESNE & UINTAH COS.)	UT
3C	SCLEROCACTUS WHIPPLEI VAR. REEVESII	CACTACEAE		NM
3C	SELENIA JONESII	BRASSICACEAE	SELENIA, JONES'	TX
3C	SENECIO ANTENNARIIFOLIUS	ASTERACEAE		MD PA VA WV
3B	SENECIO CLEVELANDII VAR. HETEROPHYLLUS	ASTERACEAE		CA
3C	SENECIO NEOWEBSTERI	ASTERACEAE		WA
3B	SENECIO WARNOCKII	ASTERACEAE		TX
3B	SIDALCEA OREGANA SSP. HYDROPHILA	MALVACEAE	CHECKER-MALLOW, WATER-LOVING	CA
3C	SIDALCEA SETOSA	MALVACEAE		CA OR
3C	SILENE PLANKII	CARYOPHYLLACEAE		NM TX
3C	SILENE WRIGHTII	CARYOPHYLLACEAE		NM
3A	SOLANUM BAHAMENSE VAR. RUGELII	SOLANACEAE	NIGHTSHADE,	FL
3C	SOLIDAGO ARGUTA VAR. HARRISSII	ASTERACEAE		MD PA VA WV
3C	SOPHORA ARIZONICA	FABACEAE		AZ
3B	SPOROBOLUS PATENS	POACEAE	DROPSEED,	AZ
3B	STANLEYA PINNATA VAR. GIBBEROSA	BRASSICACEAE		WY
3C	STEPHANOMERIA SCHOTTII	ASTERACEAE	WIRE-LETTUCE, SCHOTT'S	AZ

TABLE II (CONTINUED) TAXA NO LONGER UNDER REVIEW

3C	STREPTANTHUS BERNARDINUS	BRASSICACEAE		CA
3C	STREPTANTHUS CARINATUS	BRASSICACEAE		TX
3C	STREPTANTHUS FENESTRATUS	BRASSICACEAE		CA
3C	STREPTANTHUS GRACILIS	BRASSICACEAE	STREPTANTHUS, ALPINE	CA
3C	STREPTANTHUS OLIGANTHUS	BRASSICACEAE	STREPTANTHUS, MASONIC MOUNTAIN	CA NV
3C	SULLIVANTIA SULLIVANTII	SAXIFRAGACEAE	SULLIVANTIA,	IN KY OH
3C	SYNTHYRIS PINNATIFIDA VAR. LANUGINOSA	SCROPHULARIACEAE		WA
3B	TALINUM GOODDINGII	PORTULACACEAE	PLAMEFLOWER, GOODDING	AZ
3C	TALINUM OKANOGANENSE	PORTULACACEAE		WA, CANADA (B.C.)
3C	TAUSCHIA STRICKLANDII	APIACEAE		OR WA
3C	TAUSCHIA TENUISSIMA	APIACEAE		ID WA
3C	THELOCACTUS BICOLOR VAR. FLAVIDISPINUS	CACTACEAE		TX, MEXICO
3C	THELYPODIUM BRACHYCARPUM	BRASSICACEAE	THELYPODY, SHORT-PODDED	CA OR
3C	THELYPODIUM SAGITTATUM VAR. OVALIFOLIUM	BRASSICACEAE		NV UT
3C	THELYPODIUM TENUE	BRASSICACEAE	THELYPODY,	TX
3C	THERMOPSIS MACROPHYLLA VAR. SEMOTA	FABACEAE		CA
3C	TITBONIA THURBERI	ASTERACEAE		AZ, MEXICO
3C	TOWNSENDIA ALPIGENA VAR. MINIMA	ASTERACEAE		UT
3C	TOWNSENDIA SMITHII	ASTERACEAE	GROUND-DAISY, BLACK ROCK	AZ
3C	TRADESCANTIA EDWARDSIANA	COMMELINACEAE		TX
3C	TRAGIA NIGRICANS	EUPHORBIACEAE		TX
3C	TRIFOLIUM ANDERSONII SSP. BEATLEYAE	FABACEAE	CLOVER, FIVE-LEAF, BEATLEY'S	CA NV
3C	TRIFOLIUM DEDECKERAE	FABACEAE	CLOVER, DEDECKER	CA
3C	TRIFOLIUM LEMMONII	FABACEAE	CLOVER, LEMMON'S	CA NV
3C	TRILLIUM TEXANUM	LILIACEAE		LA TX
3C	TRITELEIOPSIS PALMERI	LILIACEAE		AZ, MEXICO
3C	VALERIANA COLUMBIANA	VALERIANACEAE		WA, CANADA (B.C.)
3C	VALERIANA TEXANA	VALERIANACEAE		NM TX
3C	VALERIANA ULIGINOSA	VALERIANACEAE	VALERIAN, MARSH	IL IN ME MI NH NY OH VT WI, CANADA (N.B., ONT., QUE.)
3C	VALERIANELLA TEXANA	VALERIANACEAE	CORNSALAD, EDWARDS' PLATEAU	TX
3C	VIGUIERA SOLICEPS	ASTERACEAE	SUNFLOWER, PARIA	UT
3C	VIOLA PLETTII	VIOLACEAE	VIOLET, PLETT'S	WA
3C	VIOLA LANCEOLATA SSP. OCCIDENTALIS	VIOLACEAE		CA OR
3C	VIOLA PURPUREA VAR. CHARLESTONENSIS	VIOLACEAE	VIOLET, LIMESTONE	NV UT
3C	WILLKOMMIA TEXANA	POACEAE		TX
3C	XYLORHIZA CONFERTIPOLIA	ASTERACEAE		UT
3C	ZIGADENUS VAGINATUS	LILIACEAE	DEATHCAMUS, SHEATHED	NV UT

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Part III

Department of Agriculture

Animal and Plant Health Inspection Service

Citrus Canker—Mexico; Final Rule

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 83-342]

7 CFR Part 319

Citrus Canker—Mexico

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This document establishes final regulations imposing prohibitions or restrictions on the importation into the United States from Mexico of fruit and peel of citrus and citrus relatives. The final regulations adopt the requirements of the "Citrus Canker—Mexico" interim regulations except that the final regulations do not include geographical restrictions within the United States on the importation of restricted articles. The final regulations are designed to protect against the introduction into the United States of citrus canker disease.

EFFECTIVE DATE: Effective date of the final rule is November 25, 1983.

FOR FURTHER INFORMATION CONTACT: Frank Cooper, Staff Officer, Regulatory Services Staff, Plant Protection and Quarantine, APHIS, USDA, Room 637 Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8248.

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SUPPLEMENTARY INFORMATION:

Background

This document establishes final regulations imposing prohibitions or restrictions on the importation into the United States from Mexico of fruit and peel of citrus and citrus relatives (fruit or peel of any genera, species, or varieties of the subfamilies Aurantioideae, Rutoideae, and Toddalioideae of the botanical family Rutaceae). Prior to the effective date of this document, the "Citrus Canker—Mexico" interim regulations (7 CFR 319.27 *et seq.*) were in effect. The final regulations adopt the requirements of the "Citrus Canker—Mexico" interim regulations except that the final regulations do not include geographical restrictions within the United States on the importation of restricted articles.

