



FEDERAL REGISTER

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Washington, Thursday, October 8, 1959

Title 17—COMMODITY AND SECURITIES EXCHANGES

Chapter I—Commodity Exchange Authority (Including Commodity Exchange Commission), Department of Agriculture

PART 1—GENERAL REGULATIONS UNDER THE COMMODITY EXCHANGE ACT

Regulation on Employment of Persons to Whom Trading Privileges Have Been Denied or Whose Registrations Have Been Suspended or Revoked

On May 28, 1959, there was published in the FEDERAL REGISTER (24 F.R. 4307) a notice of rule-making concerning the proposed issuance of a new regulation under the Commodity Exchange Act, as amended (7 U.S.C. 1 et seq.) relating to the employment of persons to whom trading privileges have been denied or whose registrations have been suspended or revoked. After due consideration of all relevant matters presented and under the authority of sections 4g, 6(b), and 8a(5) of said act (7 U.S.C. 6g, 9, 12a(5)), a regulation, to appear in 17 CFR 1.49, is hereby issued to read as follows:

§ 1.49 Denial of trading privileges; suspension or revocation of registration; employment in similar capacity.

(a) Denial of trading privileges: During the effective period of any order of the Secretary of Agriculture denying trading privileges on contract markets to any person for a violation of the Commodity Exchange Act or the regulations thereunder involving cheating or fraud or manipulation or attempted manipulation of the price of any commodity in interstate commerce or for future delivery on or subject to the rules of a contract market, no futures commission merchant or member of a contract market shall knowingly employ such person in any capacity which involves the solicitation, acceptance, or execution of orders for the purchase or sale of any commodity for future delivery on or subject to

the rules of a contract market, the execution of which would be prohibited by such order of the Secretary of Agriculture if made for the account of such person.

(b) Suspension or revocation of registration: During the effective period of any order of the Secretary of Agriculture suspending or revoking the registration of any person as a futures commission merchant or floor broker for a violation of the Commodity Exchange Act or the regulations thereunder involving cheating or fraud or manipulation or attempted manipulation of the price of any commodity in interstate commerce or for future delivery on or subject to the rules of a contract market, no futures commission merchant or member of a contract market shall knowingly employ such person in any capacity which involves the solicitation, acceptance, or execution of orders for the purchase or sale of any commodity for future delivery on or subject to the rules of a contract market.

(c) The words "solicitation, acceptance, or execution of orders" as used in this section shall not include such functions as are customarily performed by a person employed by a futures commission merchant or member of a contract market as mail clerk, telephone clerk, messenger, or bookkeeper, or in a similar capacity, incident to the recording and transmitting of orders which are solicited, accepted, and executed by other persons.

(Secs. 4g, 6b, 8a(5), 49 Stat. 1491, as amended; 7 U.S.C. 6g, 9, 12a(5))

The regulation set forth above differs in certain respects from the proposal contained in the notice of rule-making, but the differences are due to changes made pursuant to comments received with respect to the notice. It does not appear that further notice and other public rule-making procedure on the regulation would make more information available to the Department. Therefore under section 4 of the Administrative Procedure Act (5 U.S.C. 1003) it is found upon good cause that further notice and other public rule-making procedure on the regulation are unnecessary.

(Continued on p. 8143)

CONTENTS

	Page
Agricultural Conservation Program Service	
Rules and regulations:	
Alaska; 1960.....	8162
Hawaii; 1959; increase in small Federal cost-share; construction of permanent fences.....	8170
Agricultural Marketing Service	
Notices:	
North Arkansas Livestock Auction Inc., et al.; proposed posting of stockyards.....	8191
Proposed rule making:	
Milk in certain marketing areas:	
Duluth-Superior.....	8186
New York-New Jersey (2 documents).....	8184
Rules and regulations:	
Onion rings, frozen, breaded; U.S. standards for grades....	8162
Agriculture Department	
See Agricultural Conservation Program Service; Agricultural Marketing Service; Commodity Exchange Authority; Commodity Stabilization Service.	
Air Force Department	
Rules and regulations:	
Aid of civil authorities and public relations and reserve forces; miscellaneous amendments.....	8145
Miscellaneous amendments to procurement instructions....	8146
Army Department	
Rules and regulations:	
Foreign purchases and supplemental provisions; miscellaneous amendments.....	8143
Atomic Energy Commission	
Notices:	
California Salvage Co.; license..	8192
Civil Aeronautics Board	
Notices:	
Hearings, etc.:	
Accident on Great Sitkin Island, Alaska.....	8195
Modern Air Transport, Inc., and John P. Becker.....	8195
National Airlines, Inc.; jet service between New York and Miami.....	8195



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(As of July 1, 1959)

The following semiannual cumulative pocket supplement is now available:

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1959 Supplement 1 (\$1.25)

Order from Superintendent of Documents,
Government Printing Office, Washington
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CONTENTS—Continued

Commerce Department	Page
See Foreign Commerce Bureau.	
Commodity Exchange Authority	
Rules and regulations:	
Employment of persons to whom trading privileges have been denied or whose registrations have been suspended or revoked.....	8141
Commodity Stabilization Service	
Proposed rule making:	
Rice; marketing quotas, allotments and yields.....	8186
Defense Department	
See Air Force Department; Army Department.	

CONTENTS—Continued

Federal Aviation Agency	Page
Proposed rule making:	
Boeing 707 Aircraft.....	8188
Certain Lockheed Aircraft.....	8188
Forney Ercoupe Aircraft.....	8188
Federal Communications Commission	
Notices:	
Bands above 890 Mc; allocation of frequencies.....	8193
Hearings, etc.:	
Marin Broadcasting Co., Inc. National Broadcasting Co., Inc.....	8193
North Shore Broadcasting Co., Inc., et al.....	8194
Pioneer Broadcasting Co. et al.....	8194
Statement of organization, delegations of authority and other information.....	8194
Proposed rule making:	
Aviation services; issuance of aircraft radio station licenses to aliens and their representatives.....	8189
Commercial radio operator licenses; issuance to certain alien aircraft pilots.....	8189
Rules and regulations:	
Alien applicants for radio operator licenses who are aircraft pilots; supplemental application.....	8176
Commercial radio operators; issuance of provisional radio operator certificates.....	8176
Federal Power Commission	
Notices:	
Midwestern Gas Transmission Co. and Michigan Wisconsin Pipe Line Co.; hearing.....	8195
Fish and Wildlife Service	
Rules and regulations:	
Missisquoi National Wildlife Refuge, Vermont; hunting.....	8177
Wildlife management areas; list; cross reference.....	8177
Foreign Commerce Bureau	
Notices:	
Ro-Nard, Inc., et al.....	8192
Rules and regulations:	
Certain license and exportations of technical data; miscellaneous amendments.....	8170
Positive list of commodities and related matters.....	8173
Interior Department	
See Fish and Wildlife Service; Land Management Bureau; National Park Service.	
Internal Revenue Service	
Proposed rule making:	
Income tax; taxable years beginning after Dec. 31, 1953; deductions for losses.....	8177
Interstate Commerce Commission	
Notices:	
Fourth section applications for relief.....	8197
Motor carrier transfer proceedings.....	8198

CONTENTS—Continued

Land Management Bureau	Page
Notices:	
Colorado; filing of plat of survey.....	8191
Nevada; proposed withdrawal and reservation of lands.....	8191
New offshore leasing maps.....	8191
Rules and regulations:	
Public land orders:	
Arkansas.....	8176
Missouri.....	8175
Utah.....	8175
National Park Service	
Proposed rule making:	
Vehicles.....	8184
Post Office Department	
Rules and regulations:	
Directory of International Mail.....	8143
Small Business Administration	
Notices:	
Acting Branch Manager, San Juan, Puerto Rico; power of attorney (2 documents).....	8197
Declarations of disaster areas:	
Kansas.....	8196
Missouri.....	8196
Treasury Department	
See Internal Revenue Service.	
Veterans Administration	
Rules and regulations:	
Release of information from Veterans Administration records.....	8174
CODIFICATION GUIDE	
A numerical list of the parts of the Code of Federal Regulations affected by documents published in this issue. Proposed rules, as opposed to final actions, are identified as such.	
A Cumulative Codification Guide covering the current month appears at the end of each issue beginning with the second issue of the month.	
3 CFR	Page
Executive orders:	
Sept. 1, 1887 (revoked by PLO 2002).....	8175
July 20, 1905 (revoked in part by PLO 2002).....	8175
July 21, 1905 (see PLO 2002).....	8175
May 11, 1915 (revoked in part by PLO 2002).....	8175
May 17, 1921 (revoked by PLO 2002).....	8175
1579 (revoked by PLO 2002).....	8175
8509 (revoked by PLO 2003).....	8175
7-CFR	
52.....	8162
1104.....	8162
1105.....	8170
Proposed rules:	
730.....	8186
927 (2 documents).....	8184
954.....	8186
14 CFR	
Proposed rules:	
507 (3 documents).....	8188
15 CFR	
371.....	8170
373.....	8170
374.....	8170
385.....	8170
399.....	8173

CODIFICATION GUIDE—Con.

17 CFR	Page
1.....	8141
26 (1954) -CFR	
<i>Proposed rules:</i>	
1.....	8177
32 CFR	
595.....	8143
606.....	8143
808.....	8145
861.....	8145
1001.....	8146
1051.....	8146
1052.....	8146
1053.....	8147
1054.....	8152
1055.....	8157
1057.....	8157
1058.....	8157
1059.....	8161
1080.....	8162
36 CFR	
<i>Proposed rules:</i>	
1.....	8184
38 CFR	
1.....	8174
39 CFR	
168.....	8143
43 CFR	
<i>Public land orders:</i>	
2002.....	8175
2003.....	8175
2004.....	8176
47 CFR	
1.....	8176
13.....	8176
<i>Proposed rules:</i>	
9.....	8189
13.....	8189
50 CFR	
17.....	8177
35.....	8177

The regulation set forth above shall become effective 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C. this 2d day of October 1959.

CLARENCE L. MILLER,
Assistant Secretary of Agriculture.

[F.R. Doc. 59-8456; Filed, Oct. 7, 1959; 8:48 a.m.]

Title 39—POSTAL SERVICE

Chapter I—Post Office Department
PART 168—DIRECTORY OF
INTERNATIONAL MAIL
International Mail Regulations

Part 168, Directory of International Mail, as published in the FEDERAL REGISTER of March 20, 1959, at pages 2117-2195 as Federal Register Document 59-2338, is amended as follows:

In § 168.5 *Individual country regulations* make the following changes:

A. In country "Colombia" make the following changes as a result of the Colombian Postal Administration giving notice that an extensive variety of articles is prohibited in the mail to that country. It is understood that this action is a result of stringent import control regulations adopted by the Colombian customs authorities.

1. Under Postal Union Mail, strike out the first two paragraphs of the item *Observations* and insert in lieu thereof the following:

Observations. Books and other printed matter are understood to be generally prohibited to Colombia, or are admitted under import license which the addressee must obtain in advance. Such licenses are also required for samples of merchandise and 8-ounce merchandise packages.

Senders should be advised to consult the addressees or the nearest Colombian consulate to ascertain whether the articles they desire to mail will be admitted. If the sender is satisfied that his package will be admitted, he should mark the wrapper "Addressee has import license" or "Import license not required", as the case may be.

2. Under Parcel Post, in the item *Observations*, insert a new paragraph immediately following the first paragraph therein to read as follows:

Observations. * * *

In view of the extensive variety of articles prohibited to Colombia (see the item *Prohibitions*), persons desiring to mail parcels should be advised to consult the addressees in advance of mailing to ascertain whether their articles will be admitted, or to consult the nearest Colombian consulate, stating specifically what articles they desire to send. Parcels will be accepted for mailing to Colombia only with the understanding that the mailer has satisfied himself that the contents will be admitted.

B. In country "Germany", as amended by Federal Register Document 59-7459, 24 F.R. 7250, and by Federal Register Document 59-7735, 24 F.R. 7506, under Parcel Post, make the following changes:

1. The item *Dimensions* is amended as a result of the increase in permissible dimensions of parcels for Western Germany. There is no change in the permissible dimensions of parcels for Eastern Germany.

As so amended, the item reads as follows:

Dimensions. Length 3½ feet; length and girth combined 6 feet. Parcels for Western Germany Only may measure up to 4 feet in length, on condition that parcels over 42 inches in length do not exceed 20 inches in girth.

2. In the item *Insurance*, insert the parenthetical phrase "(To Western Germany Only)" immediately following the item heading, so that the item heading

reads: *Insurance (To Western Germany Only)*.

C. In country "New Guinea, Territory Of (Comprises Northeast portion of New Guinea Island, Bismarck Archipelago [New Britain, New Ireland, New Hanover, Admiralty Islands] and Buka, and Bougainville [Solomon Islands])", under Parcel Post, strike out "Weight limit—11 pounds" where it appears in the tabular information immediately following the item *Air parcel post*, and insert in lieu thereof, "Weight limit—22 pounds". Effective at once, the weight limit of parcel-post packages for delivery in the Territory of New Guinea is increased to 22 pounds.

D. In country "Papua, Territory of", under Parcel Post, strike out "Weight limit—11 pounds", where it appears in the tabular information immediately following the item *Air parcel post*, and insert in lieu thereof "Weight limit—22 pounds". Effective at once, the weight limit of parcel-post packages for delivery in the Territory of Papua is increased to 22 pounds.

(E.S. 161, as amended, 396, as amended, 398, as amended; 5 U.S.C. 22, 369, 372)

[SEAL] LEO G. KNOLL,
Acting General Counsel.

[F.R. Doc. 59-8445; Filed, Oct. 7, 1959; 8:47 a.m.]

Title 32—NATIONAL DEFENSE

Chapter V—Department of the Army

SUBCHAPTER G—PROCUREMENT

PART 595—FOREIGN PURCHASES

PART 606—SUPPLEMENTAL PROVISIONS

Miscellaneous Amendments

1. Subpart O, Part 595, Administration of the Buy American Act—Purchase of Petroleum Products, including §§ 595.1500 through 595.1503-2, is hereby revoked.

2. In § 606.204-6, add introductory portion to read as follows:

§ 606.204-6 Government-owned contractor operated plants (GOCO).

The following provisions shall not apply to approval of proposed awards of contracts or supplemental agreements to contracts for tracked or wheeled vehicles or for trailers. Such proposed awards shall be subject to the approval requirements set forth in § 606.204-9.

3. Sections 606.204-7, 606.204-8, and 606.204-9 are revised to read as follows:

§ 606.204-7 Army ballistic missiles.

Proposed awards of supply contracts (excluding supplemental agreements) for the Redstone Missile System which are in excess of \$25,000,000 shall be submitted to the Deputy Chief of Staff for Logistics, Department of the Army, Washington 25, D.C., ATTN: Chief, Contracts Branch, for approval.

§ 606.204-8 Specific category approval requirements.

Notwithstanding the delegations set forth in §§ 606.204-6 and 606.204-9, proposed awards of negotiated contracts and supplemental agreements to contracts, involving additional services or supplies, for the following items in excess of the amounts stated in this section shall be forwarded to the Deputy Chief of Staff for Logistics, Department of the Army, Washington 25, D.C., Attn: Chief, Contracts Branch, for approval when the contract is being entered into by a contracting officer under the jurisdiction of a head of a procuring activity other than the major oversea commander:

(a) Aircraft maintenance services, including rebuild or exchange of components for aircraft, when the amount or estimated amount exceeds \$1,000,000 or when delivery orders expected to be issued against an Indefinite Delivery Type Contract are estimated to aggregate amounts in excess of \$1,000,000; except that, the amounts shall be limited to \$100,000 for the heads of procuring activities other than chiefs of technical services;

(b) Concurrent and replenishment repair parts for guided missile systems and rockets (1) in project code 4121, (2) related items in project codes 4061, 4071, and 4111, and (3) parts common to items and systems not included in (1) and (2) where a substantial portion of such common parts are for guided missile systems and rockets included in the above project codes; when the amount exceeds \$200,000. For the purpose of this category the term contract includes but is not limited to task order, delivery orders, job orders, etc.;

(c) Items procured under indefinite delivery type contracts, either formally advertised or negotiated, in excess of \$100,000 entered into by a contracting officer under the jurisdiction of a ZI Army commander; and

(d) Actions which may be controversial, have sensitive aspects, or involve major policy decisions.

§ 606.204-9 Contracts in general.

Award approvals required for negotiated contracts, except as otherwise specifically delegated in writing, or as stated in §§ 606.204-1 through 606.204-8, 606.204-10 and 606.204-11, are as indicated in this section. This requirement does not apply to total small business set-asides entered into under the Small Business Restricted Advertising Procedures or to other set-asides wherein the non-set-aside portion is awarded by formal advertising. The term contracts as used herein includes supplemental agreements involving additional services or supplies. The term amount includes the dollar amount of a contract or the estimated total dollar amount of delivery orders to be placed during the fiscal year under Indefinite Delivery Type Contracts (§ 606.1101).

(a) *Chief, Contracts Branch.* Proposed awards of contracts included in

this section shall be submitted to the Deputy Chief of Staff for Logistics, Department of the Army, Washington 25, D.C., Attn: Chief, Contracts Branch, for approval when: (1) The amount exceeds \$1,000,000 and the contract is being entered into by a contracting officer under the jurisdiction of the Chief Chemical Officer, The Surgeon General, or the Chief of Transportation, (2) the amount exceeds \$2,000,000 and the contract is being entered into by a contracting officer under the jurisdiction of The Quartermaster General, (3) the amount exceeds \$3,000,000 and the contract is being entered into by a contracting officer under the jurisdiction of the Chief of Engineers or the Chief Signal Officer; (4) the amount exceeds \$4,000,000 and the contract is being entered into by a contracting officer under the jurisdiction of the Chief of Ordnance, or (5) when the amount exceeds \$100,000 and the contract is being entered into by a contracting officer not under the jurisdiction of a technical service or a major oversea command.

(b) *Chiefs of technical services.* Chiefs of technical services and designated senior officers of their headquarters staff responsible for procurement are authorized to approve awards of contracts included in this section in the following amounts: (1) The Chief Chemical Officer, The Surgeon General, and the Chief of Transportation not in excess of \$1,000,000; (2) The Quartermaster General not in excess of \$2,000,000, (3) the Chief of Engineers and the Chief Signal Officer not in excess of \$3,000,000; and (4) the Chief of Ordnance not in excess of \$4,000,000. This authority may be redelegated by chiefs of technical services to the extent deemed necessary within the following limits: the Chief Chemical Officer, The Surgeon General, and the Chief of Transportation for contracts not in excess of \$5,000,000; the Chief of Engineers, the Chief of Ordnance, The Quartermaster General, and the Chief Signal Officer for contracts not in excess of \$1,000,000. Subject to any further instructions which may be issued by the chief of a technical service, contracts included in this paragraph amounting to less than \$100,000 do not require approval by higher authority.

(c) *Heads of procuring activities other than technical services and major oversea commands.* Heads of procuring activities other than technical services and major oversea commands are authorized to approve awards of contracts included in this section in amounts not in excess of \$100,000. This authority may be redelegated to the extent deemed necessary without authority of further redelegation.

4. Revise §§ 606.204-11(a), 606.204-12, and 606.204-13 to read as follows:

§ 606.204-11 Management engineering contracts.

(a) Management engineering services and activities are explained in DA Pam 20-345 (Management Engineering in the Army Establishment). Proposed con-

tracts for services of the general nature described in paragraphs 2 and 3, DA Pam 20-345 fall within the scope of AR 1-110 (administrative regulations pertaining to contracts for management engineering). A contracting officer shall not execute a contract (or supplemental agreement) for management engineering services prior to receipt, through channels, of Secretarial approval of the project. In the event that proposed contracts and supplemental agreements to contracts for such services are forwarded to higher authority in connection with obtaining Secretarial approval of the project, as required by paragraph 7, AR 1-110, such proposed contracts or supplemental agreements to contracts originating in the technical services shall be submitted to the Deputy Chief of Staff for Logistics, Headquarters, Department of the Army, Attn: Chief, Systems Office.

§ 606.204-12 Modification of contracts.

(a) Heads of procuring activities are authorized to approve awards of modifications to contracts regardless of dollar value of the modification, subject to the following conditions:

(1) The proposed modification does not require specific approval of higher authority under §§ 606.204-1; 606.204-2; 606.204-4; 606.204-5; 606.204-6; 606.204-7; 606.204-8; 606.204-9; 606.204-10; and 606.204-11.

(2) The proposed modification does not contain deviations from procurement regulations which were not authorized for use in the previously approved basic contract or modification.

(3) The profit or fee does not exceed any limitations imposed by Subchapter A, Chapter 1 of this title, this subchapter, or other procurement directives.

(4) Terms and conditions of the proposed modification are such that there is no statutory requirement for approval by higher authority. Modifications to facilities contracts involving non-severable facilities will continue to be submitted to the Deputy Chief of Staff for Logistics, Headquarters, Department of the Army, Washington 25, D.C., Attn: Chief, Contracts Branch, for approval.

(5) The proposed modification applies to an approved program for which funds are available.

(b) The authority contained in this section may be redelegated at the discretion of the head of procuring activity without authority for further redelegation, except that in the case of modifications involving additional supplies or services, the authority to redelegate is limited to the amount authorized under §§ 606.204-3; 606.204-6; and 606.204-9.

§ 606.204-13 Preaward clearance.

In performing the review and analysis of proposed awards submitted in accordance with the provisions of this subchapter, the Chief, Contracts Branch, Office of the Deputy Chief of Staff for Logistics, Department of the Army will obtain preaward clearance from the Assistant Secretary of the Army (Logistics) in the form of a notation prior to approving proposed awards for:

(a) *Army Ballistic Missiles* (§ 606-204-7). Supply contracts (excluding supplemental agreements) for the Redstone Missile system in excess of \$25,000,000.

(b) *Specific category approval requirements* (§ 606.204-8). (1) Aircraft maintenance services in excess of \$1,000,000 (§ 606.204-8(a)).

(2) Guided missile systems and rockets in project code 4121 and related items in project codes 4061, 4071, and 4111, when such contracts include or are for repair parts the estimated cost of which exceeds \$200,000 (§ 606.204-8(b)).

(3) Medicare services in excess of \$10,000,000.

(4) Actions which may be controversial, have sensitive aspects, or involve major policy decisions (§ 606.204-8(d)).

(c) *Contracts in general* (§ 606.204-9).

(1) Amounts in excess of \$2,000,000 and the contract is being entered into by a contracting officer under the jurisdiction of (i) the Chief Chemical Officer; (ii) The Quartermaster General; (iii) The Surgeon General; or (iv) the Chief of Transportation.

(2) Amounts in excess of \$4,000,000 and the contract is being entered into by a contracting officer under the jurisdiction of the Chief of Engineers or the Chief Signal Officer.

(3) Amounts in excess of \$7,000,000 and the contract is being entered into by a contracting officer under the jurisdiction of the Chief of Ordnance.

[C 17, APP, September 8, 1959] (Sec. 3012, 70A Stat. 157; 10 U.S.C. 3012. Interpret or apply secs. 2301-2314, 70A Stat. 127-133; 10 U.S.C. 2301-2314)

R. V. LEE,
Major General, U.S. Army,
The Adjutant General.

[F.R. Doc. 59-8433; Filed, Oct. 7, 1959; 8:45 a.m.]

Chapter VII—Department of the Air Force

SUBCHAPTER A—AID OF CIVIL AUTHORITIES AND PUBLIC RELATIONS

PART 808—COMPETITION WITH CIVILIAN BANDS

SUBCHAPTER F—RESERVE FORCES

PART 861—OFFICERS' RESERVE

In Part 861, §§ 861.801 to 861.815, Air Force Officer Candidate School, are revoked (14 F.R. 7350, December 8, 1949).

In Part 808, §§ 808.1 to 808.4 are rescinded and the following substituted therefor:

USE OF AIR FORCE BANDS

Sec.
808.1 Use of Air Force bands.
808.2 Use of volunteer units.

AUTHORITY: §§ 808.1 to 808.2 issued under sec. 8012, 70A Stat. 488; 10 U.S.C. 8012. Interpret or apply secs. 8634, 8635, 70A Stat. 532; 10 U.S.C. 8634, 8635.

Source: AFR 190-21, April 28, 1959.

§ 808.1 Use of Air Force bands.

(a) *Limitations.* The use, employment, or assignment of Air Force bands off military reservations is governed by the following:

(1) U.S. Code, Title 10, Section 8634. "No Air Force band or member thereof may receive remuneration for furnishing music outside the limits of an air base in competition with local civilian musicians."

(2) U.S. Code, Title 10, Section 8635. "No enlisted member of the Air Force on active duty may be ordered or permitted to leave his post to engage in a civilian pursuit or business, or a performance in civil life, for emolument, hire, or otherwise, if the pursuit, business or performance interferes with the customary or regular employment of local civilians in their art, trade, or profession."

(3) In addition to the statutory limitations, the Secretary of Defense has set forth policies for effective and economical utilization of Armed Forces bands in connection with public events, demonstrations, ceremonies, and other activities in the civilian domain. Such policies are implemented by this part.

(b) *Responsibilities.* Installation commanders will determine whether the use of an Air Force band at a public gathering conflicts with the provisions of the statutes quoted in paragraph (a) of this section, and will enforce instructions governing the use of Air Force bands. Installation commanders are authorized to approve participation of Air Force bands in local events or activities in the vicinity of the installation at no cost to the Government. Commanders approving such participation will be guided by the following examples of suitability (except in the Washington, D.C., area where authority for approval is vested solely in the Secretary of Defense):

(1) Whenever or wherever they function as a part of or in conjunction with other elements or components of United States military forces. The music may be broadcast or telecast with the other features of the program.

(2) For all uses on military and naval installations or vessels, and other places or circumstances when on duty with military forces.

(3) When music is a part of occasions officially sponsored and attended by senior Government or military dignitaries in the performance of their official duties. Music may be broadcast or telecast with the other features of the program. Such occasions do not include social occasions and entertainments these officers attend as guests—such as dinners and luncheons given by civilians or civic associations.

(4) Broadcasts and telecasts of concerts, when such programs are not for commercial purposes and originate on military or naval reservations or vessels.

(5) Broadcasts and telecasts originating on or off a military or naval reservation or vessel: (i) When such programs are of value to the Service concerned. (ii) Provided that all proper clearances are secured by the sponsors with respect to musical rights, labor agreements, etc.

(iii) When such programs are not for commercial purposes. (iv) When such programs are for purely recruiting drives or to present to the public certain matters which the Air Force considers important enough to require radio or television dissemination.

(6) Musical programs at any United States Government hospital for the entertainment of patients.

(7) Concerts in the Capitol grounds, government buildings, and public parks of the City of Washington, D.C., which are open to the public free of charge.

(8) Free social and entertainment activities conducted exclusively for the benefit of enlisted personnel and their guests in service clubs and social centers maintained for the use of enlisted personnel on active duty.

(9) Official occasions and free social and entertainment activities held off military installations, if such activities are conducted exclusively for the benefit of military personnel on active duty and their guests.

(10) Parades and ceremonies incident to patriotic occasions, or gatherings of personnel of the Armed Forces, veterans, or patriotic organizations, which are nonpolitical community affairs, nonsectarian, and nonprofit.

(11) Fund drives for officially recognized Armed Forces relief or charitable organizations, and for civilian charitable organizations, such as the United Givers Fund, Community Chest, Red Cross, National Health Agencies, and Joint Crusade as a group, when the benefits are donated to these agencies. Note: Fund drives of a local party, sect, or similar group whether for charitable or other purposes, are not considered appropriate occasions for the use of Air Force bands.

(12) Athletic contests in which one or more Armed Forces teams are participating. Band participation is not authorized in commercialized athletic events or in events which have no connection with the military mission and are sponsored and conducted to promote commercial interests, such as Christmas shopping.

(13) In connection with purely recruiting activities for the Armed Forces.

(14) Local, State, and regional fairs, exhibitions, or similar events, provided that the presentation is open to the public at no charge other than the general admission, and the bands do not participate in any performance or do any fair job for which civilian musicians would have been hired.

(15) Use of Air Force bands or choral groups in support of commercial motion picture premieres and other showings in the civilian domain is not authorized.

§ 808.2 Use of volunteer units.

The provisions of § 808.1, governing the use of Air Force bands, also apply to all volunteer units.

[SEAL] CHARLES M. McDERMOTT,
Colonel, U.S. Air Force, Deputy
Director of Administrative
Services.

[F.R. Doc. 59-8480; Filed, Oct. 7, 1959; 8:52 a.m.]

SUBCHAPTER J—AIR FORCE PROCUREMENT
INSTRUCTIONS

MISCELLANEOUS AMENDMENTS TO
SUBCHAPTER

The following miscellaneous amendments are issued to this subchapter:

PART 1001—GENERAL PROVISIONS

Subpart C—Basic Policies

1. Section 1001.305-1 is revised as follows:

§ 1001.305-1 Exemptions.

Specifications or purchase descriptions are not required for spare parts, components, or materials required for existing stocks of material or for maintenance and operation of established installations, provided the item description used includes the source's part number or drawing number and refers to the model designation and manufacturer's name and address of the equipment with which the item is to be used. The above items will be considered for formal advertising under the conditions described herein only when the items to be procured are predominantly commercial type items and two or more sources of supply are available for competition.

2. Section 1001.305-3 is revised as follows:

§ 1001.305-3 Broad specifications.

Specifications must be carefully reviewed by contracting officers to assure that they are sufficiently specific to state positively the requirements of the IFB or RFP. If options exist as to types or grades of material, method of inspection, number or types of samples, test requirements, etc., the IFB or RFP must state specifically the basis upon which bids are to be submitted. Where approval requirements (preproduction sample approval, process or manufacturing specification approval, etc.) are contained in the specifications, the IFB or RFP will contain a delivery schedule reflecting such requirements.

3. Sections 1001.305-4, 1001.305-5 and 1001.305-6 are added as follows:

§ 1001.305-4 Packaging requirements.

See § 1.305-4 of this title.

§ 1001.305-5 Offshore procurement.

See § 1.305-5 of this title.

§ 1001.305-6 Purchase descriptions.

(a) Purchase descriptions should contain essential physical and functional characteristics of the item, such as:

- (1) Kind of material.
- (2) Electrical data, if any.
- (3) Dimensions.
- (4) Principles of operation.
- (5) Restrictive or significant environmental conditions.
- (6) If part of an assembly, the location within the assembly.
- (7) Essential operating conditions.
- (8) Special features, if any.
- (9) Intended use.
- (10) Operation to be performed.
- (11) Equipment with which the item is to be used.

(b) See § 1.305-6(b) of this title.

4. Section 1001.313 is added as follows:

§ 1001.313 Liquidated damages.

(a) (1) Liquidated damages provisions may be used only after prior approval of the following officials (as applicable) and the respective staff judge advocates: (i) The commanders, AMC centers, (ii) the directors of procurement and production of AMC field procurement activities, (iii) Commanders, Topeka and Shelby AF Depots, (iv) Chief, Electronics Defense Systems Division, (v) the Director of Procurement, Hq ARDC, and (vi) within the other major air commands, at not below the level of a staff officer responsible for procurement within the headquarters of the first echelon of command immediately subordinate to the major air command. Requests for approval will be made in writing. Oral requests will not be accepted. The following information will be furnished: (a) Identification number of the contemplated procurement (PR No. IFB No., and/or contract number); (b) data which will adequately substantiate the need for strict compliance with the delivery schedule and reflect the estimated damage that will result if the delivery schedule is not met; (c) the dollar amount of the contemplated procurement, the amount of competition available, the amount of estimated damages to be assessed, and the formula used to arrive at such estimate; (d) type and form of contract contemplated and the required delivery schedule to be met; (e) the AF technical personnel's written comment relative to the estimate of damages.

(2) The clause set forth below will be placed in the schedule when the clause in § 7.105-5 of this title is used and may be placed in the schedule when the clause in § 8.709 of this title is used:

"Liquidated damages will be assessed at the rate of (dollar amount) per day in accordance with the provisions of paragraph f. of the Default Clause."

NOTE: In construction contracts insert the phrase "the Termination for Default, Damages for Delay-Time Extension Clause" in lieu of, "paragraph f. of the Default Clause."