The interim regulations were initially established on November 17, 1982, by a document published in the **Federal Register** on that same date (47 FR 51723-51729) because of the finding of citrus canker disease in certain areas in Mexico. Another document also published in the **Federal Register** on November 17, 1982 (47 FR 51764-51765), proposed to establish as final regulations provisions similar to those in the interim regulations. The interim regulations were also subsequently changed and corrected as a result of documents published in the **Federal Register** on December 2, 1982, December 8, 1982, January 5, 1983, March 10, 1983, April 1, 1983, April 21, 1983, June 1, 1983, and July 28, 1983 (47 FR 54273-54275, 55199; 48 FR 387-393, 10286-10289, 13987, 17322-17327, 24311, 34239-34240).

In accordance with announcements in the **Federal Register** documents referred to above, two public hearings were held concerning the establishment of the regulations. Also, several of the **Federal Register** documents solicited written comments concerning the establishment of the regulations. In response to the document of July 28 which solicited comments until September 26, 1983, only one comment was received within the specified time period. This comment is discussed below. In response to the other **Federal Register** documents, numerous oral and written comments were received. These comments are discussed in the documents referred to above. Based on a further review of the comments and the responses given by the Department in the **Federal Register** documents, the responses of the Department are reaffirmed except as discussed below.

Interim Regulations

The interim regulations designated the following areas in Mexico as infected areas (these are more properly referred to as infested areas) because of the presence of citrus canker disease:

The entire State of Colima
The entire municipio of Coahuayana in the State of Michoacan
The entire municipios of Cihuatlan and Tomatlan in the State of Jalisco

The interim regulations also provided that any fruit or peel of Mexican lime (*Citrus aurantifolia*) from any area in Mexico, and any other fruit or peel of citrus or citrus relatives from infected areas in Mexico offered for importation into the United States would be refused importation unless imported by the U.S. Department of Agriculture for experimental or scientific purposes under certain conditions.

In addition, the interim regulations regulated fruit of peel of ethrog (*Citrus medica*), grapefruit (*Citrus paradisi*), lemon (*Citrus limon*), orange (*Citrus sinensis*), Persian lime (*Citrus latifolia*), and tangerine (*Citrus reticulata*) from uninfected areas in Mexico. These articles were designated as restricted articles and were allowed to be imported into the United States only if imported by the U.S. Department of Agriculture for experimental or scientific purposes under certain conditions, or if in conformity with certain geographical restrictions within the United States and in conformity with other restrictions concerning inspection and phytosanitary certificates of inspection, chlorine treatments and other requirements, marking and identity, arrival notification, costs and charges, and ports of entry.

Final Regulations

As noted above, the geographical restrictions within the United States on the importation of restricted articles are not adopted as part of the final regulations. However, all of the other requirements of the interim regulations are adopted in the final regulations for the reasons set forth in the **Federal Register** documents referred to above.

Many commenters favored the inclusion of geographical restrictions within the United States on the importation of restricted articles based on the assertion that such restrictions are needed for protection against the introduction of citrus canker disease, and many commenters asserted that such geographical restrictions should be deleted based on the assertion that such restrictions are not necessary for such purpose. The geographical restrictions are not adopted as part of the final regulations because it has been determined that they are not necessary to protect against the introduction into the United States of citrus canker disease.

The geographical restrictions within the United States included provisions concerning certain marking requirements, restricted destination permits, culling and repacking in Texas, compliance agreements, and destination requirements designed to assure that restricted articles would not be destined to locations within Arizona, California, Florida, Hawaii, Puerto Rico, the Virgin Islands of the United States and certain parts of Texas and Louisiana. These geographical restrictions were intended to prevent restricted articles which might contain citrus canker bacteria in the pores or wounds from being distributed in areas in the United States where citrus canker host plants are grown either commercially or noncommercially in significant amounts.

It appears that under certain conditions fruit of citrus and citrus

relatives growing in Mexico might have citrus canker bacteria on the surface. The chlorine treatment required for restricted articles is adequate to destroy any bacteria on the surface of the fruit.

It also appears that under certain conditions fruit of citrus and citrus relatives growing in Mexico might have citrus canker bacteria in the pores and wounds. However, there is little risk that bacteria in the pores or wounds of restricted articles could cause citrus canker to be established in the United States. In this connection, the document of January 5, 1983 (48 FR 388), provided that:

> It is unlikely that new citrus canker infections would be established in the United States because of the importation of fruit or peel of citrus of citrus relatives carrying bacteria trapped in the pores or wounds. In order for the bacteria to cause an infection an unlikely sequence of events would have to occur. First, bacteria trapped in the pores or wounds of the fruit would have to be released without coming in contact with any of the natural acid of the fruit, since citrus canker bacteria are quickly killed by contact with the acid. Next, bacteria would have to be brought into intimate contact with young live twigs or leaves of host plants and, in addition, such contact would have to occur under optimum temperature and humidity conditions.

Even though it was determined that the risk was small, it was determined that action should be taken because of the possibility of live citrus canker bacteria being present in the pores or wounds of restricted articles. In this connection, the document of January 5 (48 FR 389) further provided that:

> If any new infections were to occur in the areas [in Mexico] that are currently uninfected areas, then treated, restricted articles could contain bacteria trapped in the pores or wounds. As discussed above, it has been determined that action should be taken to prevent the introduction of live citrus canker bacteria under circumstances in which there is even the unlikely chance that these bacteria could cause citrus canker to become established. Therefore, as a precautionary measure, geographical restrictions are added as a condition of importation for restricted articles as further explained below.

Since the establishment of the geographical restrictions in the United States on January 20, 1983 (48 FR 387–393), two extensive surveys were conducted in citrus producing areas in Mexico. One survey was conducted in March and April of 1983 by employees of the plant protection service of Mexico (Sanidad Vegetal) and the U.S. Department of Agriculture working under the supervision of Mexican government plant pathologists. The more recent survey was conducted in September of 1983 by a group of 26 plant pathologists, which consisted of 13 employees of the Mexican government representing Sanidad Vegetal and the Mexican agricultural research service, three current employees and a former employee of the State of Florida, two employees of the State of California, a faculty member of Texas A & I University, a faculty member of the University of Hawaii, and five employees of the U.S. Department of Agriculture. The plant pathologists conducting the survey were aided by local representatives of Sanidad Vegetal.

The survey in March and April resulted in the detection of one new infestation, a small infestation in a single grove in the municipio of Tomatlan in the State of Jalisco. No additional infestations were found as a result of the survey conducted in September.

As noted above, at the time of the establishment of the geographical restrictions, it was determined that they were necessary to protect against citrus canker bacteria which might be in the pores or wounds of restricted articles because of the possibility of infestations occurring in areas where restricted articles are grown. However, the surveys now establish that except for the small infestation in Tomatlan, the infestation has not spread outside of the areas designated as infested areas, and that the regulatory program of the Mexican government is very effective in preventing the spread of the citrus canker disease to new areas. Also, it should be noted that the Department is continuing to participate with the Mexican government in conducting surveys designed to detect any new infestations that could occur in Mexico outside of the infested areas.

Therefore, because of (1) The effectiveness of the Mexican government's regulatory program, (2) the likelihood that any new infestations would be detected at an early stage before concentration of bacteria would be sufficient to cause significant contamination in pores or wounds of fruit, and (3) the extremely low risk that contamination in pores or wounds of fruit would cause the spread of citrus canker, it has been determined that the imposition of geographical restrictions is no longer necessary as a precautionary measure against the spread of citrus canker disease.

Document of July 28, 1983

The document of July 28, 1983, amended the interim regulations by adding the municipios of Cihuatlan and Tomatlan in the State of Jalisco in Mexico to the list of areas designated as infected areas because of citrus canker disease. As noted above, the document of July 28 invited the submission of written comments on or before September 26, 1983, and one comment was received. The comment was from a representative of a citrus agency associated with a State department of agriculture. The commenter indicated support for including Cihuatlan and Tomatlan as infested areas.

Cihuatlan is still infested with citrus canker disease. Also, even though the known infected trees in Tomatlan were destroyed, there is reason to believe that citrus canker disease exists on some remaining trees. Accordingly it has been determined that final regulations should include these areas as infested areas.

In addition to indicating support for including Cihuatlan and Tomatlan as infested areas, the commenter raised a number of issues which are responded to below.

1. The commenter requested statistics regarding production of citrus in the municipios of Cihautlan and Tomatlan.

Response: Although exact figures are not available it appears that there are approximately 1,000 hectares of citrus grown in Cihautlan and approximately 800 hectares of citrus grown in Tomatlan. Almost all of the citrus grown in these areas is Mexican lime (*Citrus aurantifolia*).

2. The commenter requested information concerning the distribution of citrus both within Mexico and for export to the United States from Cihuatlan and Tomatlan.

Response: Mexican limes *(Citrus aurantifolia)* Produced in these areas are distributed solely for consumption in local and regional markets within Mexico. Also, in accordance with Mexican government laws, any other citrus produced in these areas is distributed only within areas designated as infested areas.

3. The commenter requested information concerning what regulatory measures and what eradication or control measures have been established in Cihuatlan and Tomatlan.

Response: The Mexican government has established regulatory measures with respect to the infested areas, including a quarantine against the movement of citrus plants or fruit (except for treated and certified Mexican limes), a quarantine against the movement of certain articles and farm equipment used for citrus production, a prohibition against the growing of citrus nursery stock, and the use of personnel at border inspection stations to ensure compliance with regulatory

requirements. Also, citrus grown in the infested areas in Cihuatlan is subjected to aerial and ground application of copper sprays. Further, in Tomatlan only seven trees were found to have symptoms of citrus canker disease and these trees have been destroyed; also, the trees surrounding the infested trees were defoliated with an herbicide and sprayed with copper sprays.

4. The commenter requested information concerning which citrus varieties (trees or fruit) in Cihuatlan and Tomatlan have been found to be infected with citrus canker.

Response: Only foliage of Mexican limes (*Citrus aurantifolia*) has been found to be infected.

5. The commenter requested information concerning the amount of citrus fruit being imported from Mexico to destinations in Texas and Louisiana.

Response: On April 21, 1983, the interim regulations were amended to allow the importation of restricted articles for movement to and use in certain northern parts of Louisiana and Texas. Since that time approximately 4,300 pounds of restricted articles were imported for distribution in northern Louisiana, and approximately 1,780,000 pounds of restricted articles were imported for distribution in northern Texas.

6. The commenter asserted "that if eradication is not begun on a large scale in Mexico an embargo should be placed on all citrus producing areas of that country."

Response: The Department is working with Mexico to develop appropriate technology to be used to eradicate this disease from infested areas in Mexico. However, there is currently no basis for refusing to allow the importation of restricted articles if imported in accordance with the restrictions set forth in the final regulations. The rationale for this conclusion is set forth in this document and the document of January 5 (48 FR 389–392).

Miscellaneous

Certain changes are made in the regulations to reflect that they are established under provisions of the Plant Quarantine Act (7 U.S.C. 151 *et seq.*) in addition to provisions of the Federal Plant Pest Act (7 U.S.C. 150aa *et seq.*). In addition, for purposes of information a footnote is added to explain that restricted articles are also subject to the provisions of the fruits and vegetables regulations (7 CFR 319.56 *et seq.*). Further, certain nonsubstantive changes are made for purposes of clarity.

Executive Order 12291 and Regulatory Flexibility Act

The rule is issued in conformance with Executive Order 12291 and Secretary's Memorandum 1512–1, and has been determined to be not a "major rule." Based on information compiled by the Department, it has been determined that this rule will have an annual effect on the economy of less than $100 million; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; and will not have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The rule provides that any fruit or peel of Mexican lime from any area in Mexico, and any fruit or peel of citrus or citrus or relatives from infested areas in Mexico is prohibited from being imported into the United States unless imported by the U.S. Department of Agriculture for experimental or scientific purposes in accordance with certain conditions. The rule also provides that fruit or peel of ethrog, grapefruit, lemon, orange, Persian lime, and tangerine from uninfested areas in Mexico are allowed to be imported into the United States only in accordance with certain restrictions.

The rule essentially only affects fruit or peel of Mexican lime, ethrog, grapefruit, lemon, orange, Persian lime, and tangerine. This is because under the fruits and vegetables regulations (7 CFR 319.56 *et seq.*) fruit and peel of all other citrus and citrus relatives from Mexico are already prohibited from being imported.

The rule will not have a significant effect on United States importers and sellers of the affected articles. Almost all of such importers and sellers are involved with a wide range of commodities. Activities involving these articles comprise an insignificant portion of such businesses. Also, the rule will not have a significant effect with respect to the articles prohibited for importation since the amount of these articles imported into the United States prior to the establishment of the interim rule of November 17, 1982, is not significant in comparison with the amount of such articles consumed in the United States.

In addition, the treatment procedures will not add significantly to the cost of the fruit. The fruit has been customarily imported free of leaves, litter, and stems longer than one inch. Also, the fruit is washed before it is imported. It is anticipated that almost all of the fruit will be treated in Mexico, and that the chlorine treatment will be included in the washing process. Also, the use of the chlorine will not add significantly to the cost of the fruit.

Further, it does not appear that any other restrictions imposed by the rule on the importation of restricted articles would add significantly to the cost of the fruit.

Under the circumstances explained above, Mr. Bert W. Hawkins, Administrator of the Animal and Plant Health Inspection Service, has determined that this action will not have a significant economic impact on a substantial number of small entities.

For many years a large orderly commerce in Mexican citrus has existed. It was interrupted in 1982 because of the regulations established in response to the finding of citrus canker disease in Mexico. In particular, the most important markets for this citrus existed in California, Arizona, and southern Texas. These markets were eliminated by the temporary imposition of geographical restrictions on the distribution of Mexican citrus.