(3) The liquidated damages provision will not be used where the desired delivery is specified. (See § 1053.102.)

(4) Foreign procurement activities will not use liquidated damages provisions.

(b) To assure that the rate of assessment of liquidated damages is reasonable it is incumbent upon the procuring contracting officer to obtain the advice of the AF technical personnel concerned with the requirement; e.g., in construction contracts, the installation engineering officer.

(c) If the supplies or services being procured can be reprocurd readily from other sources in case of default, and the difference in price would represent the full measure of damages to the Government, liquidated damages provisions will not be used.

(d) Recommendations concerning remissions will be forwarded by the procuring contracting officer with appropriate documentation through MCPP,

Hq AMC to AFMPP-PR, Hq USAF for submission to the Secretary.

Subpart D—Procurement Responsibility and Authority

1. In § 1001.454, the following sentence is added to paragraph (c) (4) (24 F.R. 5673, July 15, 1959): "Commander and Deputy Commander, Rome Air Materiel Area (ROAMA), may redelegate to the Commander and Deputy Commander, Ground Electronics Engineering Installation Agency (GEEIA), with power of further redelegation to commanders, GEEIA regional offices, for the purpose of executing communications service authorizations only."

Subpart G—Small Business Concerns

§§ 1001.707-1, 1001.707-2 [Amendment]

1. Sections 1007.707-1 and 1007.707-2, as printed in 24 F.R. 5683, July 15, 1959, should be amended to read: §§ 1001.707-1 and 1001.707-2.

(Sec 8012, 70A Stat. 488; 10 U.S.C. 8012. Interpret or apply secs. 2301-2314, 70A Stat. 127-133; 10 U.S.C. 2301-2314)

PART 1051—SMALL BUSINESS

Subpart A, Small Business Concerns and Air Force Small Business Program, is deleted.

PART 1052—PRE-AWARD SURVEYS

Subpart A—Requirements and Procedures for Facility Capability Reports

1. Sections 1052.100 and 1052.101 are added as follows:

§ 1052.100 Scope of subpart.

This subpart sets forth requirements and procedures for obtaining Facility Capability Reports (FCR) before awarding contracts.

§ 1052.101 Applicability of subpart.

(a) The requirements and procedures of this subpart are mandatory for use in connection with central procurements (§ 1001.201-55 of this chapter) by the Directorate of Procurement and Production, Hq AMC, AMC field procurement activities (§ 1001.201-58 of this chapter), and base procurement activities of AF commands (§ 1001.201-56 of this chapter) when purchases are to be supported by Government financing (§ 1058.100 of this chapter).

(b) The AMC Ballistic Missiles Center (LBC) is delegated authority to determine the financial and production capability of proposed contractors and is responsible for satisfying the intent of § 1.307 of this title in connection with delegated procurement authorities. LBC may exercise the option of using the procedures and requirements of this subpart for obtaining FCR's.

(c) When base purchases (§ 1001.201-54 of this chapter) will not be supported by Government financing, base purchasing activities may exercise the option of using the procedures and requirements

of this subpart for obtaining FCR's. Use of the procedures and requirements are optional for use by AMFPA and AMFEA. AMFPA and AMFEA may use this subpart as a guide in setting up an internal system for regulating a pre-award survey system suitable to their operations.

2. In § 1052.104, paragraph (b) is revised as follows:

§ 1052.104 General requirements for obtaining an FCR.

(b) Unless exempted under paragraph (c) of this section an FCR will be requested:

(2) In all cases, except as qualified by paragraph (d) of this section, if: (i) The prospective contractor's name appears on the AMC Experience List (§ 1001.651-2 of this chapter), (ii) a price-redeterminable or cost-reimbursable type contract is contemplated, or (iii) there is any doubt as to the contractor's ability to perform.

3. In § 1052.105(a) (4), the words "90 days" are revised to read "180 days," and paragraph (b) is revised as follows:

§ 1052.105 Exemptions and waivers.

(b) *Waivers.* (1) For procurements other than those set forth in paragraph (a) of this section, waivers of the FCR requirement may be authorized in individual cases, except when the bidder is on the AMC Experience List, by the commander of a major air command, the AMC Ballistic Missiles Center, the AMC Aeronautical Systems Center, an AMA or an AFD at which the procurement is made. This authority may be redelegated by the AMC BMC, AMC ASC, AMA or AF depot commander to the AMA or depot director of procurement and production, and/or systems director. The major air command may redelegate the authority to the head of a purchasing office (§ 1001.201-64 of this chapter). Further delegation is not authorized. Waiver of the FCR requirement for bidders on the AMC Experience List may be authorized by the commander, AMC ASC, AMC BMC, an AMA or AFD, or major air command after coordination with MCPI, Hq AMC.

(2) To obtain a waiver, the buyer will: (i) First obtain financial clearance as set forth in § 1052.106.

(ii) Prepare a request for waiver of FCR. The request will contain the reasons why waiver is requested and state that financial clearance has been obtained. If the bidder is on the AMC Experience List, the request for waiver will so state.

(iii) Inclose with the request for waiver a proposed letter of notification to the director of procurement and production in whose geographical area the contractor is located. The letter will state that waiver of FCR has been granted and the reason therefor. The letter will be prepared for the signature of the individual who will authorize the waiver.

(iv) Be responsible for coordination of the request.

(v) Secure signature of his branch chief on the request for waiver and forward through channels to the authorizing official. If the waiver is granted, the authorizing official will also sign the letter of notification to the AMA. If waiver is not granted the buyer will request an FCR.

(vi) Assure that request for waiver and supporting papers become a permanent part of the contract file and are forwarded to contract approving offices.

4. Section 1052.106 is revised as follows:

§ 1052.106 Financial clearance for procurements exempted or waived from FCR requirement.

A statement of financial clearance is required for all awards where an FCR has not been obtained because of: (a) Exemptions authorized by § 1052.105(a) (1), (2), (9), (10), or (15), (b) waivers under § 1052.105, and (c) any reason if advance payments or unusual progress payments (§ 1058.303 of this chapter) are requested.

Subpart C—Requirements and Procedures for Special Source Surveys

1. In § 1052.302, paragraph (a) is revised as follows:

§ 1052.302 General requirements for requesting a Special Source Survey.

(a) A Special Source Survey may be requested under one or more of the following conditions:

(4) PCO will be substantially assisted by an appraisal of bids or proposals and/or a Special Source Survey when abnormal circumstances prevail.

(5) To verify and determine the adequacy of a bid/s or proposal/s.

Subpart D—Management of the FCR

1. In § 1052.402-6, paragraph (a) is revised as follows:

§ 1052.402-6 Plant survey arrangements.

(a) When an FCR is to be accomplished by a team visit to a manufacturer's plant, the monitor will make the necessary arrangements or request a team chairman to do so. The firm will be informed of the purpose, general scope, and time of the visit enabling the company to have proper personnel in attendance at the time of the survey and make other arrangements to facilitate the survey. Determine the extent of experience the bidder has had with AF contracts. Greater explanation of the purpose and scope of the survey and the key personnel to be interviewed will be required in case the bidder's experience with the FCR has been nil or limited. The bidder who has not had a recent FCR conducted on his facility should be advised to refer to the "Financial and Technical Ability Clause" of his IFB/RFP (see § 1052.103-2) for examples of capability matters the survey team will be evaluating. Explain to bidder the team's evaluation of his capability will be one of the major determining factors in the placement of the procurement.

Subpart F—Production Procedural Guide for FCR's

1. In § 1052.603-2, paragraph (a) (5) is revised as follows:

§ 1052.603-2 Physical survey.

(a) * * *

(5) *Facilities and equipment.* Plant and equipment data and requirements will be reviewed. In this review, consideration will be given to whether facilities are owned or leased. Termination of a lease agreement prior to completion of a contract could divest a firm of its facilities. When additional facility area, equipment, etc., will be required, discuss the plans for acquiring them. In such cases financial activity personnel should be consulted in considering the financial ability of the firm to buy or lease additional facilities or equipment in significant dollar amounts. This will insure complete evaluation of contractor's financial capabilities required to perform the proposed contract. Factors such as lead time for acquiring or installing so as to meet the schedule requirements of the proposal, confirmation of source reliability, etc., will be discussed. When the IFB/RFP states Government facility support will be available, determine the extent of such facility support that will be required from existing Government reserves funds and/or discuss the dollar value of tax amortization or facility support required.

(Sec. 8012, 70A Stat. 488; 10 U.S.C. 8012. Interpret or apply secs. 2301-2314, 70A Stat. 127-133; 10 U.S.C. 2301-2314)

PART 1053—CONTRACTS; GENERAL

Subpart A—Miscellaneous Requirements

1. Section 1053.101 is revised as follows:

§ 1053.101 Make-or-buy policy.

Guidance for establishing subcontracting in relation to in-plant work by AF contractors.

2. Section 1053.101-1 is added as follows:

§ 1053.101-1 Applicability of subpart.

This subpart applies to AF procurement activities in the placement of supply or service contracts. Exempt from the provisions of this subpart are:

(a) Contracts resulting from formal advertised procurements.

or (b) Fixed price contracts if: The contract is not subject to price redetermination, the contract does not incorporate incentive provisions, or performance of the contract does not require the use of Government-owned facilities.

(c) Contracts having an estimated dollar value of less than \$350,000 unless a make-or-buy review of a lower value contract is requested by the AF contracting officer because of overriding circumstances.

(d) Research and Development contracts which are for products not intended for USAF inventory and which do not require additional Government-owned facilities.

3. Sections 1053.101-2, 1053.101-3, 1053.101-4, 1053.101-5 and 1053.101-6 are deleted and the following substituted therefor:

§ 1053.101-2 Policy.

(a) The long term overall interests of the nation are best served by vigorous, continuing action to assure competitive distribution of defense production throughout private industry, and maximum use of privately-owned industrial facilities.

(b) To carry out AF procurement policy, small business concerns must have an equitable opportunity to compete for contracts or subcontracts involving items or services they are capable of producing or providing.

(c) Defense supplies and services must be obtained at the most reasonable overall cost.

(d) Decisions to make components, subassemblies, assemblies, or subsystems (hereinafter called items) and to establish related production processes—or to buy from outside sources—are fundamental to procurement costs, to successful delivery and performance of quality products, and to requirements for Government-owned facilities.

(e) Subcontracted production, overhaul-and-repair, or modification tasks, should not be withdrawn from subcontractors unless the prime contractor presents to the Air Force a reasonable basis for believing there will be a benefit to the Government in cost savings, quality, delivery, or otherwise.

§ 1053.101-3 Definitions.

(a) "Make-or-buy structure." A list of items, or work performed thereon, which will be made, bought, or deferred for later decision, as determined according to § 1053.101-5(b).

(b) For the purpose of this subpart, the term "item" means components, subassemblies, assemblies, and subsystems.

(c) For the purpose of this subpart, the term "work" means production and/or testing processes.

(d) Component. This term may include individual parts, such as turbine blades, microwave tubes, or landing gear wheels, but it is not normally intended to include standard parts which ordinarily require only routine procurement or production decisions.

§ 1053.101-4 Criteria.

Consideration for a make-or-buy decision generally should be limited to those items which, because of their complexity, quantity, or cost, normally would require company management review of the make-or-buy decision. In addition to the guidance relating to subcontracts which is set forth in § 3.808-5 of this title and § 1003.808-5 of this chapter, each item or work, as defined in § 1053.101-3 (b) and (c), will be considered for a make-or-buy decision if:

(a) Production of the item or performance of the work will create a requirement, either directly or indirectly, for additional facilities to be furnished by the Government.

(b) The contractor proposes to do work in-plant, the nature of which dif-

fers significantly from his normal in-plant operation.

(c) The item or work has been subcontracted and the contractor proposes to use Government-furnished facilities and to withdraw the item or work into his own plant.

(d) The item or work, because of its complexity, quantity, or cost, normally would require company management review of the company's make-or-buy decision.

(e) A make-or-buy review is requested by the AF contracting officer for an important item that does not fall under the direct parameters of the other criteria but which, under the intent of this policy, should be subject to make-or-buy review.

§ 1053.101-5 Implementation.

(a) With the exception of procurements which will culminate in contracts exempted by § 1053.101-1, all requests for proposal will require the prospective contractor(s) to include in the proposal:

(1) A list of all items which meet one or more of the criteria in § 1053.101-4.

(2) A description by which each item can be readily identified (ordinarily name and number of item), a statement of which the criteria is considered applicable; the prospective contractor's recommendation to make or buy the item or defer the decision; an adequate justification of the recommendation, and names of proposed subcontractors when feasible.

(b) The buying activity will make an analysis of the proposed make-or-buy list with the prospective contractor to determine:

(1) If any of the items should not be subject to a make-or-buy decision.

(2) Items to be made in the plant, those to be subcontracted, and those on which a make-or-buy decision should be deferred.

(c) Make-or-buy decisions will be made at the earliest practicable time. If possible, make-or-buy decisions will be made during performance of development or preproduction contracts which precede the request for a cost proposal on the end item.

(d) If a follow-on procurement is made, the buying activity and the contractor will review the existing make-or-buy structure to determine if it should be revised.

(e) The buying activity will include the following clause in the contract:

MAINTENANCE OF MAKE-OR-BUY STRUCTURE

It is the desire of the Department of the Air Force that the make-or-buy structure established during the negotiation of this contract be maintained to the greatest practicable extent.

The Contractor agrees to perform this contract in accordance with the make-or-buy structure set forth in Exhibit _____, except as hereinafter provided. If the Contractor desires to change the make-or-buy structure set forth in Exhibit _____ with respect to any item or items, or to add to Exhibit _____ items deferred at the time of negotiation of this contract for later make-or-buy decisions, he shall notify the ACO in writing of the proposed change or addition as far in advance as possible, and shall submit detailed justification in support thereof. After consultation with the ACO concerning the

proposed change or addition, the Contractor shall notify the ACO in writing of its decision concerning the proposed change or addition, and Exhibit _____ shall be deemed to be modified in accordance with such notification. The government shall not, however, be obligated to make any change in any of the other terms or conditions of this contract which may be affected solely by reason of changes in, or addition to, Exhibit _____ made by the Contractor.

(f) The cognizant air procurement district or Air Force plant representative Office for each contract will assure compliance by the contractor with the requirements set forth in the clause entitled "Maintenance of Make-or-Buy Structure" and will assist the ACO in evaluating proposed changes in the make-or-buy structure. The ACO will keep the buying activity advised of changes to the make-or-buy structure.

(g) In all considerations relative to a make-or-buy structure the buyer or the ACO will obtain the advice and assistance of representatives of resources personnel, the field Production office, and AF small business specialists when applicable, to insure that full consideration is given to all available industrial capacity, including small business facilities.

(h) If, contrary to the recommendation of the Air Force, the contractor elects to alter the approved make-or-buy structure so as to increase its in-plant work, the ACO may, when consistent with contract provisions, exercise his authority to withhold use of Government-owned facilities directly or indirectly in support of such work.

(i) The approval of contractor's purchasing system by the ACO according to § 1054.204 of this chapter will not be construed as an approval of the make-or-buy structure as required by § 1053.101.

(j) During the establishment of system programs, certain major subsystems of the Weapon/Support Systems may be identified as those which will be subcontracted by the system contractor. This determination will be established according to paragraph 5, AFR 70-9.

§ 1053.101-6 Reports.

The reporting requirements of § 1053.101 have been approved by the Bureau of the Budget according to the Federal Reports Act of 1942 and have been assigned BOB No. 21-R161 (which expires December 31, 1960).

§ 1053.102-2 [Amendment]

4. In § 1053.102-3, paragraph (b) (23 F.R. 8510, Nov. 1, 1958) was incorrectly inserted; this should be paragraph (b) of § 1053.102-2.

5. a. In § 1053.102-3, the present paragraph (b) should read as follows:

§ 1053.102-3 Procedure.