Most Mexican citrus imported into the United States is imported in the months of October through January. Therefore, it is necessary to establish this rule removing geographical restrictions as soon as possible in order to avoid any unnecessary disruption in the importation of this citrus. The emergency nature of this action makes it impracticable for the agency to follow the procedures of Executive Order 12291 with respect to this action.

Effective Date

This rule relieves restrictions which have been found to be unnecessary. Accordingly, prompt action should be taken to delete the unnecessary restrictions. Therefore, in accordance with the administrative procedure provisions of 5 U.S.C. 553, good cause is found for making this action effective less than 30 days after publication in the **Federal Register**. The rule is effective upon signature.

List of Subjects in 7 CFR Part 319

Agricultural commodities, Imports, Plant diseases, Plants (agriculture), Transportation, Citrus canker, Fruit.

Under the circumstances referred to above, "Subpart—Citrus Canker—Mexico" in 7 CFR Part 319 is revised to read as follows:

PART 319—FOREIGN QUARANTINE NOTICES

Subpart—Citrus Canker—Mexico

Sec.

319.27 Prohibitions; restrictions; disposal of articles refused importation; importation for experimental or scientific purposes.
319.27–1 Definitions.
319.27–2 Infested areas.
319.27–3 Prohibited articles.
319.27–4 Restricted articles.
319.27–5 Permits. [Reserved]
319.27–6 Inspection and phytosanitary certificates of inspection.
319.27–7 Treatments and other requirements.
319.27–8 Marking and identity.
319.27–9 Arrival notification.
319.27–10 Costs and charges.
319.27–11 Ports of entry.

Authority: Secs. 105, 106, and 107; 71 Stat. 32–34; 7 U.S.C. 150dd, 150ee, 150ff; Secs. 5, 7, and 9; 37 Stat. 316–318; 7 U.S.C. 159, 160, 162; 7 CFR 2.17, 2.51, and 371.2(c).

§ 319.27 Prohibitions; restrictions; disposal of articles refused importation; importation for experimental or scientific purposes.[1]

(a) No person shall import any prohibited article except as otherwise provided in paragraph (d) of this section.

(b) No person shall import any restricted article unless in conformity with all of the applicable restrictions in this subpart.

(c) Any article refused importation under the provisions of 7 U.S.C. 150dd or for noncompliance with the requirements of this subpart shall be promptly removed from the United States or abandoned by the importer, and pending such action shall be subject to the immediate application of such safeguards against escape of plant pests as the inspector determines necessary to prevent the introduction into the United States of plant pests. If such article is not promptly removed from the United States or abandoned by the importer for destruction, it may be seized, destroyed, or otherwise disposed of in accordance with sections 105 and 107 of the Federal Plant Pest Act (7 U.S.C. 150dd, 150ff).

(d) An article subject to provisions of this subpart may be imported without complying with other provisions of this subpart if:

(1) Imported by the U.S. Department of Agriculture for experimental or scientific purposes;

(2) Imported at the Plant Germplasm Quarantine Center, Building 320, Beltsville Agricultural Research Center East, Beltsville, MD 20705, or at a port of entry designated by an asterisk in § 319.37–14(b);

(3) Imported pursuant to a departmental permit issued for such article and kept on file at the port of entry;

(4) Imported under conditions specified on the departmental permit and found by the Deputy Administrator to be adequate to prevent the introduction into the United States of plant pests, i.e., conditions of treatment, processing, shipment, disposal; and

(5) Imported with a departmental tag or label securely attached to the outside of the container containing the article or securely attached to the article itself if not in a container, and with such tag or label bearing a departmental permit number corresponding to the number of the departmental permit issued for such article.

§ 319.27–1 Definitions.

Terms used in the singular form in this subpart shall be construed as the plural, and vice-versa, as the case may demand. The following terms, when used in this subpart, shall be construed, respectively, to mean:

Deputy Administrator. The Deputy Administrator of the Animal and Plant Health Inspection Service, U.S. Department of Agriculture for Plant Protection and Quarantine, or any other officer or employee of the Department to whom authority to act in his/her stead has been or may hereafter be delegated.

Import. (importation, imported). To import or move into the United States.

Infested area. Any area designated as an infested area in § 319.27–2.

Inspector. Any employee of Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, or other person, authorized by the Deputy Administrator in accordance with law to enforce the provisions of the regulations in this subpart.

Person. Any individual, corporation, company, society, association or other organized group.

Plant pest. The egg, pupal, and larval stages as well as any other living stage of any insects, mites, nematodes, slugs, snails, protozoa, or other invertebrate animals, bacteria, fungi, other parasitic plants or reproductive parts thereof, viruses, or any organisms similar to or allied with any of the foregoing, or any infectious substances, which can directly or indirectly injure or cause disease or damage in any plants or parts thereof, or any processed, manufactured, or other products of plants.

Plant Protection and Quarantine. The organizational unit within the Animal and Plant Health Inspection Service, U.S. Department of Agriculture, delegated responsibility for enforcing provisions of the Plant Quarantine Act, the Federal Plant Pest Act, and related legislation, and regulations promulgated thereunder.

Prohibited article. Any article designated in § 319.27–3 as a prohibited article.

Restricted article. Any article designated in § 319.27–4 as a restricted article.

Secretary. The Secretary of Agriculture, or any other officer or employee of the Department of Agriculture to whom authority to act in his/her stead has been or may hereafter be delegated.

United States. The States, District of Columbia, American Samoa, Northern Mariana Islands, Puerto Rico, and the Virgin Islands of the United States.

§ 319.27–2 Infested areas.

The following areas in Mexico are designated as infested areas:

The entire State of Colima
The entire municipio of Coahuayana in the State of Michoacan
The entire municipios of Cihautlan and Tomatlan in the State of Jalisco

§ 319.27–3 Prohibited articles.

The following articles are designated as prohibited articles: Any fruit or peel of Mexican lime *(Citrus aurantifolia)* from any area in Mexico, and any other fruit or peel of citrus or citrus relatives (fruit or peel of any genera, species, or varieties of the subfamilies Aurantioideae, Rutoideae, and Toddalioideae of the botanical family Rutaceae) from areas in Mexico designated as infested areas.

§ 319.27–4 Restricted articles.

Fruit or peel of the following articles from areas in Mexico not designated as infested areas are designated as restricted articles:

Ethrog (*Citrus medica*)
Grapefruit (*Citrus paradisi*)
Lemon (*Citrus limon*
Orange (*Citrus sinensis*)
Persian lime (*Citrus latifolia*)
Tangerine (*Citrus reticulata*)

§ 319.27–5 Permits.[2] [Reserved]

§ 319.27–6 Inspection and phytosanitary certificates of inspection.

A restricted article shall be accompanied at the time of importation

[1] Restricted articles are also subject to the provisions of the fruits and vegetables regulations (7 CFR 319.56 *et seq.*).

[2] Under § 319.56–3 of the fruits and vegetables regulations (7 CFR 319.56–3), restricted articles subject to this subpart may be imported only after issuance of a written permit by Plant Protection and Quarantine. The procedures for obtaining a permit are set forth in § 319.56–3 of the fruits and vegetables regulations.

by a phytosanitary certificate of inspection from the plant protection service of Mexico. The certificate shall be addressed to the plant protection service of the United States (Plant Protection and Quarantine), shall have been issued not more than 15 days prior to shipment of the article from Mexico, shall contain a description of the restricted article intended to be imported, and shall certify that the article has been thoroughly inspected and is believed to be free from injurious plant diseases and insect pests. If the restricted article was treated in Mexico in accordance with § 319.27–7, the phytosanitary certificate of inspection shall also contain accurate information describing that the article had been so treated. Such certificate may cover more than one article and more than one container kept together during shipment and offer for importation.

§ 319.27–7 Treatments and other requirements.

A restricted article prior to movement into the United States from the port of entry:

(a) Shall be free of leaves, litter, and stems other than stems less than one inch in length attached to fruit, and

(b) Shall have been treated in Mexico under the supervision of either an inspector or an official of the plant protection service of Mexico or shall be treated at the port of entry under the supervision of an inspector by thorough wetting with a solution containing 200 parts per million active chlorine for a period of at least two minutes.

§ 319.27–8 Marking and identity.

(a) Any restricted article at the time of importation shall plainly and correctly bear on the outer container the following information:

(1) General nature and quantity of the contents,

(2) Country or locality of origin,

(3) Name and address of shipper, owner, or person shipping or forwarding the article,

(4) Name and address of consignee,

(5) Identifying shipper's mark and number,

(6) A letter "C" within the figure of a diamond or a rectangle if the article had been treated in Mexico in accordance with § 319.27–7, and

(7) A statement, such as "origin in a citrus canker free zone," to represent origin outside of the infested areas.

(b) Any restricted article shall be accompanied at the time of importation by an invoice or packing list indicating the contents of the shipment.

§ 319.27–9 Arrival notification.

Promptly upon arrival of any restricted article at a port of entry, the importer shall notify Plant Protection and Quarantine of the arrival by such means as a manifest, Customs entry document, commercial invoice, waybill, a broker's document, or a notice form provided for that purpose.

§ 319.27–10 Costs and charges.

The services of the inspector during regularly assigned hours of duty and at the usual places of duty shall be furnished without cost to the importer.[3] Plant Protection and Quarantine will not be responsible for any costs or charges, other than those indicated in this section.

§ 319.27–11 Ports of entry.

(a) Any restricted article that was treated in Mexico in accordance with § 319.27–7 may be imported only at any port of entry listed in § 319.37–14(b) of this part.

(b) Any restricted article that was not treated in Mexico in accordance with § 319.27–7 may be imported only at the port of Laredo, Texas.

Done at Washington, D.C., this 25th day of November 1983.

W. F. Helms,

Acting Deputy Administrator, Plant Protection and Quarantine, Animal and Plant Health Inspection Service.

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BILLING CODE 3410–34–M

[3] Provisions relating to costs for other services of an inspector are contained in 7 CFR Part 354.

Federal Register

Monday
November 28, 1983

Part IV

Department of Agriculture

Animal and Plant Health Inspection Service

Highly Pathogenic Avian Influenza; Interim Rules

DEPARTMENT OF AGRICULTURE

9 CFR Part 81

[Docket No. 83-125]

Highly Pathogenic Avian Influenza

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule.

SUMMARY: This document amends the "Highly Pathogenic Avian Influenza and Similar Poultry Diseases" interim rule. The interim rule is amended by quarantining a portion of New Jersey because of the finding of highly pathogenic avian influenza, and thereby regulating the interstate movement from the quarantined area of poultry and certain other items and requiring the cleaning and disinfecting of certain accessories and means of conveyance. The interim rule is also amended by making certain extraordinary emergency provisions in the interim rule applicable to New Jersey. This action is necessary to help prevent the interstate spread of highly pathogenic avian influenza, a highly contagious and pathogenic viral disease of poultry.

DATES: Effective date is November 25, 1983. Written comments must be received on or before January 27, 1984.

ADDRESS: Written comments should be submitted to Thomas O. Gessel, Director, Regulatory Coordination Staff, APHIS, USDA, Room 728, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Written comments received may be inspected at Room 728 of the Federal Building, 8 a.m. to 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Dr. William W. Buisch, Chief, National Emergency Field Operations Staff, VS, APHIS, USDA, Room 747, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8073.

SUPPLEMENTARY INFORMATION:

Emergency Action

Dr. John K. Atwell, Deputy Administrator of the Animal and Plant Health Inspection Service for Veterinary Services, has determined that an emergency situation exists which warrants publication of this interim rule without prior opportunity for public comment. In order to help prevent the spread of highly pathogenic avian influenza, immediate action is warranted to regulate the movement of poultry and other items, to require the cleaning and disinfecting of certain accessories and means of conveyance, and to establish a mechanism for disposal of and payment for certain poultry and other items.

Further, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedures with respect to this interim rule are impracticable and contrary to the public interest; and good cause is found for making this interim rule effective upon signature. Comments are solicited for 60 days after publication of this document. A final document discussing comments received and any amendments required will be published in the **Federal Register.**

Background

The "Highly Pathogenic Avian Influenza and Similar Poultry Diseases" interim rule, among other things, established a quarantine and regulations in 9 CFR Part 81 for the purpose of regulating the interstate movement of poultry and certain other items from quarantined areas in Pennsylvania and requiring the cleaning and disinfecting of certain accessories and means of conveyance (48 FR 51422-51423, 52420-52427, 52885-52887). The interim rule also established extraordinary emergency provisions specifically authorized under the Act of July 2, 1962 (21 U.S.C. 134-134h).

This document amends the quarantine provisions and the extraordinary emergency provisions because of the finding of highly pathogenic avian influenza on a premises in Salem County, New Jersey.

Highly pathogenic avian influenza is a highly contagious and pathogenic viral disease of poultry. It is defined as a disease of poultry caused by any influenza virus Type A that results in not less than 75 percent mortality within 8 days in at least eight healthy susceptible chickens, 4 to 8 weeks old, inoculated by the intramuscular, intravenous, or caudal airsac route with bacteria-free infectious allantoic or cell culture fluids and using standard laboratory operating procedures to assure specificity. Clinical evidence of the disease includes decreased feed and water consumption, depression, unusual movements or positions, increased mortality, hemorrhage beneath the skin on the lower legs and feet, severe decrease in egg production, post mortem lesions, and history of the disease occurrence in the flock.

Quarantine Provisions

With certain exceptions, the interim rule provides that the following articles designated as prohibited articles are prohibited from being moved interstate from a quarantined area:

(1) Live poultry infected with or exposed to highly pathogenic avian influenza,

(2) Manure from poultry, and

(3) Litter that has been used by poultry.

The interim rule also provides that the following articles designated as restricted articles are allowed to be moved interstate from a quarantined area only in accordance with certain conditions:

(1) Live poultry not infected with or exposed to highly pathogenic avian influenza,

(2) Poultry carcasses or parts thereof,

(3) Eggs from poultry, and

(4) Used coops, containers, troughs or other accessories for use in the handling of poultry or poultry eggs.