(b) When delivery is specified as "Desired," requests for proposals (RFP's) will contain the following:

DELIVERY

The Government DESIRES delivery of the articles listed herein as follows _____ days after receipt by the contractor either of written notice of award or of a fully executed and binding contract. If the offeror is unable to meet the above delivery sched-

ule, it may, without prejudice to the evaluation of its offer, set forth below the delivery schedule it is prepared to meet, however, should the offeror's delivery schedule exceed ----- days after either receipt of written notice of award or of a fully executed and binding contract, the offer may be considered nonresponsive and the offer may be rejected. If the offeror does not state a different delivery schedule, the Government's desired delivery schedule will apply:

Offeror's Proposed Delivery Schedule: ----- days after receipt either of written notice of award or of a fully executed and binding contract.

b. In paragraph (d) the following sentence is added following the clause: "See also § 1007.105-5 of this chapter relative to the use of liquidated damages."

c. Paragraph (e) is added as follows:

(e) If the buyers desire to specify a rate of delivery as well as a date for completion of delivery, they may, at their option, specify the delivery schedule in a Delivery provision as follows:

"At the rate of ----- per month to be completed ----- days after the receipt of (insert 'written notice of award' or 'written notice of award of a fully executed and binding contract,' as appropriate)."

Buyers will specify in the delivery provision whether or not an accelerated delivery rate will be acceptable to the Government.

d. The following note is added to paragraph (f) below the footnote¹:

NOTE: The preceding example does not apply to delivery schedules specified in DD Forms 1155. The delivery schedule for each claimant's portion on a DD Form 1155 contract will be stated in terms of specific dates on or before which delivery is to be made (see paragraph (i) of this section).

6. In § 1053.102-6, subparagraph (4) of paragraph (c), and subparagraph (2) of paragraph (d) are revised, and a new paragraph (1) is added, as follows:

§ 1053.102-6 Amendment of delivery schedules in supply or research and development contracts.

(c) * * *

(4) Upon receipt of a DD Form 375, "Monthly Production Progress Report," marked "Action Document," the administrative contracting officer will indorse thereon his approval or disapproval. If approved, and if circumstances indicate that the contractor will not meet the contract schedule within 90 day period following date of delinquency, the action described in subparagraph (3) of this paragraph will be taken immediately by the administrative contracting officer. If disapproval of any proposed schedule change is indicated by the administrative contracting officer, reasons for such position will be stated on the DD Form 375. The administrative contracting officer will then sign the reproducible DD Form 375 and forward to the production activity for distribution. Contracts containing liquidated damages clause require extra vigilance. When the administrative contracting officer has reason to believe that a contract containing a liquidated damages clause will become delinquent as to deliveries, he will promptly notify the production activity

for initiation of a DD Form 375. The administrative contracting officer will process inadequate DD Form 375 reports to the production activity for correction and clarification.

(d) * * *

(2) Within 5 days after receipt of a DD Form 375 marked "Action Document," the procuring contracting officer will review the forecast, narrative and recommendations to determine impact on the affected program and will reply to the administrative contracting officer and the production activity. The reply will indicate concurrence or non-concurrence as to the action recommended on the DD Form 375.

* * * * *

(i) Responsibility of production followup activities. Such responsibilities will be performed according to AMCM 84-2.

§ 1053.105 [Deletion]

7. Section 1053.105 is deleted.

A new Subpart C is added as follows:

Subpart C—Commitment and Obligation of Funds

§ 1053.316 Clauses to be used in procurements on a time-phased basis.

In certain procurements total funds estimated to finance the contract are not available. However, it may be necessary to contract for the requirement notwithstanding the nonavailability of total funds. The policies and procedures with respect to this type of procurement are set forth in paragraphs (a) through (e) of this section.

(a) Procurement on a time-phased basis is authorized:

(1) For use in all procurements in connection with the ICBM and IRBM programs (including facilities contracts).

(2) For use in R&D procurements using P-600 funds.

(3) For use in development contracts using P-100 and P-200 funds, except that when test articles are being procured, it may not be used for the test articles and components thereof; but may be used for a test facility in support of development and test, specific quantities of items designed to test components of the test end-item, design and development for long lead-time items for test end-items, and studies in R&D required to demonstrate feasibility.

(4) For use in procurements using P-400 funds. Particular care must be taken that the total estimated amount to be procured, if further allotments are forthcoming, is not overstated in light of allotments reasonably to be anticipated for the remainder of the fiscal year involved.

(b) Where authorized for use by paragraph (a) of this section, procurement on a time-phased basis is subject to the following further restrictions. It may be used only:

(1) In negotiated procurements.

(2) When it can be reasonably anticipated that more funds will be made available to the procuring activity for future funding of the contract involved.

(3) If the contract is for a specific project which can be defined in terms of scope, area of investigation, problems to be solved, or items to be delivered.

(4) If the contract relates to work which necessarily requires continuance over an extended period of time if valuable results are to be obtained.

(5) If the continued availability of the contractor over the extended period is desirable.

(6) If the overall cost of the contract may be estimated with reasonable accuracy in the case of cost-reimbursement type contracts.

(c) Contract clause for specific type contracts are set forth in § 1007.4054 of this chapter.

(d) Contract clauses are authorized for use by only AMC and ARDC procurement activities.

(e) A record of contracts using the time-phased technique will be maintained by the buying office issuing the contract. No formal report will be required, but these records should be available for management purposes. The record will include:

(1) Number of contracts.

(2) Amounts obligated and committed on each contract.

(3) Balance of funds required to fully fund each contract.

Subpart D—Administrative Requirements

1. In § 1053.404-5, paragraph (b) (14) through (19) is deleted and the following substituted therefor:

§ 1053.404-5 Geographical areas of AMA's and APD's.

* * * * *

(b) * * *

(14) *Orlando Air Procurement District (Warner Robins AMA)*. Florida, east of the Apalachicola River.

(15) *Philadelphia Air Procurement District (Middletown AMA)*. Pennsylvania, Delaware, Maryland, District of Columbia, and the following counties in New Jersey: Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, and Salem.

(16) *Richmond Air Procurement District (Warner Robins AMA)*. Virginia and North Carolina east of U.S. Highway 52, including all cities on that highway.

(17) *Rochester Air Procurement District (Middletown AMA)*. That portion of New York State north and west of, but not including, Ulster, Orange, Greene, and Columbia Counties.

(18) *San Diego Procurement District (San Bernardino AMA)*. Imperial and San Diego Counties, California.

(19) *San Francisco Air Procurement District (Sacramento AMA)*. Oregon, Nevada less Clark County, all of California north of the northern boundaries of San Luis Obispo, Kern, and San Bernardino Counties, and Hawaii.

(20) *St. Louis Air Procurement District (Oklahoma City AMA)*. Missouri, Nebraska, Oklahoma, Kansas, Arkansas, and that portion of Illinois below the northern boundaries of the following counties: Cass, Adams, Brown, Douglas, Edgar, Macon, Menard, Moultrie, and Sangamon.

(21) *Headquarters OCAMA*. Since Ogden Air Materiel Area does not have an APD within its geographical area, the headquarters activity performs the functions assigned to the APD's in the other AMA's.

2. Section 1053.406-5 is revised as follows:

§ 1053.406-5 Processing variations permitted by the contract.

Whenever the quantity delivered by a contractor contains an overrun or under-run within the limits and for the causes permitted by the contract, the delivery may be accepted by the appropriate AF personnel usually responsible for accepting deliveries. Disbursement vouchers will be used to adjust obligations upward in the instance of overruns; debilitation and decommitment action will be taken by the accounting and finance activities, in the case of underruns, after payment of the final voucher and upon the receipt of AFPI Form 14 from the administrative contracting officer. No action by the procuring contracting officer or administrative contracting officer is required either to approve quantities delivered by the contractor or to adjust obligations within the permitted variation. Where necessary, additional shipping instructions, required as a result of overruns, will be obtained from the buyer.

Subpart E—Review and Approval of Awards and Contracts

1. Section 1053.510 is deleted and the following substituted therefor:

§ 1053.510 Evidence of contract approval on contracts subject to manual approval.

(a) Appropriate contract approval is the word "Approved," the date, the signature, and the signature block reflecting the name and title of the individual signing. Required approval may be accomplished in either of the following manners:

(1) When the two properly executed copies of the contract which are designated for distribution to the contractor and to the General Accounting Office are available, the authorized individual will manually approve both copies. If there is no space available on the cover page, the approval may be placed either on the signature page or on a separate sheet of paper identified by contract number as well as the name and address of the contractor and attached to the two copies. If it is imperative to issue a Notice of Award to a contractor immediately upon contract approval and prior to distribution of the approved contract, the Notice of Award will contain the following language:

This Notice of Award makes effective the designated contract which has been approved by (name and title) on (date) and which will be distributed in the near future.

(2) When the contract has not yet been executed and when approval of an award is requested, the authorized individual will manually sign his approval either on the face of the Notice of Award or on an award form entitled "Approval of Award." This "Approval of Award" form will be retained in the contract file. If the Notice of Award is not manually approved on its face, it will contain the following language:

Award of this contract has been approved by (name and title) on (date) by manual signature on Approval of Award form which is retained in the official contract file.

(3) After manual approval on the "Approval of Award" form has been received, a definitive contract in lieu of a Notice of Award may be issued if circumstances permit, in which case the contract will contain the quoted language set forth in subparagraph (2) of this paragraph.

(b) A contract which supersedes a Notice of Award issued pursuant to paragraph (a) (2) of this section will contain the following language:

Award of this contract was approved by (name and title) on (date) and the Contractor was previously notified by Notice of Award dated -----

(c) Definitive contracts issued pursuant to paragraphs (a) (3) and (b) of this section do not then require manual approval.

Subpart R—Preparation and Use of Certain Kinds of Local Purchase Contracts

1. Sections 1053.1803 and 1053.1806 are added as follows:

§ 1053.1803 Department of Defense commercial warehousing and related services for household goods of military personnel.

(a) *Policy.* The execution and administration of service orders (DD Form 1164) against basic agreements (DD Forms of 1162 series) will be performed in the base transportation office. Since this duty is fundamentally a procurement responsibility, the individual in the base transportation office performing these duties must be a duly appointed contracting officer according to § 1001.452 of this chapter. In the appointment of base transportation personnel as AF contracting officers, care must be exercised to insure that such individuals' qualification and experience meets the minimum standards established by § 1001.452 of this chapter.

(b) *General.* To achieve maximum uniformity and desired efficiency in performing this function, the duties of the contracting officer located in the transportation activity and procedures to be used are set forth as follows:

(1) Obtain from the household goods field officer, copies of all basic agreements executed for use by his installation. Automatic distribution to using activities is indicated, however, care should be exercised to insure receipt of all current basic agreements.

(2) Obtain the following, from the transportation officer, on each individual request for services:

(i) Completed Standard Form 116, "Application for Transportation of Household Goods," indicating:

(a) Name and grade of military member.

(b) Location of household goods to be stored.

(c) Date the household goods will be available for pickup.

(d) Approximate weight of household goods involved.

(e) The maximum weight allowance of storage the individual member is entitled to at Government expense. In determining storage entitlement, the transportation officer will consider other actions, such as packing and crating, that might have been processed for the same individual under authority of the same travel orders.

(f) Other information required in processing the action.

(ii) Sufficient copies of individual travel orders necessary for required distribution.

(iii) A statement to the effect that commercial storage has been determined to be more economical than Government storage. If there are numerous available basic agreements, there is the possibility that commercial storage would be more economical under certain agreements but not under others. If such is the case, the statement should include a listing of all basic agreements considered more economical for use. Contracting officers will be guided thereby in placing the service order.

(3) Determine the order of preference for selecting the basic agreement to be used for each individual requirement. The cost of the service will be the sole determining factor, it being assumed that the services of all contractors meet the minimum AF requirements. In the event of identical rates under two or more basic agreements, the requirements should be distributed according to AF policy concerning award of equal low bids.

(4) Obtain either oral or written offers, as appropriate, from commercial storage firms according to the basic agreement.

(5) Execute service orders (DD Form 1164) in sufficient quantity to satisfy distribution requirements. Where travel orders authorizing the services quote an open allotment, the related service orders will cite that open allotment accounting classification, provided the services are performed in the same fiscal year in which the funds are applicable. If the travel orders are issued in one fiscal year and the services are not performed until the following fiscal year, or where supplemental service orders are issued to continue the services or provide removal and post storage services, the correct accounting classification will be obtained from the accounting component. Neither initial service orders nor supplemental service orders will cover services extending beyond the fiscal year during which the cited appropriation is applicable. All service orders of \$2,500 or less will cite authority 10 U.S.C. 2304(a) (3), those exceeding \$2,500 will cite 10 U.S.C. 2304(a) (10).

(6) Effect renewal of all active service orders, when required. This task is accomplished by the issuance of supplemental service orders. Since initial service orders do not cover services extending beyond the fiscal year in which executed, it is essential that all active orders be renewed at the end of each fiscal year to extend the services (not beyond the succeeding fiscal year) if appropriate, and to cite the current applicable fund. To obviate the heavy year-end workload which would be generated if individual supplemental service

orders were written to each active order, the following procedure is authorized in the renewal of service orders:

(i) Prepare a single supplemental service order for each contractor involved listing thereon all service orders by number authorizing extension thereof through the following fiscal year.

(ii) Such instruments should be prepared on stencils and overprinted on DD Form 1164 to provide distribution to all recipients of the basic service orders with sufficient copies for each individual service order involved.

(iii) Care will be exercised to assure the citation of the correct allotment for each service order recorded on the supplement.

(iv) The blanket supplemental order will bear the number of a Basic service order with the particular contractor.

Poststorage services of household goods will not be included in the initial service order. This service should be requested by the issuance of a supplemental service order, citing the then current fund citation after all facts incident to the disposition of the goods are available.

(7) Receive initially all invoices covering services performed. Reconcile charges thereon with rates under the applicable service order to determine accuracy and correctness of billings. Certify on invoices involving storage only that the services have been rendered and forward to finance officer for payment. Invoices covering prestorage or post-storage services will be forwarded to the transportation officer or his designee for a certification of performance prior to submission to the finance officer.

(8) Maintain jacket file, by individual lot, containing complete record of each transaction. As a minimum this file should include:

- (i) Copy of Standard Form 116.
- (ii) Copy of Travel Orders.
- (iii) Statement by transportation officer indicating commercial storage was determined to be more economical.
- (iv) Record of contractors with whom contract was made with a statement as to why the service was placed with other than the lowest contractor if applicable.
- (v) Copies of initial service order and all supplemental orders issued thereto (DD Form 1164).
- (vi) Copy of contractor's offer, when appropriate (DD Form 1163).
- (vii) Copies of all reports indicating shortages or damages.
- (viii) Copy of inventory list.
- (ix) Copy of weight certificate.
- (x) Copy of the warehouse receipt submitted by the contractor.
- (xi) Records relative to partial removal of household goods.
- (xii) Record of all payments effected.
- (xiii) Other data considered necessary to proper and efficient administration of the transaction.

(9) Upon receipt of notification from the transportation officer, advise the contractor of the final date to which the individual is entitled to storage at Government expense and that all storage charges accruing thereafter will be a matter between the contractor and the individual concerned. Simultaneously, the contractor will be provided with the

individual's mailing address, and the jacket file will be appropriately documented to reflect the action. The fact that household goods remain in storage beyond the individual's period of entitlement does not alter the Government's responsibility to defray the cost for removal and poststorage services. However, supplemental orders requesting this service should not be issued until the contractor has advised that all storage charges, payable by the individual, have been satisfied.

(10) Maintain close liaison with the transportation officer to develop efficient and workable operating procedures. In this connection the contracting officers and transportation officers' files may be consolidated to the extent possible to avoid duplicate record keeping.

§ 1053.1806 Use and administration of food services contracts. (Not mandatory outside the United States.)

(a) *General.* (1) Base utilization of Contractual Feeding is subject to Hq USAF approval. No procurement action will be initiated until approval has been obtained.

(2) Requirements type contracts according to § 1003.405-5(b) and Subpart XX, Part 1007 of this chapter, will be established for contractual feeding.

(3) A number of diversified and specialized duties are required in the performance of this service. (See § 1007.5003-3(a) of this chapter.) Generally, in the performance of this service, a minimum basic work force will be required regardless of the number of meals served and an increase in the number of meals served will not automatically result in a proportionate increase in this basic work force. In determining the price to be charged "per meal served," the bidder must prorate the costs of this basic work force to the estimated number of meals to be served. Hence, the utmost care must be exercised in the establishment of realistic estimated quantities to be cited in the procurement action. Both food service and manpower offices should be consulted in the establishment of estimated quantities.