The interim rule also contains provisions concerning the cleaning and disinfection of coops, containers, troughs, other accessories, and means of conveyance used in the interstate movement of poultry from quarantined areas.

It has been determined, based on laboratory confirmation at the National Veterinary Services Laboratories in Ames, Iowa, that highly pathogenic avian influenza now occurs on a premises in Salem County, New Jersey. In order to help prevent the interstate spread of the disease, it is necessary to quarantine a portion of New Jersey and thereby make the quarantine provisions of the interim rule applicable to such portion of New Jersey.

As explained in previous documents concerning the quarantining of areas because of highly pathogenic avian influenza, it is necessary that a quarantined area have easily understood boundary lines; include the premises where highly pathogenic avian influenza is found; include at least a five mile buffer zone in every direction from premises where the disease is found; and include, if the boundary line under the above criteria would be contiguous to areas containing high concentrations of poultry, the contiguous areas containing high concentrations of poultry. In accordance with these criteria, it is necessary to designate the following area in Atlantic, Cumberland, Gloucester, and Salem Counties in New Jersey as a quarantined area:

That portion of New Jersey beginning at the intersection of NJ Highway 45 and NJ Highway 49; then northeasterly along NJ Highway 45 to its intersection with U.S. Highway 322; then southeasterly along U.S. Highway 322 to its intersection with NJ Highway 54; then southwesterly along NJ Highway 54 to its intersection with NJ Secondary Road 557; then southeasterly

along NJ Secondary Road 557 to its intersection with NJ Secondary Road 552; then westerly along NJ Secondary Road 552 to its intersection with NJ Highway 47; then southerly along NJ Highway 47 to its intersection with NJ Secondary Road 15; then westerly along NJ Secondary Road 15 to its intersection with NJ Secondary Road 9; then northwesterly on NJ Secondary Road 9 to its intersection with NJ Highway 49; then northwesterly along NJ Highway 49 to its intersection with NJ Highway 45.

Extraordinary Emergency Provisions

Also, it has been determined that an extraordinary emergency exists because of highly pathogenic avian influenza in New Jersey and adequate measures to control the outbreak in New Jersey cannot be taken by New Jersey. The declaration of extraordinary emergency authorizes the Secretary to seize, quarantine, and dispose of, in such manner as he deems necessary, any animals which he finds are or have been affected with or exposed to such disease, and carcasses of any such animals and any products and articles which he finds were so related to such animals as to be likely to be a means of disseminating such disease and otherwise to carry out the provisions and purposes of the Act of July 2, 1962 (21 U.S.C. 134–134h). The Secretary of Agriculture of New Jersey has been informed of these facts.

The interim rule contains extraordinary emergency provisions. In this connection, the extraordinary emergency provisions provide for inspections and seizures upon premises; disposal of poultry and other items, cleaning of pens, coops, containers, troughs, other accessories, and means of conveyance; and appraisal and payment for destruction of poultry and other items. Because of the circumstances referred to above, it is necessary to amend the interim rule to make the extraordinary emergency provisions in Part 81 applicable to New Jersey and to thereby provide for inspections and seizures upon any premises in New Jersey and to make all of the other extraordinary emergency provisions applicable to activities in New Jersey.

Executive Order and Regulatory Flexibility Act

The emergency nature of this action makes it impracticable for the Agency to follow the procedures of Executive Order 12291 and Secretary's Memorandum 1512–1 with respect to this interim rule. In order to help prevent the spread of highly pathogenic avian influenza, immediate action is warranted to regulate the movement of poultry and other items, to require the cleaning and disinfecting of certain accessories and means of conveyance, and to establish a mechanism for disposal of and payment for certain poultry and other items.

This emergency situation also makes compliance with section 603 and timely compliance with section 604 of the Regulatory Flexibility Act impracticable. Since this action may have a significant economic impact on a substantial number of small entities, the Final Regulatory Impact Analysis, if required, will address the issues required in section 604 of the Regulatory Flexibility Act.

List of Subjects in 9 CFR Part 81

Animal diseases, Poultry and poultry products, Transportation.

Under the circumstances referred to above, 9 CFR Part 81 is amended as follows:

PART 81—HIGHLY PATHOGENIC AVIAN INFLUENZA AND SIMILAR POULTRY DISEASES

1. The provisions contained in § 81.4 are redesignated as paragraph (b) and a new paragraph (a) is added to read as follows:

§ 81.4 Quarantined areas.

(a) The following area in Atlantic, Cumberland, Gloucester, and Salem Counties in New Jersey is designated as a quarantined area: That portion of New Jersey beginning at the intersection of NJ Highway 45 and NJ Highway 49; then northeasterly along NJ Highway 45 to its intersection with U.S. Highway 322; then southeasterly along U.S. Highway 322 to its intersection with NJ Highway 54; then southwesterly along NJ Highway 54 to its intersection with NJ Secondary Road 557; then southeasterly along NJ Secondary Road 557 to its intersection with NJ Secondary Road 552; then westerly along NJ Secondary Road 552 to its intersection with NJ Highway 47; then southerly along NJ Highway 47 to its intersection with NJ Secondary Road 15; then westerly along NJ Secondary Road 15 to its intersection with NJ Secondary Road 9; then northwesterly on NJ Secondary Road 9 to its intersection with NJ Highway 49; then northwesterly along NJ Highway 49 to its intersection with NJ Highway 45.

* * * * *

2. Section 81.10 is revised to read as follows:

§ 81.10 Determination of extraordinary emergency; related determinations.

Highly pathogenic avian influenza is a dangerous, communicable disease of poultry and it has been determined that an extraordinary emergency exists because of outbreaks of the disease in New Jersey and Pennsylvania and that such outbreaks threaten the poultry of the United States and seriously burden interstate and foreign commerce. It has further been determined that adequate measures to control such outbreaks cannot be taken by New Jersey or Pennsylvania and that the regulations in this part are necessary to enable the identification of poultry that are or have been affected with or exposed to such disease, and to seize, quarantine, and dispose of such poultry and other items, and to otherwise carry out the provisions and purposes of the Act of July 2, 1962 (21 U.S.C. 134–134h). The Commissioner of Agriculture of Pennsylvania and the Secretary of Agriculture of New Jersey have been informed of these facts.

§ 81.11 [Amended]

3. In the first sentence of § 81.11, the phrase "upon any premises in Pennsylvania," is amended to read "upon any premises in New Jersey or Pennsylvania,".

§ 81.12 [Amended]

4. In the first sentence of § 81.12, the phrase "upon any premises in Pennsylvania" is amended to read "upon any premises in New Jersey or Pennsylvania".

Authority: Sec. 2, 23 Stat. 31, as amended; secs. 4–8, 23 Stat. 31–33, as amended; secs. 1–3, 32 Stat. 791, 792, as amended; secs. 1–4, 33 Stat. 1264, 1265; 41 Stat. 699; sec. 2, 65 Stat. 693; secs. 3 and 11, 76 Stat. 129, 130 and 132; 76 Stat. 663, 7 U.S.C. 450, 21 U.S.C. 111–113, 114a–1, 115–117, 119–126, 130, 134a, 134b, 134d, 134f; 7 CFR 2.17, 2.51, and 371.2(d).

Done at Washington, D.C. this 23rd day of November, 1983.

J. K. Atwell,

Deputy Administrator, Veterinary Services.

[FR Doc. 83-31942 Filed 11-25-83; 11:15 am]

BILLING CODE 3410-34-M

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9 CFR Part 81

[Docket No. 83-127]

Highly Pathogenic Avian Influenza

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule.

SUMMARY: This document amends the "Highly Pathogenic Avian Influenza and Similar Poultry Diseases" interim rule by imposing additional conditions on the interstate movement from quarantined areas of certain live poultry. This action is necessary in order to provide additional protection against the spread of highly pathogenic avian influenza, a

highly contagious and pathogenic viral disease of poultry.

DATES: Effective date is November 23, 1983. Written comments must be received on or before January 27, 1984.

ADDRESS: Written comments should be submitted to Thomas O. Gessel, Director, Regulatory Coordination Staff, APHIS, USDA, Room 728, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Written comments received may be inspected at Room 728 of the Federal Building, 8 a.m. to 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Dr. William W. Buisch, Chief, National Emergency Field Operations Staff, VS, APHIS, USDA, Room 747, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–8073.

SUPPLEMENTARY INFORMATION:

Emergency Action

Dr. John K. Atwell, Deputy Administrator of the Animal and Plant Health Inspection Service for Veterinary Services, has determined that an emergency situation exists which warrants publication of this interim rule without prior opportunity for public comment. Immediate action is warranted to impose additional restrictions on the interstate movement of certain poultry in order to help prevent the spread of highly pathogenic avian influenza.

Further, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedures with respect to this interim rule are impracticable and contrary to the public interest; and good cause is found for making this interim rule effective upon signature. Comments are solicited for 60 days after publication of this document. A final document discussing comments received and any amendments required will be published in the Federal Register.

Background

The "Highly Pathogenic Avian Influenza and Similar Poultry Diseases" interim rule, among other things, established a quarantine and regulations in 9 CFR Part 81 for the purpose of regulating the interstate movement of poultry and certain other items from a quarantined area in Pennsylvania (48 FR 51422–51423, November 8, 1983; 52420–52427, November 17, 1983; 52885–52887, November 23, 1983). Also highly pathogenic avian influenza has been found to occur on a premises in New Jersey, and action is being taken to quarantine a portion of New Jersey and to establish the provisions of the interim rule with respect to New Jersey.

With certain exceptions, the interim rule provides that the following articles designated as prohibited articles are prohibited from being moved interstate from a quarantined area:

(1) Live poultry infected with or exposed to highly pathogenic avian influenza,

(2) Manure from poultry, and

(3) Litter that has been used by poultry.

The interim rule also provides that the following articles designated as restricted articles are allowed to be moved interstate from a quarantined area only in accordance with certain conditions:

(1) Live poultry not infected with or exposed to highly pathogenic avian influenza,

(2) Poultry carcasses or parts thereof,

(3) Eggs from poultry, and

(4) Used coops, containers, troughs or other accessories for use in the handling of poultry or poultry eggs.

The interim rule also contains provisions concerning the cleaning and disinfection of coops, containers, troughs, other accessories, and means of conveyance used in the interstate movement of poultry from quarantined areas.

This document amends the provisions concerning the movement interstate from a quarantined area of live poultry designated as restricted articles. In this connection, prior to the effective date of this document, § 81.6(c) of the interim rule provided that:

> Live poultry not infected with or exposed to highly pathogenic avian influenza may be moved interstate from a quarantined area accompanied by a permit if inspected prior to movement by a State or Federal inspector and not found to have clinical evidence of highly pathogeic avian influenza, and if moved directly to a federally inspected slaughtering establishment for immediate slaughter.

This document revises § 81.6(c) of the interim rule to read as follows:

> (c) Live poultry not infected with or exposed to highly pathogenic avian influenza may be moved interstate from a quarantined area directly to a federally inspected slaughtering establishment for immediate slaughter if:
>
> (1) From a flock in which all poultry are determined by a State or Federal inspector to be negative for highly pathogenic avian influenza based on:
>
> (i) Examination of the flock by such inspector for clinical evidence of highly pathogenic avian influenza at least 7 days but not more than 10 days prior to movement, and
>
> (ii) Agar-gel immunodiffusion or hemagglutination inhibition testing at a State or Federal laboratory of blood samples from a statistically representative random sample of the flock taken by such inspector at least 7 but not more than 10 days prior to movement, and
>
> (iii) Virologic examination of cloacal swabs at a State or Federal laboratory from swabs taken from a statistically representative random sample by such inspector at least 7 but not more than 10 days prior to movement (examination of the swabs to be completed only on seropositive flocks), and
>
> (iv) Re-examination of the flock by such inspector for clinical evidence of highly pathogenic avian influenza within 48 hours before the first shipment; and
>
> (2) Moved accompanied by a permit within 48 hours after re-examination of the flock, except that a State or Federal inspector upon request of the permittee may extend the 48 hour period (not to exceed a total period of 72 hours) as necessary to accommodate multiple shipments; and
>
> (3) From a flock to which poultry have not been added for at least 10 days prior to movement.

It is necessary to change these requirements for such live poultry to provide additional protection by examining the flocks clinically, serologically, and virologically for evidence of highly pathogenic avian influenza before the interstate movement. These examinations, tests, and other requirements are deemed by the Department to be necessary to further reduce the risk that such poultry shipped interstate are not affected with or exposed to highly pathogenic avian influenza, and should not result in the spread of such disease to other States.

Executive Order and Regulatory Flexibility Act

The emergency nature of this action makes it impracticable for the Agency to follow the procedures of Executive Order 12291 and Secretary's Memorandum 1512–1 with respect to this interim rule. Immediate action is warranted to impose additional restrictions on the interstate movement of certain poultry in order to help prevent the spread of highly pathogenic avian influenza.

This emergency situation also makes compliance with section 603 and timely compliance with section 604 of the Regulatory Flexibility Act impracticable. Since this action may have a significant economic impact on a substantial number of small entities, the Final Regulatory Impact Analysis, if required, will address the issues required in section 604 of the Regulatory Flexibility Act.

List of Subjects in 9 CFR Part 81

Animal diseases, Poultry and poultry products, Transportation.

Under the circumstances referred to above, § 81.6(c) of 9 CFR Part 81 is revised to read as follows:

PART 81—HIGHLY PATHOGENIC AVIAN INFLUENZA AND SIMILAR POULTRY DISEASES

§ 81.6 Restricted articles.