(4) To insure that all parties are aware of the contractor's liabilities and duties in connection with Government property under the food services contracts clause entitled, "Use, Conservation, and Responsibility for Government Property" (See § 1007.5003-31 of this chapter), the Exhibit "A" to be attached to each contract should be separately entitled "Fixtures," "Facilities" and "Equipment" with the items in each group listed thereunder. For this purpose, (i) Facilities will be considered as buildings and nonseverable attachments to the building, such as built-in refrigerators; (ii) fixtures will be large items not easily movable, such as stoves; and (iii) equipment will be the smaller items such as dishes, silverware, pots and pans.

(5) The contracting officer will designate the Food Service Officer as his representative for the purpose of technical supervision and inspection and assisting the contracting officer in the administration of the contract. The contracting officer will designate in the contract the

office responsible for inspection and supervision. See § 1001.451(c) of this chapter.

(b) *Administration of food service contracts.* (1) Funds for the services will not be obligated or committed by the basic contract.

(2) The following procedure will be followed for ordering and accounting for services under the contract and for processing documents to support payment for services rendered:

(i) Prior to the beginning of each month, the Food Service Officer will initiate a purchase request for the estimated number of meals to be served under the contract during the following month and forward it to the contracting officer, through the appropriate accounting officer for allotment citation and certification of fund availability and recording as a commitment.

(ii) Upon receipt of the purchase request, the contracting officer will execute a delivery order (DD Form 1155) for the estimated monthly requirements and make distribution.

(iii) Delivery orders placed according to subdivision (ii) of this subparagraph, will be regarded as an additional document supporting the commitment recorded on the purchase request.

(iv) The Food Service Officer or his representative will make a daily head count of the military, contractor personnel and other authorized personnel to whom meals are served and will maintain a cumulative informal record of meals served to insure that the funds committed on the order are not exceeded.

(v) On the last day of the month covered by the delivery order, the Food Service Officer will prepare a consolidated receiving report (on copies of the DD Form 1155) for all meals served during the monthly period. In addition to Food Service office requirements, distribution of this consolidated report will be made as follows:

(a) Four copies (two signed) to the Finance Officer.

(b) One signed copy to the Contractor.

(c) One signed or authenticated copy to the appropriation accounting component.

(d) One copy to the contracting office.

(vi) The contractor will be instructed to submit a monthly invoice, per delivery order, for services rendered. In addition to the total billing for services rendered as determined in accordance with provisions of the contract (Ref § 1007.5003-7 of this chapter) the invoice will list as a separate item a credit to the Government for the amount charged for all meals served to contractor personnel.

(vii) The Finance Officer will effect payment in accordance with existing instructions.

(c) To provide for an increase or decrease in the contract price for meals served, depending on a variation from the Government's estimate of the number of meals compared to the meals actually served, the clause set forth in § 1007.5005-1 of this chapter shall be inserted in the Schedule. The scales of variation in both quantity and price are fixed and are designed to enable a contractor to place his bid on the Govern-

ment's estimated quantity at a price which will not include a contingency amount because of possible variation from the Government's estimate.

(Sec. 8012, 70A Stat. 488; 10 U.S.C. 8012. Interpret or apply secs. 2301-2314, 70A Stat. 127-133; 10 U.S.C. 2301-2314.)

PART 1054—CONTRACT ADMINISTRATION

Subpart A—Administration of AF Contracts by Contracting Officers

1. In § 1054.104, paragraphs (f) and (z) are revised as follows:

§ 1054.104 Matters of contract administration to be handled by administrative contracting officers.

(f) Approve insurance plans and costs connected therewith.

(z) Notify the contractor and other interested parties of the acceptance or rejection of first articles where the contract contains a provision for first article approval. When the first article approval clause set forth in § 1007.4020 of this chapter is incorporated in the contract, any notification to the contractor required therein, other than that of termination, will be accomplished by the administrative contracting officer. The Government laboratory or commercial testing firm responsible for conducting the required tests will notify the administrative contracting officer of the acceptance or rejection of the first article. Upon receiving such information, the administrative contracting officer will immediately notify the contractor, the production specialist, and the procuring contracting officer or other interested persons.

2. In § 1054.105, paragraph (h) is revised as follows:

§ 1054.105 Administrative duties reserved for procuring contracting officers of Hq AMC, AMC AS and BM Centers, AMC field procurement activities, or ARDC.

(h) Prepare CCN's and amend the contract when CCN procedures have been accomplished.

Subpart B—Approval of Subcontracts

1. Section 1054.203 is revised as follows:

§ 1054.203 Approvals.

Provisions in AF contracts outline and limit the extent of approvals required for subcontracts.

(a) When general approval of the subcontract is required, it includes, but is not limited to, such matters as: (1) Source approval, (2) reasonableness and fairness of price, (3) quantities, and (4) adequacy of inclusion of statutory clauses or other provisions determined to be necessary. When approvals are given by administrative contracting officers, they should be qualified or limited to the extent desired by the contracting officer so that under all circumstances they fully

protect the interest of the Government. Contingent approvals of this nature may be made by use of the following qualifying clause when appropriate to limit the approval.

This purchase order or subcontract is approved under the subject contract, but this approval shall not relieve the prime contractor of any obligation under the prime contract and shall be without prejudice to any right or claim of the Government thereunder, and shall not create any obligation of the Government to the vendor under this contract.

In any event, it is important that the approval be carefully worded to portray the exact extent of the approval desired to be given by the administrative contracting officer.

(b) Source approval for subcontracts will conform with § 1.603-1(d) of this title and § 1001.651-2 of this chapter.

(c) When unusual situations arise which involve the transfer of an active subcontract to another contractor for performance, it will be handled according to instructions obtained from higher authority. (See also § 1054.222.)

(d) Prior to approving Research and Development subcontracts to be performed in the European Area, contracting officers should coordinate such matters with the European Office, ARDC.

(e) With respect to prime contracts under the terms of which "data" (as defined in § 9.201(a) of this title) is to be furnished by the prime contractor to the Government, no clause of any subcontract thereunder will be approved which by its terms has the effect of restricting whatever use the Government may make of such data under the terms of the prime contract. For example, where the Government is entitled under a prime contract to receive certain data without limitation as to use, a clause of a subcontract thereunder which provides that the subcontractor agrees not to supply material made to such data to any person or firm other than the prime contractor (whether or not only for a limited period of time or within a limited geographic area) would be an improper restriction on the Government's right to use such data without limitation and therefore should not be approved.

2. In § 1054.204, paragraphs (d) and (e) are revised and a new paragraph (f) is added as follows:

§ 1054.204 Approval of contractor's purchasing system.

(d) Where the purchasing system is judged to be sound and acceptable by AF standards, approval of the purchasing system will be made and the subcontract approval requirement modified.

(e) Thereafter, periodic redeterminations will be made by the AMA Evaluation Panel as to the adequacy of the contractor's purchasing system to assure the maximum efficiency and economy in the procurement of defense material. The administrative effort expended will be commensurate with the proven procurement ability of the contractor and the dollar value of the AF contracts. It is necessary to measure the effectiveness of the approved purchasing system

to evaluate performance and to identify significant deviations, trends, and probable causes of deviations. Steps will be taken to correct deviations from the approved purchasing system. The established standards will be subject to constant improvement, clarification, and simplification. The administrative contracting officer will conduct followup reviews to assure conformance with the contractor's approved purchasing system as follows:

(1) Continuing review with recorded comments will be made on the policies, procedures, methods, and controls that are used in the various procurement areas.

(2) Detailed individual case study will be made to verify that the systematic procedures and methods are followed. This should be accomplished: (i) By inspection of records, (ii) by tactful discussions with personnel of the contractor's organization including the contractor's purchasing department, and (iii) through careful and constant observations.

(3) Reviews will be conducted and statistical analyses will be made as to effectiveness of the bidding process, use of cost analysis, size of order placed, type of contract used, reasons for making the award, and such other items believed to be pertinent.

(4) Where other Government personnel have performed checks maximum use will be made of such reports and duplication of effort will be avoided. Also where the contractor's internal administrative controls will assure reasonable system compliance, utilization will be made of such controls.

(5) Detailed selective investigation and special surveillance will be made on the basis specified by the ACO. Where subcontracts involve considerable sums, and where the subcontracts are for items for which there is no previous cost experience, they will be included in the review.

(f) For a purchasing system to be considered acceptable, the prime contractor must have a policy that requires him to inform the administrative contracting officer immediately, after the contractor has exhausted his best procurement effort, of those cases where a subcontractor's prices are unreasonably high; or a subcontractor is realizing excessive profits.

3. Section 1054.205 is deleted and the following substituted therefor:

§ 1054.205 Approving subcontracts under cost-reimbursement, time-and-material, and labor-hour prime contracts.

(a) Because of different subcontracting clauses in these prime contracts, approval procedures vary. The contracting officer will review each particular contract to ascertain all necessary approval requirements thereunder. Various changes have been authorized in the form of such clauses, both by revisions to ASPR or AFPI and by individual deviations. Administrative contracting officers (ACO's) will accordingly make a detailed examination of each particular contract clause in connection with which,

subcontracting approvals are given. Source approvals normally will be limited to first-tier subcontracts. Approval of subcontracts, in the form of settlement agreements compromising Government liabilities to third parties will be accomplished by the procedures set forth in § 1015.502(f) of this chapter.

(b) Under the Weapon System Management Plan (WSMP) the prime contractor has the overall responsibility for performance according to the terms of his contract. This includes the responsibility for managing all phases of the program, such as purchasing, production, and subcontract administration. The ACO at the prime contractor's plant is responsible for insuring that the contractor is not only performing the required functions, but that he is also performing efficiently and effectively. The ACO assigned to the Weapon System prime contractors' plant will assign, as the particular circumstances dictate, the responsibility for secondary administration of subcontracts under the WSMP. Contracting officers assigned such secondary administration will execute such assignments with the same degree of care, diligence and comprehensiveness as is required and accomplished in the case of prime contracts.

4. Section 1054.207 is deleted and the following substituted therefor:

§ 1054.207 Evaluation of prices of proposed subcontracts.

The basic responsibility for control of subcontract prices rests with the prime contractor making the subcontract. However, the AF must have substantial assurance that the subcontract prices are reasonable. The pricing and contracting philosophies established in Subparts D and H, Part 3 of this title and Subparts D and H, Part 1003 of this chapter, express the basic principles of defense contract pricing and should guide all procurement of defense materiel, whether done by the Air Force or by the prime contractor. The established criteria will be used by the ACO in the review and approval of subcontracts.

§ 1054.208 [Amendment]

5. In § 1054.208, the last sentence is deleted.

6. Section 1054.209 is deleted and the following substituted therefor:

§ 1054.209 Utilization of audit personnel.

(a) While it is not desired to place an unreasonable burden on AF or other Government audit personnel, they will be consulted as to the adequacy of the subcontractor's accounting system whenever such an appraisal has previously been made. Furthermore, where a subcontract has a price redetermination clause and where the Auditor General (or other Armed Services audit agency) has performed a previous audit of a subcontractor, the prime contractor's auditors may, where appropriate, consult with such Government audit personnel for information data to eliminate unnecessary work. Where the prime contractor is performing the audits of subcontracts, the audit program and cost

principles used and the working papers and audit report prepared by the prime contractor's personnel should be made available to the Government auditor having audit responsibility of the prime contractor. If, in the opinion of the auditor, the contractor's audit program or audit report is lacking in any respect, he will immediately notify the contracting officer of the deficiencies so the questionable areas may be resolved before final approval of revised prices.

(b) In particular situations as exemplified below, it will normally be advantageous to request Government audit personnel to perform necessary subcontract audits. Adherence to this policy will insure consistent treatment of subcontractor's costs, reduce duplicate auditing of the same records by two or more groups of auditors, and reduce the costs incurred by the prime contractor in performance of subcontract audits.

(1) Where a subcontractor objects to the audit of its cost records by a prime contractor for competitive reasons.

(2) Where the Armed Services (Auditor General, Army Audit Agency, or Navy Cost Inspection Service) has an audit residency established at the subcontractor's plant.

(3) Where the "subcontractor" holds both AF prime contracts and subcontracts from other AF prime contractors, or contractors of other military departments, and one of the Armed Services is currently auditing prime and/or subcontracts at the same plant or location.

(4) Where the subcontractor holds subcontracts from two or more Armed Services prime contractors and it would be more economical and in the interests of orderly audit administration for the Armed Services to assume the audit responsibility.

(5) Where the prime contractor has a substantial or controlling financial interest in the subcontractor.

(6) Where the prime contractor has subcontracted a substantial portion of the prime contract to one subcontractor, or the major portion of the prime contract is subcontracted to a very limited number of subcontractors.

7. In § 1054.223, paragraphs (b) and (e) are added as follows:

§ 1054.223 Approval of interplant invoices.

(b) *Duties of contracting officers at originating plants.* (1) After audit and approval by the cognizant Government auditor at the originating plant of interplant invoices covering work done at the plant, two copies of the invoices will be forwarded by the auditor to the contracting officer at that plant.

(2) The contracting officer at the originating plant will examine the invoices and will indicate (for the benefit of the contracting officer at the receiving plant) the costs incurred by the contractor and covered by the invoice which, in his judgment, are reasonable in amount and incident to the performance of the work for which the charge is made. The certificate will be made on the two copies of the invoices and will be as follows:

The undersigned, being a duly authorized Contracting Officer, hereby certifies that \$----- of the costs billed hereby were incurred by Contractor, are reasonable in amount and incident to the performance of the work for which the charge is made.

(Contracting officer)

(3) Since the analysis of costs by the contracting officer at the originating plant is done without recourse to the prime contract involved, the certificate of such contracting officer is advisory only and will be so used by the contracting officer at the receiving plant.

(4) Upon completing the certificate, the contracting officer at the originating plant will return both copies of the invoice, certified by him, to the Government auditor at the originating plant, who will keep one copy in the permanent files of his office and send one copy to the auditor at the receiving plant.

(5) Where the copy of the invoice is forwarded first to an intermediate plant for incorporation in invoices submitted by the intermediate plant to a receiving plant or other intermediate plant, the contracting officer at the intermediate plant, in making the certificate referred to above, is authorized, with regard to costs incurred at an originating plant, to rely on the facts certified to by the contracting officer at the originating or other intermediate plant.

(c) *Duties of contracting officers at receiving plants.* When the interplant invoice is submitted by the receiving plant for reimbursement after examination and approval by the auditor at the receiving plant, the contracting officer at that plant is authorized to rely on the certificate of the contracting officer at the originating plant or intermediate plant or plants for the facts stated therein, as shown on the certified copy of the interplant invoice forwarded to the auditor at the receiving plant. However, the contracting officer approving the Standard Form 1034 voucher or the commercial invoice covering such interplant billings must also be satisfied that, under the specific terms of the cost-reimbursement contracts or time-and-material contracts involved, such costs were incident to the performance of such contracts and reimbursable thereunder.

8. Section 1054.225 is added as follows:
§ 1054.225 Dispute provisions in subcontracts.

(a) It is undesirable from a policy viewpoint for the ACO to serve as an arbitrator in connection with the subcontract and he will not be permitted to act as such in his official capacity or as a private individual. The ACO will not approve subcontracts containing a clause which would give the subcontractor the right of appeal to the Armed Services Board of Contract Appeals as other adequate means exist for a prime contractor and subcontractors to adjust their disputes.

(b) The Air Force buys the prime contractor's management services and this includes resolving any disputes between the parties to the subcontract. As there is no privity of contract between the Air Force and a subcontractor, the ACO will not participate in any dispute that may

arise between the prime contractor and their subcontractors.

(c) No objection is made to the prime contractor and his subcontractor agreeing to arbitration to settle disputes; however, the results of such arbitration and the cost resulting therefrom are not binding on the ACO and should be subject to his independent approval after the arbitration has occurred. Since arbitration proceedings may be cumbersome and costly, such provisions should not be encouraged and should be permitted only in the more complicated subcontracts—those of a type which would logically contain arbitration provisions if they were independent contracts between the parties rather than subcontracts under Government primes.

(d) When unusual situations arise which require the approval of any subcontract "Disputes" provision contrary to the above-stated policy, it will require the approval of MCPC, Hq AMC, pursuant to § 1001.109-50 of this chapter.