* * * * *

(c) Live poultry not infected with or exposed to highly pathogenic avian influenza may be moved interstate from a quarantined area directly to a federally inspected slaughtering establishment for immediate slaughter if:

(1) From a flock in which all poultry are determined by a State or Federal inspector to be negative for highly pathogenic avian influenza based on:

(i) Examination of the flock by such inspector for clinical evidence of highly pathogenic avian influenza at least 7 days but not more than 10 days prior to movement, and

(ii) Agar-gel immunodiffusion or hemagglutination inhibition testing at a State or Federal laboratory of blood samples from a statistically representative random sample of the flock taken by such inspector at least 7 but not more than 10 days prior to movement, and

(iii) Virologic examination of cloacal swabs at a State or Federal laboratory from swabs taken from a statistically representative random sample by such inspector at least 7 but not more than 10 days prior to movement (examination of the swabs to be completed only on seropositive flocks), and

(iv) Re-examination of the flock by such inspector for clinical evidence of highly pathogenic avian influenza within 48 hours before the first shipment; and

(2) Moved accompanied by a permit within 48 hours after re-examination of the flock, except that a State or Federal inspector upon request of the permittee may extend the 48 hour period (not to exceed a total period of 72 hours) as necessary to accommodate multiple shipments; and

(3) From a flock to which poultry have not been added for at least 10 days prior to movement.

* * * * *

Authority: Sec. 2, 23 Stat. 31, as amended; secs. 4–8, 23 Stat. 31–33, as amended; secs. 1–3, 32 Stat. 791, 792, as amended; secs. 1–4, 33 Stat. 1264, 1265; 41 Stat. 699; sec. 2, 65 Stat. 693; secs. 3 and 11, 76 Stat. 129, 130 and 132; 76 Stat. 663, 7 U.S.C. 450, 21 U.S.C. 111–113, 114a–1, 115–117, 119–126, 130, 134a, 134b, 134d, 134f; 7 CFR 2.17, 2.51, and 371.2(d).

Done at Washington, D.C. this 23rd day of November, 1983.

J. K. Atwell,

Deputy Administrator, Veterinary Services.

[FR Doc. 83-31941 Filed 11-25-83; 11:15 am]

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LIST OF PUBLIC LAWS

Last Listing November 25, 1983

This is a continuing list 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.R. 2910 / Pub. L. 98-163

To amend the Act of November 2, 1966, regarding leases and contracts affecting land within the Salt River Pima-Maricopa Indian Reservation. (Nov. 22, 1983; 97 Stat. 1016) Price: $1.50

H.R. 2915 / Pub. L. 98-164

To authorize appropriations for fiscal years 1984 and 1985 for the Department of State, the United States Information Agency, the Board for International Broadcasting, the Inter-American Foundation, and the Asia Foundation, to establish the National Endowment for Democracy, and for other purposes. (Nov. 22, 1983; 97 Stat. 1017) Price: $3.50

H.R. 3885 / Pub. L. 98-165

Grand Ronde Restoration Act. (Nov. 22, 1983; 97 Stat. 1064) Price: $1.75

CFR CHECKLIST

This checklist, prepared by the Office of the Federal Register, is published weekly. It is arranged in the order of CFR titles, prices, and revision dates.

An asterisk (*) precedes each entry that has been changed since last week.

New units issued during the week are announced on the back cover of the daily **Federal Register** as they become available.

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Title	Price	Revision Date
1, 2 (2 Reserved)	$6.00	Jan. 1, 1983
3 (1982 Compilation and Parts 100 and 101)	6.00	Jan. 1, 1983
4	7.50	Jan. 1, 1983
5 Parts:		
1-1199	8.50	Jan. 1, 1983
1200-End, 6 (6 Reserved)	6.00	Jan. 1, 1983
7 Parts:		
0-45	9.00	Jan. 1, 1983
46-51	7.50	Jan. 1, 1983
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53-209	7.50	Jan. 1, 1983
210-299	7.00	Jan. 1, 1983
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400-699	6.50	Jan. 1, 1983
700-899	6.50	Jan. 1, 1983
900-999	8.50	Jan. 1, 1983
1000-1059	7.50	Jan. 1, 1983
1060-1119	6.50	Jan. 1, 1983
1120-1199	7.00	Jan. 1, 1983
1200-1499	7.00	Jan. 1, 1983
1500-1899	6.50	Jan. 1, 1983
1900-1944	8.00	Jan. 1, 1983
1945-End	7.00	Jan. 1, 1983
8	6.50	Jan. 1, 1983
9 Parts:		
1-199	7.50	Jan. 1, 1983
200-End	7.50	Jan. 1, 1983
10 Parts:		
0-199	9.00	Jan. 1, 1983
200-399	7.50	Jan. 1, 1983
400-499	6.50	Jan. 1, 1983
500-End	7.00	Jan. 1, 1983
11	5.50	July 1, 1983
12 Parts:		
1-199	7.00	Jan. 1, 1983
200-299	8.00	Jan. 1, 1983
300-499	7.00	Jan. 1, 1983
500-End	8.00	Jan. 1, 1983
13	8.00	Jan. 1, 1983
14 Parts:		
1-59	7.00	Jan. 1, 1983
60-139	7.00	Jan. 1, 1983
140-199	5.50	Jan. 1, 1983
200-1199	7.00	Jan. 1, 1983
1200-End	6.50	Jan. 1, 1983
15 Parts:		
0-299	6.50	Jan. 1, 1983
300-399	7.00	Jan. 1, 1983
400-End	7.50	Jan. 1, 1983
16 Parts:		
0-149	7.00	Jan. 1, 1983
150-999	7.00	Jan. 1, 1983
1000-End	7.00	Jan. 1, 1983
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1-239	8.00	Apr. 1, 1983
240-End	7.00	Apr. 1, 1983
18 Parts:		
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150-399	8.00	Apr. 1, 1983
400-End	6.50	Apr. 1, 1983
19	8.50	Apr. 1, 1983
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400-499	7.00	Apr. 1, 1983
500-End	7.50	Apr. 1, 1983
21 Parts:		
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170-199	6.50	Apr. 1, 1983
200-299	4.75	Apr. 1, 1983
300-499	8.00	Apr. 1, 1983
500-599	6.50	Apr. 1, 1983
600-799	5.00	Apr. 1, 1983
800-1299	6.00	Apr. 1, 1983
1300-End	5.00	Apr. 1, 1983
22	8.50	Apr. 1, 1983
23	7.00	Apr. 1, 1983
24 Parts:		
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200-499	8.00	Apr. 1, 1983
500-799	5.00	Apr. 1, 1983
800-1699	6.50	Apr. 1, 1983
1700-End	6.00	Apr. 1, 1983
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26 Parts:		
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200-End	6.50	July 1, 1983
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800–999	6.50	July 1, 1983
1000–End	6.00	July 1, 1983
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1–399	13.00	July 1, 1982
300–399	6.00	July 1, 1983
400–End	8.50	July 1, 1982
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3–6	8.50	July 1, 1982
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9	7.00	July 1, 1983
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200–End	8.00	Oct. 1, 1982
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[1] No amendments to these volumes were promulgated during the period Apr. 1, 1982 to March 31, 1983. The CFR volumes issued as of Apr. 1, 1982 should be retained.

[2] No amendments to this volume were promulgated during the period Apr. 1, 1980 to March 31, 1983. The CFR volume issued as of Apr. 1, 1980, should be retained.

[3] Refer to September 19, 1983, FEDERAL REGISTER, Book II (Federal Acquisition Regulation).