Subpart K—Reimbursement to Contractors for Postage Paid on Contracts Calling for Delivery at Point of Origin

Subpart K is deleted.

Subpart L—Registration Under Securities Act of AF Contractors Holding Classified Contracts

1. Sections 1054.1200 and 1054.1201 are added as follows:

§ 1054.1200 Scope of subpart.

This subpart authorizes contracting officers to furnish AF contractors holding classified contracts with a statement that will enable the contractor to apply for registration under the Securities Act of 1933, as amended.

§ 1054.1201 Applicability of subpart.

This subpart applies to the Directorate of Procurement and Production, Hq AMC; AMC centers; base procurement activities of the Air Force (except overseas commands); AMC field procurement activities; and ARDC.

2. Section 1054.1202 is deleted and the following substituted therefor:

§ 1054.1202 General.

Rule 486 of the Securities and Exchange Commission provides, in effect, that a contractor applying for registration under the Securities Act of 1933 need not submit copies of classified contracts or information related thereto, if the following written statement from the contracting officer administering the contract is attached to the application:

The contents of the contractor's AF contract relates to and affects the national defense, the unauthorized disclosure of which would be contrary to public interest.

Subpart N—Payment of Fixed Fee Under CPFF Contracts

Sections 1054.1409 and 1054.1410 are deleted and the following substituted therefor:

§ 1054.1409 Certificate of completion of work.

Upon establishing that the fixed fee claimed is proportionate to the progress made, the ACO may sign the voucher for payment, all other aspects being considered satisfactory.

§ 1054.1410 Submission of vouchers covering fixed fee.

Both the accrued unpaid portion of the fixed fee and costs incurred under the contract may be submitted on the same voucher, unless separate vouchering of the fixed fee is more convenient for the contractor or would result in more expeditious reimbursement.

A new Subpart BB is added as follows:

Subpart BB—Costs Incurred on Contract, DD Form 1177

Sec.	
1054.2800	Scope of subpart.
1054.2801	Applicability of subpart.
1054.2802	Use of report.
1054.2803	Requirements.
1054.2804	ARDC requirements.
1054.2805	Responsibilities.
1054.2806	Submission of reports.
1054.2807	Report authority.

AUTHORITY: §§ 1054.2800 to 1054.2807 issued under sec. 8012, 70A Stat. 488; 10 U.S.C. 8012. Interpret or apply secs. 2301-2314, 70A Stat. 127-133; 10 U.S.C. 2301-2314.

Subpart BB—Costs Incurred on Contract, DD Form 1177

§ 1054.2800 Scope of subpart.

This subpart establishes the responsibilities for preparation and submission of DD Form 1177, "Cost Incurred on Contract" (dated June 1, 1958), a contractor prepared report for major programs for airframes, engines, fire control equipment, guided missiles, target drones and major components of such items whether electronic or mechanical.

§ 1054.2801 Applicability of subpart.

This subpart applies to the Hq AMC and AMC field procurement activities.

§ 1054.2802 Use of report.

This report will provide a flow of cost information for specified AF contracts and contractual amendments as part of a pricing and forecasting system for major production, experimental, prototype, demonstration, and like programs.

§ 1054.2803 Requirements.

The requirement of the report has been limited to those programs where:

(a) A sole source or noncompetitive situation exists as the result of one company's or very few (e.g., not more than five or six) companies developing the item being procured.

(b) There is a substantial Government investment of preparatory time, facilities and money.

§ 1054.2804 ARDC requirements.

Ballistic Missiles Division (BMD), ARDC, has its own reporting requirements for development and production efforts of ICBM and IRBM programs. If the use of DD Form 1177 is proposed by BMD for use on its programs, any

duplication between the BMD reporting system and DD Form 1177 will be eliminated before both reports are required.

§ 1054.2805 Responsibilities.

(a) Program Evaluation Office (MCPA), Hq AMC, will:

(1) Designate the contracts for which DD Form 1177 will be completed.

(2) Review and analyze completed DD Forms 1177 received from contractors and use the data to assist pricing negotiators, develop industry pricing trends, and develop ratios useful as pricing tools.

(b) Administrative contracting officers will notify Commander, AMC, attn: MCPAA, of any deviations (agreed upon with the contractor) from the specific data and reporting date as required on DD Form 1177.

§ 1054.2806 Submission of reports.

The contractor will submit the completed DD Form 1177 to the AFPRO or APD. Transmission of the completed forms will be accomplished by the AFPRO or APD no later than 2 working days after their receipt. The original and one copy of DD Form 1177 will be sent to Commander, AMC, attn: MCPAA, and one copy to Chief, Bureau of Aeronautics, Department of the Navy, attn: Purchase Branch, Contracts Division, CT-261, Washington 25, D.C.

§ 1054.2807 Report authority.

Bureau of Budget Approval Number 22-R169.1, which expires October 31, 1961, has been assigned to this report.

A new Subpart CC is added as follows:

Subpart CC—Processing of Claims Under Cost-Reimbursement Type Contracts

Sec.	
1054.2900	Scope of subpart.
1054.2901	Applicability of subpart.
1054.2902	Definitions.
1054.2903	The initial conference with the contractor.
1054.2904	Public vouchers, general.
1054.2905	Provisional approval of vouchers.
1054.2906	Withholding pursuant to contract terms.
1054.2907	Alteration of vouchers.
1054.2908	Distribution of public vouchers.
1054.2909	Inter-plant billings under cost-reimbursement type contracts exclusive of home office overhead.
1054.2910	Cost-reimbursement type subcontracts, audits, and billings.
1954.2911	Completion voucher of completion invoice.
1054.2912	Suspensions and disallowances.
1054.2913	Procedure when current claim is insufficient to cover credit.
1054.2914	Reports of audit.

AUTHORITY: §§ 1054.2900 to 1054.2914 issued under sec. 8012, 70A Stat. 488; 10 U.S.C. 8012. Interpret or apply secs. 2301-2314, 70A Stat. 127-133; 10 U.S.C. 2301-2314.

Subpart CC—Processing of Claims Under Cost-Reimbursement Type Contracts

§ 1054.2900 Scope of subpart.

This subpart prescribes procedures pertaining to the processing of vouchers and invoices under cost-reimbursement type contracts and subcontracts, but does

not apply to the processing of progress payments under fixed price contracts.

§ 1054.2901 Applicability of subpart.

This subpart applies to all AF activities concerned with administration of cost-reimbursement type contracts and subcontracts.

§ 1054.2902 Definitions.

The following definitions apply throughout this subpart.

(a) "Cost-reimbursement type contracts" includes cost, cost-plus-a-fixed-fee, cost-plus-an-incentive-fee, cost-sharing, labor hour, time-and-materials contracts, and cost-reimbursement type subcontracts. Although § 15.101 of this title states, in part, that a cost-reimbursement type contract includes the cost-reimbursement portion of a time and material contract, for the purpose of this subpart the entire contract, rather than only the cost-reimbursement portion, is construed as a cost-reimbursement type contract.

(b) "Administrative contracting officer (ACO)." See definition in § 1054.103(a).

§ 1054.2903 The initial conference with the contractor.

To establish a basis for a cooperative and efficient working relationship, a conference should be arranged by the ACO between representatives of a new contractor or an existing contractor with a new contract of substantial dollar amount and cognizant Government personnel, including the military department auditor, to acquaint the contractor with contractual requirements and Air Force procedures for administering the contract. The ACO should utilize the various members of the group to explain the procedures to be followed in presenting claims and obtaining reimbursement, the requirements as to documentary evidence (if any), the administrative approvals required and the manner in which administrative approvals are given, and reporting requirements under the terms of the contract. The contractor has sole responsibility for obtaining the necessary approvals. However, the ACO should assure that the contractor is informed of his responsibilities by reviewing with him all the practices and procedures set forth in this part that require administrative approval as a condition precedent to reimbursement of costs incurred by the contractor. Specific items which should be discussed include: (a) Audit of the contractor's records and examination of procedures, (b) withholding of contractual reserves, (c) allowability of costs under Part 15 of this title and the segregation of unallowable costs thereunder, (d) subcontracting policies, and (e) procedures and contractor's rights under the Disputes clause.

§ 1054.2904 Public vouchers, general.

(a) The ACO should advise the contractor to submit reimbursement claims on the prescribed standard forms in an adequate number of copies. Only charges pertaining to one contract may be included on the same public vouchers.

(b) The frequency of submission of claims is generally specified in the contract. In the absence of a contract pro-

vision to the contrary, the contractor should be requested to submit reimbursement claims once each month or more or less frequently as warranted by the amounts claimed and the financial condition of the contractor. The ACO will request the contractor to consolidate claims under one contract as much as possible to minimize the number of public vouchers.

(c) As a part of each voucher submission, the ACO will request the contractor to provide an analysis of the total vouchered charges. In many cases where data is readily available from the contractor's records, a limited analysis may be placed on the face of the Standard Form 1034, "Public Voucher for Purchases and Services Other Than Personal," provided the reliability of the contractor has otherwise been established. As a minimum, the analysis shall include cumulative cost, fee, and current cost. When a more detailed analysis is required, the continuation sheet Standard Form 1035 or an attachment may be used.

(d) Where the amount of fee claimed depends on a computation based on financial or physical progress or rate of delivery of the completed item, the ACO will request the contractor to show the basis for computing the fee installment on the public voucher (face or reverse or continuation sheet Standard Form 1035, or on an attachment).

(e) As an aid to administration, the ACO will direct the contractor to submit separate public vouchers for each of the categories of charges enumerated below:

(1) Each portion of a contract which is payable by a different accounting and finance office, if any.

(2) Reclaim vouchers covering items of cost initially allowed and reimbursed to the contractor, but subsequently deducted or refund was occasioned by the issuance of a General Accounting notice of exception.

(3) Costs or fees chargeable to a lapsed appropriation.

(4) Costs reserved in final settlement. These reservations are ordinarily set forth in the final release of the settlement agreement under a terminated contract. The contractor should clearly indicate on the public voucher the specific exception in the final release or settlement agreement under which the amount sought to be reimbursed is claimed.

(5) Abatement of disapproved costs for income taxes paid thereon. (See section 1481 of the Revenue Code of 1954.) The voucher should be accompanied by an authenticated copy of the applicable tax reduction as calculated by the cognizant Director of Internal Revenue.

(f) A public voucher shall not be accorded a classified status. Therefore, no information of a classified nature shall be disclosed in a public voucher, continuation sheet, attachment thereto, or letter transmittal.

§ 1054.2905 Provisional approval of vouchers.

(a) The eligibility for reimbursement of claims submitted by a contractor for

costs or payment of fee shall be determined pursuant to the terms of the contract. Authority for payment must be definitely established before any reimbursements under the contract are approved. In no event shall a reimbursement claim be processed by the ACO for a payment which would result in a cumulative payment in excess of a maximum amount payable as allotted under the contract.

(b) ACO's will normally certify public vouchers and pass them for payment subject to later audit of the contractor's records prior to final settlement. Questionable costs of significant amounts determined through continuous audit or otherwise will be suspended or disapproved prior to certification. In those situations: (1) Where there is reason to question the reliability or accuracy of the contractor's claim, or (2) where there is an indication of a cost overrun, or (3) where the submission is the contractor's initial claim and the contractor was not then receiving reimbursement under a cost-reimbursement type prime contract, the recommendations of the cognizant military department auditor should be requested prior to certification.

(c) Upon receipt of a completion voucher the ACO will furnish a copy to the cognizant auditor. Completion vouchers will not be approved until completion of the audit by the military department auditor unless the auditor and the ACO have determined that such an audit would not be economical or necessary.

§ 1054.2906 Withholding pursuant to contract terms.

Unless the contractor has deducted from its claims amounts required to be withheld pursuant to the provisions of the contract, the ACO will make the deduction therefor. Such deductions shall be treated as suspensions and be covered by a DD Form 396, "Notice of Costs Suspended and/or Disapproved." (See § 1054.2912.) Amounts deducted may be resubmitted by the contractor at such time as the contractor has evidenced compliance with the requirements necessary to permit payment, and may in any event be claimed on the completion voucher.

§ 1054.2907 Alteration of vouchers.

(a) Public vouchers which have not been properly prepared by the contractor should generally be returned for revision. However, a public voucher and/or continuation sheet or its equivalent which require alteration may be changed by striking out the incorrect item and writing in the correct item. No erasures will be made on a public voucher or a continuation sheet. An alteration made by the contractor must be initialed by the contractor representative(s) who signed the voucher and an alteration made by the ACO must be initialed by the ACO.

(b) Comptroller General Decision, B-131105 dated May 13, 1957, provides that when errors in computations or extensions are detected, where the payee has clearly made claim for the full quantity of materials or services and at the proper unit price, the claim may be altered

upward or downward prior to certification providing the net adjustment does not exceed \$10. Vouchers may be adjusted by ACO's provided a DD Form 396 is not otherwise required for costs suspended and/or disapproved and the errors are not too numerous to correct. The incorrect computation or extension may be altered by drawing a line through the incorrect amount and inserting the corrected amount on the original and all copies of the voucher. Each alteration must be initialed. The net amount of the error will be deducted from or added to the total of the Standard Form 1035, if submitted, and will also be deducted from or added to the total by use of the "Differences" block on the Standard Form 1034. Contractors will be notified

by DD Form 396 of mathematical errors which overstate the total amount claimed in excess of \$10. If an underclaim is in excess of \$10 the actual amount claimed, if otherwise proper, should be processed for payment. Contractors should be notified of any errors detected or adjustments made according to this policy.

§ 1054.2908 Distribution of public vouchers.

The following distribution will be considered as the minimum. The ACO will request the contractor to plainly mark all copies of the public voucher with the name and address of the office to which distribution is to be made as indicated below. All copies will be mailed direct to the ACO for distribution.

	Standard Form 1034	Standard Form 1034A	Standard Form 1035 (if any)	Standard Form 1035A (if any)
ACO File.....		1		1
Through ACO to Accounting and Finance Officer for: General Accounting Office.....	1		1	
Accounting and Finance Office Files.....		1		1
Contractor-Remittance Advice (paid copy).....		1		
Fiscal Officer (when not under Project PIC) (paid copy).....		1		
Military Department Auditor (paid copy).....		1		1
Total required.....	1	5	1	3

(a) Where the contract does not contain the standard records clause (§ 7.203-7 of this title), arrangements should be made for the contractor to attach the required documentation to an extra copy of the public voucher, marked for and sent direct to the auditor by the contractor.

(b) After processing and certification by the ACO, all copies except the file copy will be forwarded to the accounting and finance office for payment and further distribution.

§ 1054.2909 Inter-plant billings under cost-reimbursement type contracts exclusive of home office overhead.

This section sets forth the procedures for the processing of inter-plant billings.

(a) Definitions: (1) Inter-plant billings are invoices (or credit memoranda) for costs incurred at one plant, division, or branch and charged to cost-reimbursement type military department contracts at another plant, division, or branch of the same contractor.

(2) Originating plant is the plant or division of a contractor at which costs applicable to a cost-reimbursement type contract are incurred and billed to another plant of the same contractor for ultimate submission for reimbursement.

(3) Receiving plant refers to the plant, division, or branch of a contractor which receives an inter-plant billing and reimbursement therefor is to be claimed from the Government.

(b) Responsibility for determining need for audit: The military department auditor cognizant of the audit at the receiving plant is primarily responsible for determining the need for audit of inter-plant billings. However, when the auditor determines that an audit should be omitted, the concurrence of the ACO will be requested.

(c) Transmittal of inter-plant billings: The ACO will request the contractor to transmit inter-plant billings

directly to the receiving plant and furnish copies (two copies of completion billing) to the auditor at the originating plant and the secondary ACO at the originating plant (if such personnel are assigned).

(d) The ACO will request the contractor to submit inter-plant billings on a cumulative cost basis. The data may be placed on the face of each billing or may be an attachment to the billing. The extent of the details should be governed by the principles set forth in § 1054.2904(c).

§ 1054.2910 Cost-reimbursement type subcontracts, audits, and billings.

(a) Responsibility for determining need for audit: The military department auditor cognizant of the prime contract or upper-tier subcontract under which the cost-reimbursement type subcontract was let is primarily responsible for determining the need for audit of such subcontract. However, when the auditor determines that an audit should be omitted, he will request the concurrence of the ACO, and the auditor cognizant of the subcontractor.

(b) The ACO should advise the contractor or subcontractor who let the cost-reimbursement type subcontract of his responsibility for the proper performance of the subcontract and the financial settlement with the subcontractor. While the prime contractor's or upper-tier subcontractor's responsibility for a proper financial settlement includes the obligation to perform an adequate audit of the subcontractor, in appropriate circumstances (see § 1054.209(b)) audit of the subcontract by a military department auditor will be preferable or advisable. Adherence to this policy will insure consistent treatment of subcontractor's costs, reduce duplicate auditing of the same records by two or more groups of auditors, and reduce the costs incurred by

the prime contractor in performance of subcontract audits.

(c) The ACO should advise the contractor to request the subcontractors to prepare their claims or commercial invoices and submit them directly to the prime contractor or upper-tier subcontractor which let the subcontract and furnish copies to the auditor and the ACO cognizant of the subcontractor. Charges should be itemized in the same detail and manner required of the prime contractor. A separate series of claims, preferably consecutively numbered, should be prepared for each subcontract identifying the prime contract and/or upper-tier subcontract to which it relates.

(d) The ACO should advise the contractor to instruct the subcontractor to submit an analysis of cumulative cost with each invoice. The data may be placed on the face of each invoice or as an attachment to the invoice. The extent of the details required should be governed by the principles set forth in § 1054.2904(c).

§ 1054.2911 Completion Voucher of completion invoice.

The term "Completion Voucher" (or "Completion Invoice") identifies a voucher or invoice which includes the entire or remaining contract cost and/or fee upon completion of work under a Government contract or subcontract. The completion voucher shall be supported by the contractor's release and assignment forms as specified in § 16.812 of this title, and the final schedule of cumulative cost under the contract. In all cases, the ACO will furnish a copy of the completion voucher with supporting forms to the cognizant military auditor. See § 1054.2905(c).

§ 1054.2912 Suspensions and disallowances.

Amounts deducted from the contractor's claim by the ACO will be supported by a DD Form 396, "Notice of Costs Suspended and/or Disapproved," and will be shown in the differences block on the face of the public voucher, using one line for the amount deducted and one line for the net approved amount. The amounts of costs suspended and/or disapproved by the secondary ACO or auditor under inter-plant billings or subcontractor's claims will be presented on a DD Form 396 marked "Memorandum Notice." See § 1015.150 of this chapter.

§ 1054.2913 Procedure when current claim is insufficient to cover credit.

(a) When the current claim is not in sufficient amount to satisfy the credit due the Government under the contract, follow one or a combination of the procedures outlined in this section to effect collection in the most expeditious and practicable manner:

(1) Deduct the amounts necessary to satisfy the credit from the current and succeeding public vouchers (expected to be received within a reasonable length of time). The deduction on any voucher will not exceed the amount thereof so as to avoid processing of a voucher in a credit amount. The voucher, notwith-

standing it may be in zero amount, shall be processed to the disbursing officer via the usual channels to provide for a record of the voucher action.

(2) Obtain from the contractor its check for the amount of the credit, payable to the order of the Treasurer of the United States.

(3) When the credits cannot be recovered by deductions from the current and succeeding public vouchers and the contractor declines to make refund thereof, the ACO will accomplish or cause to be accomplished the collection by a set-off deduction from the public voucher(s) submitted by the contractor under any of its other military department contracts. However, where a contract so provides, payment to an assignee will not be subject to reduction or set-off for any indebtedness of the assignor arising independently of the assigned contract (§ 1007.203-6 of this chapter).

(b) When the collection is effected by set-off, there will be shown on the public voucher from which the deduction is made, a notation identifying the contract and appropriation to which the credit is applicable and identifying the related DD Form 396. Set-off procedures as described herein will not be applied in connection with amounts cited in formal exceptions by the General Accounting Office.

§ 1054.2914 Reports of audit.

Results of audit under cost-reimbursement type contracts and subcontracts will be indicated on reports of audit. Therefore, auditors will no longer indicate provisional or final audit approval on individual vouchers and invoices.

(a) *Initial report of audit.* See § 1054.2905(b).

(b) *Interim reports of audit.* When the need for an audit has been determined, interim audit reports will be issued by the military auditor without specific request at least annually, preferably at the end of the contractor's fiscal year, summarizing the results of audit of costs submitted by the contractor. Interim reports may be requested on a more frequent basis (see § 1054.2905(b)). Normally, the auditor should be encouraged to submit one annual report covering all cost-reimbursement type contracts administered by an ACO on a single contractor with results of audit of each contract or subcontract shown separately.

(c) *Final report of audit.* Upon completion, termination, or conversion of each cost-reimbursement type contract or subcontract, a final report will be issued by the military auditor. A request for final audit is not required.

(Sec. 8012, 70A Stat. 488; 10 U.S.C. 8012. Interpret or apply secs. 2301-2314, 70A Stat. 127-133; 10 U.S.C. 2301-2314)

PART 1055—SPARE PARTS

Subpart D—Approval of Spare Parts Or Ground Support Equipment Exhibits And Issuance of Supplemental Agreements

1. In § 1055.402, paragraphs (c) and (d) are redesignated (d) and (e) and a new-paragraph (c) is inserted:

No. 197—3

§ 1055.402 Procedures and responsibilities.

(c) The administrative contracting officer will determine in conjunction with the contractor whether additional funds will be needed to cover an approved provisioning order as far in advance of the priced exhibit as possible. The administrative contracting officer will notify the AMA/depot procuring contracting officer of the estimated or firm amount of the additional funds needed for each contract item number. The AMA/depot procuring contracting officer will issue a POOD (provisioning order obligating document) for the required funds and distribute in the normal manner. The administrative contracting officer upon receipt of the POOD will then execute the supplemental agreement incorporating the priced exhibit.

(Sec. 8012, 70A Stat. 488; 10 U.S.C. 8012. Interpret or apply secs. 2301-2314, 70A Stat. 127-133; 10 U.S.C. 2301-2314)

PART 1057—REPORTS

Subpart A—Procurement Action Reports

In § 1057.102, paragraphs (f), (g) and (h) are deleted and the following substituted therefor:

§ 1057.102 Definitions.

(f) "Small Business Restricted Advertising" is a form of negotiated procurement conducted in the same way as prescribed for formal advertising under Part 2 of this title, except that bids and awards are restricted to small business concerns. Also, to be included for purposes of this report are orders against a reporting activity's own indefinite delivery type contract originally placed through Small Business Restricted Advertising.

(g) "Actions Negotiated Under 10 U.S.C. 2304(a)" are those authorized under that section and explained in detail in Subpart B, Part 3 of this title.

(h) "Labor Surplus Areas" are those areas classified as such by the Department of Labor and set forth in a list entitled "Areas of Substantial Labor Surplus" issued by that Department in conjunction with its publication, "Area Labor Market Trends," formerly "The Bi-Monthly Summary of Labor Market Developments in Major Areas," and areas which are not classified by the Department of Labor but which are individually certified as areas of substantial labor surplus by a State Employment Office at the request of any firm located in the areas, which is bidding for a procurement involving set-asides. (§ 1.302-4(a)(1) of this title.) "Labor Surplus Industries" are those industries which have been certified for preferential treatment by the Office of Defense Mobilization according to Defense Manpower Policy No. 4.

(Sec. 8012, 70A Stat. 488; 10 U.S.C. 8012. Interpret or apply secs. 2301-2314, 70A Stat. 127-133; 10 U.S.C. 2301-2314)

PART 1058—CONTRACT FINANCING

Subpart B—Certificates of Eligibility in Support of Guaranteed Loans

1. In § 1058.203, paragraph (f) is revised as follows:

§ 1058.203 Authority.

(f) The Commander, AMC, has re-delegated his authority without power of redelegation to the Director and Deputy Directors in the Directorate of Procurement and Production, Hq AMC.

Subpart C—Progress Payments

1. In § 1058.304(b)(2), the following sentence is added thereto:

§ 1058.304 Approvals required.

(b) * * *

(2) * * * In these cases authority to approve, for AMC, has been re-delegated to the Chief, Financial Branch (MCPFF).

A new Subpart D is added as follows:

Subpart D—Prior Clearance of Proposed Procurement Involving Financial Assistance

Sec.	
1058.400	Scope of subpart.
1058.401	Applicability of subpart.
1058.402	General.
1058.403	Prior clearance.
1058.404	Government guarantee of a loan.

AUTHORITY: §§ 1058.400 to 1058.404 issued under sec. 8012, 70A Stat. 488; 10 U.S.C. 8012. Interpret or apply secs. 2301-2314, 70A Stat. 127-133; 10 U.S.C. 2301-2314.

Subpart D—Prior Clearance of Proposed Procurement Involving Financial Assistance

§ 1058.400 Scope of subpart.

This subpart sets forth the action to be taken in securing prior clearance of proposed contracts with contractors having seriously overextended financial or backlog positions requiring a disproportionately large amount of Government financing assistance. (For prior clearance of proposed advance payment or progress payment provisions, see Subparts C and G, of this part.)

§ 1058.401 Applicability of subpart.

This subpart applies to all AF personnel concerned with placing contracts.

§ 1058.402 General.

When it becomes apparent in the placement of a contract that the contractor cannot reasonably be expected to perform without either:

(a) An advance payment.

(b) An unusual progress payment.

(c) Guarantee of a bank loan by the Air Force, or if the contracting officer determines that award of the contract should be made to a contractor even though:

(d) He has an abnormally large backlog and the additional contract would overload his production capacity.

(e) The contractor does not have sufficient working capital, credit, or sources of borrowing to perform the proposed contract.

(f) The amount of Government financial assistance he would require would

be out of reasonable proportion to his investment, award of the proposed contract should not be made until it has been determined whether or not the type of Government assistance apparently required by the contractor will be provided. Particular attention is directed to subparts A, B, C, and G of this part. Approval of advance payments, certain types of progress payments (see § 1058.304(a)), or loan guarantees must come from the Secretarial level in the Air Force. The means for obtaining such approval is set forth in the part of the AFPI covering the particular subject. Also see § 1058.403.

§ 1058.403 Prior clearance.

When situations as described in § 1058.402 exist and, except in the case of a guaranteed loan for a small business concern (see subpart B of this part), the contracting officer determines that no satisfactory alternative sources of supply are readily available on terms equally as favorable to the Government, he will submit the matter through his normal channels by the most expeditious means that the situation demands to either the Commander, AMC, attn: MCPFF, or the Director of Procurement, Hq ARDC, as appropriate, who will explore the matter of financing the proposed contract. Hq AMC or Hq ARDC will either grant the clearance required or will submit the matter with an appropriate recommendation to Hq USAF for decision, if required by other subparts of this part.

§ 1058.404 Government guarantee of a loan.

(a) Government guarantee of a bank loan is a normal method of assisting defense contractors in acquiring working capital. A request by a bank for Government guarantee of a portion of a loan to a contractor does not, in most cases, reflect upon the basic credit, ability, or character of the contractor. Therefore, if the possibility of a request by a bank for a Government guarantee is the only question concerning a contractor's ability to finance a proposed contract, the Financial Branch (MCPFF), Hq AMC, will grant or deny financial clearance. The Contract Financing Branch, Directorate of Accounting and Finance, Office of the Comptroller, Hq USAF should be advised by letter of the action taken. If other factors present convince the Financial Branch that prior clearance with Hq USAF, would be warranted, the matter should be sent through channels to the Director of Procurement and Production, Hq USAF, attn: Procurement Policy Division with an appropriate recommendation for action.

(b) If it appears that financial assistance in the form of a Government guarantee will be required, the following information should be forwarded to Commander AMC, attn: MCPFF (BOB No. 21-R033.4 which expires February 15, 1960):

(1) AFPI Form 63C, "Request for Financial Clearance."

(2) Letter from the contractor's bank regarding its intentions with respect to requesting Government guarantee of a loan to the contractor, or with respect

to an increase or a substantial extension of an existing loan, in an amount sufficient to provide necessary funds for performance.

(3) A statement from the contracting officer as to whether he would recommend issuance of a Certificate of Eligibility (see Subpart B of this part), if requested.

(4) Most recent balance sheet and operating statements.

(5) Cash flow sheet, if practicable.

(6) Contractor backlog subdivided as to individual Government agencies and commercial.

(7) Any other pertinent information that should be considered in arriving at a conclusion regarding furnishing Government assistance.

A new Subpart E is added as follows:

Subpart E—Assignment of Claims Arising Under Government Contracts

Sec.	
1058.500	Scope of subpart.
1058.501	Applicability of subpart.
1058.502	General.
1058.503	Filing notices of assignment and instruments of assignment.
1058.504	Copies of notices for contracting officer and acknowledgment thereof.
1058.505	Procedure when acknowledgment is refused or delayed.
1058.506	Further assignments and reassignments.
1058.507	Examination of assignment.
1058.508	Assignment of claims clause, "No setoff" provision.
1058.509	Releases of assignments.
1058.510	Transfers of businesses and corporate mergers.
1058.511	Procedure.
1058.512	Records.

AUTHORITY: §§ 1058.500 to 1058.512 issued under sec. 8012, 70A Stat. 488; 10 U.S.C. 8012. Interpret or apply secs. 2301-2314; 70A Stat. 127-133; 10 U.S.C. 2301-2314.

Subpart E—Assignment of Claims Arising Under Government Contracts

§ 1058.500 Scope of subpart.

This subpart sets forth procedures and establishes responsibilities relating to the assignment of claims for moneys due or to become due under contracts providing for payments aggregating \$1,000 or more.

§ 1058.501 Applicability of subpart.

This subpart applies to all Air Force procurement activities.

§ 1058.502 General.

Pursuant to the Assignment of Claims Act of 1940 (Public Law 811, 76th Cong.), as amended, assignment of moneys due or to become due under Government contracts may be made, and the requirements under which such assignment can be made are outlined in § 7.103-8 of this title.

§ 1058.503 Filing notices of assignment and instruments of assignment.

The assignee should file four signed copies of a written notice of assignment, and one copy of the instrument of assignment with each of the following:

- (a) The contracting officer.
- (b) The surety or sureties upon the bond or bonds, if any, in connection with the contract.

(c) The officer designated in the contract to make payments.

§ 1058.504 Copies of notices for contracting officer and acknowledgment thereof.

(a) The copies of such notices of assignment and instruments of assignment directed to the contracting officer will be sent by personnel receiving the same as follows:

(1) If the assignment relates to a contract written or administered by an AMC procurement activity, to the contracting officer appointed for the purpose of acknowledging assignments at the AMC procurement activity.

(2) If the assignment relates to a contract written by an ARDC procurement activity, it will be processed as follows:

(i) If received prior to distribution of the contract, to the cognizant procuring contracting officer.

(ii) If received after distribution of the contract, to the cognizant administrative contracting officer.

(3) If the assignment relates to a contract written or administered by an AF procurement activity other than AMC or ARDC, to the appropriate contracting officer at that procurement activity.

(b) The contracting officer specified in paragraph (a) of this section to whom the notices of assignment and instruments of assignment will be sent, will:

(1) Examine such notices of assignment and instruments of assignment and the contract involved.

(2) If satisfied that the assignment is in proper form, was properly executed, and that the contractor is empowered under the contract to assign the claim or claims involved, acknowledge receipt of the notice of assignment in the space provided.

(i) In acknowledging a "Notice of Assignment by a French contractor of moneys due from the United States," the following statement will be used.

Receipt is hereby acknowledged of the above notice and a copy of the above mentioned instrument of assignment. These were received at ----- a.m. ----- p.m. on ----- 195--

(Person authorized to acknowledge receipt on behalf of addressee contracting officer, disbursing officer or surety on bond)

For signature by a contracting officer only:

The Government of the United States of America acting through the undersigned contracting officer recognizes the assignment of moneys due or to become due under the contract described above and undertaken to pay directly to the assignee, the ----- bank, the amount due or to be due to the ----- Company under the above-mentioned contract in accordance with and subject to the provisions of the Assignment of Claims Act of 1940, as amended. Nothing herein shall be construed to affect or change the rights or obligations of the United States under the Assignment of Claims Act.

(Contracting officer)

(3) Return three copies of the notice thus acknowledged to the assignee.

(4) When the AMC contracting officer acknowledges the notice of assignment

and instrument of assignment, the fourth copy of the notice of assignment and the copy of the instrument of assignment will be filed with the contract.

(5) When the ARDC procuring contracting officer acknowledges the notice of assignment and instrument of assignment prior to distribution of the contract, and when the contract is to be administered by an AMC field procurement activity, the fourth copy of the notice thus acknowledged and the copy of the instrument of assignment will be transmitted with the copy (or copies) of the contract when forwarded to the AMC field procurement activity for administration purposes.

(c) The Chief, Finance Division, Comptroller, Hq AMC, has advised that finance officers will not make payments to assignees unless the first invoice or voucher covering the amounts to be paid the assignee is accompanied by two copies of the notice of assignment duly acknowledged by the contracting officer.

§ 1058.505 Procedure when acknowledgment is refused or delayed.

If, for any reason, the assignment involved is one which the contract does not authorize the contractor to make, or is not in proper form, or is not properly executed, the contracting officer will return the copies of the notice of assignment and the copy of the instrument of assignment to the assignee with an explanation of the objections to the proposed assignment, and the acknowledgment form on the notices of assignment will not be executed by the contracting officer. In addition if, upon receipt of notices of assignment and the copy of the instrument of assignment, it appears that a considerable delay may occur before the notices of assignment are acknowledged or returned unacknowledged as the case may be, the contracting officer will advise the assignee that such a delay is likely to occur and normally will furnish the assignee with a statement of the reasons for the delay.

§ 1058.506 Further assignments and reassignments.

Contracts permitting the assignment of claims for moneys due or to become due hereunder also permit such claims to be further assigned and reassigned by the assignee to a bank, trust company, or other financing institution, including any Federal lending agencies. Copies of written notices of further assignment and reassignment and copies of instruments of such further assignment and reassignment will be processed in the same manner as copies of initial assignment and instruments of initial assignment. The three acknowledged copies of the notice of further assignment or reassignment will be sent to the assignee under the assignment thus acknowledged.

§ 1058.507 Examination of assignment.

In ascertaining that an assignment is in proper form, is properly executed, and is one that the contractor is entitled under the contract to make, contracting officers will satisfy themselves that:

(a) The contract has been duly executed and approved where necessary.

Contractors frequently make assignments of claims for moneys due or to become due under a contract, upon notice of award of the contract, even though the contract has neither been executed nor approved. Copies of notices of such assignment will be immediately returned to the assignee unacknowledged.

(b) The contract is one under which claims may be assigned under the provisions of the Assignment of Claims Act of 1940. In rare cases, Secret or Confidential contracts will contain provisions prohibiting assignments of claims thereunder, and therefore, under the Act of 1940 such claims thereunder cannot be assigned. Notices of attempted assignment of such contracts will be returned unacknowledged to the assignee. It should also be noted that assignment of claims under Secret or Confidential contracts, permitting the assignment thereof, will not be acknowledged by contracting officers until adequate steps have been taken to protect the interests of the Government.

(c) The assignment covers all amounts payable under the contract, and not already paid, and is not made to more than one person, and the assignee is a bank, trust company, or other financing institution, including any Federal lending agency. In this connection the following will be noted:

(1) Most contracts provide that any assignment of claims thereunder will cover all amounts payable under the contract, and not already paid, and will not be made to more than one person except that assignments may be made to one person as agent or trustee for two or more persons participating in the financing of a contractor. Under the Assignment of Claims Act, however, contracts may provide for assignments of part of the contractor's claims for money due or to become due or for such assignments to more than one person. In the absence of contract provisions authorizing such assignments, the assignments are unlawful. Because of the administrative burden on finance officers, partial assignments or assignments to more than one person, if permitted under a contract, should be limited to cases where the contractor is financially obligated to Government agencies and the assignment is made for the protection of such Government agencies.

(2) Where the contract provides for advance payments, whether or not advance payments have actually been made to the contractor, notice of assignment will not be acknowledged unless:

(i) The assignment expressly recites that the rights of the assignee are subordinate to the rights of the Government;

(a) to withhold from the contractor amounts required to liquidate advance payments and (b) to have deposited in the contractor's special advance payment bank account all moneys payable to the contractor which the contract requires the contractor to deposit into that account.

(ii) The contracting officer obtains from the assignee an agreement that the assignee will pay to the contractor all

amounts which may be received by the assignee and which the contractor is obligated by the contract to deposit in its special advance payment bank account. In special cases, additional documents signed by the contractor or the assignee or both, thought necessary by the contracting officer to protect the interests of the Government against the assignee, may be required by the contracting officer.

Assignments such as those referred to in this subparagraph are subordinate to the rights of the Government against the contractor under the contract involved; for that reason they are not assignments of less than all amounts payable under the contract nor assignments to more than one person.

(d) The assignment will cover only claims for moneys due or to become due under the contract involved. It must not cover any of the obligations or duties of the contractor under the contract. The contracting officer will be sure that the copy of the instrument of assignment which is submitted to him is a duplicate of the original instrument, or has been certified as a true copy, acknowledged as such before a notary public or other officer authorized by law to administer oaths. Care will also be taken to ascertain that the assignment has been properly executed.

(1) Assignments by corporations should be executed by an authorized representative, attested by the secretary or assistant secretary of the corporation, with the seal of the corporation impressed upon the assignments, or in lieu of such seal, accompanied by a certified copy of a resolution of the board of directors of the corporation authorizing the representative involved to execute the assignment.

(2) If the contractor is a partnership, the instrument of assignment may be signed by one partner, provided it is accompanied by a duly acknowledged certificate to the effect that the signer is a general partner of the partnership.

(3) If the contractor is an individual, the assignment must be signed by such individual and duly acknowledged by him before a notary public or other person authorized to administer oaths.

(e) If there have been previous assignments of claims under the contract, unless assignments to more than one person thereunder are permitted by the contract provisions, the previous assignments have been fully released. Attention is again invited to § 1058.505 which points out that contracts specifically authorize further assignments and reassignments of claims thereunder.

§ 1058.508 Assignment of claims clause, "No setoff" provision.

See § 1007.103-8 of this chapter.

§ 1058.509 Releases of assignment*.

Releases of assignments require the same execution and acknowledgment by the assignee as required of an assignor in the case of an assignment. Releases are required only in cases of reassignment or where further payments are anticipated under the contract.

§ 1058.510 Transfers of businesses and corporate mergers.

Transfers of an entire business, corporate mergers, and assignments by operation of law, each of which may effect the assignment of claims under a contract, are not prohibited by the Federal statutes and hence are not dependent upon the Assignment of Claims Act of 1940 for their validity. (See § 16.505 of this title and § 1016.505 of this chapter.) However, in the case of transfers of a business or corporate mergers, notices of assignment of claims under the contract made by the transferee or successor corporation will not be acknowledged until a supplemental agreement has been executed, substituting the transferee or successor corporation as the contractor with the Government. Similarly, before acknowledging assignments made by transferees by operation of law, the contracting officer will require the submission to him of a certified copy of the document evidencing the transfer by operation of law.

§ 1058.511 Procedure.

The Financial Branch (MCPFF) Hq AMC will maintain staff supervision over the procedure for processing and recording requests for acknowledgment of assignments of moneys due or to become due under contracts written or administered at AMC procurement activities, and will be available for consultation and advice.

§ 1058.512 Records.

Contracting officers designated to acknowledge assignments of contracts written or administered by AMC procurement activities will use AFPI Form 26 "Record of Assignment of Contractual Claims" to keep a record of all assignments, acknowledged by them, of moneys due or to become due under contracts and of all releases of such assignments.

A new Subpart H is added as follows:

Subpart H—Contractors Requiring Interservice Concurrence

Sec.

1058.800	Scope of subpart.
1058.801	Applicability of subpart.
1058.802	General.
1058.803	Procedure for maintenance of list.
1058.804	Preparation and distribution.
1058.805	Use of the list.
1058.806	Inquiries.

Authority: §§ 1058.800 to 1058.806 issued under sec. 8012, 70A Stat. 488; 10 U.S.C. 8012. Interpret or apply secs. 2301-2314, 70A Stat. 127-133; 10 U.S.C. 2301-2314.

Subpart H—Contractors Requiring Interservice Concurrence

§ 1058.800 Scope of subpart.

This subpart prescribes the policies and procedures regarding the establishment and operation of the list of Contractors Requiring Interservice Concurrence.

§ 1058.801 Applicability of subpart.

(a) The provisions of this subpart are applicable to Directorate of Procurement and Production, Hq AMC, AMC centers, and AMC field procurement activities.

(b) This subpart is only applicable to contracting officers concerned with the award of new procurement.

§ 1058.802 General.

(a) The list of Contractors Requiring Interservice Concurrence is established to furnish guidance to contracting officers concerned with the award of new procurement in determining whether such firms or individuals will be able to satisfactorily perform on the contract.

(b) The list of Contractors Requiring Interservice Concurrence will be based on the records of the Air Force, Army, and Navy. It will include the names of firms and individuals who have been awarded defense contracts, by one or more of the three military departments, resulting in the overtaxing of the contractor's capabilities. Reasons for being placed on this list include, but are not limited to, the firm or individual being unable to accept new orders without resorting to an unusually heavy program of Government financial assistance.

(c) Appearance of the name of a firm or individual on this list will not be interpreted to require mandatory refusal of an award or authorize contracting officers to omit solicitation of bids or proposals from such firms or individuals.

§ 1058.803 Procedure for maintenance of list.

The names of firms or individuals will be placed upon and deleted from the list according to the following procedure:

(a) Financial Branch (MCPFF), Hq AMC, is authorized to place the name of a firm or individual on the list. Offices and individuals requesting names of firms or individuals be placed on this list will forward such recommendations to MCPFF giving the reasons supported by factual data.

(b) MCPFF will maintain the continuing review of the facts leading to the placement of the firm or individual on the list and will conduct a complete review of such facts for each firm or individual appearing thereon immediately prior to each monthly republication of the list. All personnel within the scope of this Instruction are encouraged to promptly notify MCPFF when the contractor has taken corrective action to warrant removal from the list.

§ 1058.804 Preparation and distribution.

MCPFF will prepare and distribute the list of Contractors Requiring Interservice Concurrence according to the following provisions:

(a) The names of firms or individuals will be listed alphabetically, giving location (city and State), together with initials of Air Force, Army, or Navy to indicate the records used as a basis for placing names on the list.

(b) The list will be classified "For Official Use Only" to protect the Government, the firms, or individuals concerned.

(c) MCPFF will publish and distribute this list each month according to the provisions of this subpart after coordination with the Army and Navy.

(d) Monthly distribution of the list will be made to Hq USAF, Department

of Army, Department of Navy, and to appropriate staff, division, branch, and section offices of the Directorate of Procurement and Production, Hq AMC, and AMC field procurement activities.

§ 1058.805 Use of the list.

In connection with the contemplated award of a new procurement, contracting officers will consult the list prior to application of Subpart A, Part 1052 of this chapter, pertaining to Facility Capability Reports. If the name of a firm or individual being considered for the award of new procurement appears on the list, the procuring contracting officer will, by the most expeditious means necessary under the circumstances, refer all relevant facts to MCPFF for approval. According to § 1052.104 of this chapter, the contracting officer will obtain an FCR before coming to MCPFF for this final approval, unless instructions contained in the list indicate that clearance should be received prior to obtaining an FCR. With respect to procurements wherein the FCR is either exempt or waived under provisions of § 1052.105, § 1052.106 of this chapter will not be complied with and the request for financial clearance will be made to MCPFF.

§ 1058.806 Inquiries.

All inquiries or requests respecting this list from other than AF personnel will be referred for appropriate action directly to Commander, AMC, attn: MCPFF. Information contained in or received as a result of this list will not be disseminated outside of the Air Force; however, the exchange of information between appropriate offices in the Air Force, Army, and Navy is authorized.

Subpart I—Financial Data

1. Section 1058.901 is deleted and the following substituted therefor:

§ 1058.901 Applicability of subpart.

This subpart applies to the Directorate of Procurement and Production, Hq AMC, AMC centers, AMC field procurement activities, and ARDC.

2. In § 1058.902, paragraph (b) is revised as follows:

§ 1058.902 Responsibilities.

(b) Buyers, price analysts, or others at Hq AMC and AMC centers will not make requests for financial data direct to contractors or prospective contractors. They will, however, anticipate the need for such data where an FCR is not required, and will advise Financial Branch (MCPFF) accordingly. If MCPFF does not have the required financial data, it will notify the director of procurement and production in the cognizant AMA of its requirements. The AMA will provide or will direct the appropriate air procurement district to provide the information requested.

3. In § 1058.903, the words "if available" should be deleted in paragraph (a) (1), and paragraph (b) (3) is revised as follows:

§ 1058.903 Obtaining financial data.

(b) *Special cases:* * * *

(3) If the contract will be financed by the introduction of new capital into the company, appropriate evidence that the additional capital will be furnished.

(Sec. 8012, 70A Stat. 488; 10 U.S.C. 8012. Interpret or apply secs. 2301-2314, 70A Stat. 127-133; 10 U.S.C. 2301-2314)

PART 1059—AIRCRAFT AND GFAE PROCUREMENT

Subpart F—Special Procurements

1. Section 1059.604 is deleted and the following substituted therefor:

§ 1059.604 Procurement of petroleum and chemical products for aircraft and missiles.

(a) *Definition.* As used in this section, the following terms are defined:

(1) "*Petroleum and chemical products.*" All petroleum products which are peculiar to aircraft, as well as all petroleum, chemical, and gas products peculiar to the guided missile program. These materials are further divided into:

(i) Category I. Aircraft and missile propulsion fuels, oils, propellants (or components thereof), and services related thereto.

(ii) Category II. All petroleum and chemical products and services related thereto, other than Category I.

(2) "*On-site.*" Any AF activity anywhere which has generating capacity in excess of its current requirements and which, for economy or urgency, can fill requirements of other AF activities, regardless of the distance involved.

(3) "*Off-site.*" Any AF activity anywhere which has neither adequate generating capacity nor an economical commercial source of supply, to meet its current requirements.

(b) *Policy*—(1) *Category I.* All types of materials in this category required in connection with Air Force contracts will be supplied as Government-furnished property (GFP) or as contractor-furnished property (CFP), depending on which method is in the Government's best interests:

(i) Items which can be furnished as GFP will not be CFP, unless CFP offers a clear-cut advantage.

(ii) "Off-site" liquid gas requirements will be supplied from Government generating facilities to the maximum extent possible, taking into consideration "on-site" requirements in comparison with available "on-site" production, availability of liquid gases from commercial sources, availability of transportation equipment, relative costs, and urgency of the requirements.

(iii) Exceptions for providing GFP material will be made when the circumstances of the proposed use or procurement of any materials in this category make it uneconomical or impractical for the Air Force to provide its own materials and facilities. Such circumstances will be:

(a) Where the contractor has conclusively established that his require-

ments can be readily obtained from commercial sources at less cost than GFP and that contract performance will not be seriously impaired without Government aid.

(b) Where the contractor has conclusively established that it would not be economical or practical to make available adequate facilities to handle GFP.

(c) Where the contractor's total requirements for any item are relatively small, and GFP is not warranted. Such requirements will normally be less than tank capacities, i.e., less than 4,000 gallons, or less than a full railroad car, if shipped in drums.

(2) *Category II.* Contractor's requirements for all types of materials in this category will be furnished by the contractor as CFP.

(c) *Procedure.* The responsible procuring contracting officer will make the appropriate initial determination, based on guidance set forth in paragraph (b) of this section. This determination will be written and will be made part of the procurement file.

(1) In making this determination, the responsible procuring contracting officer will consider the contractor's scheduled delivery requirements, availability of supplies from terminals or depots, availability of private, public or Government transportation equipment, adequacy of existing private or Government storage and handling facilities, and feasibility and probable costs of making available during period of requirement adequate facilities for storing and handling Government-furnished property. In this connection, the contracting officer should:

(i) Ask the appropriate AF plant representative whether or not storage and handling facilities are available to accommodate GFP and, if not, the feasibility and probable cost of making such facilities available on a continuing basis.

(ii) When it has been found feasible to furnish fuels and lubricants or chemicals and gases as GFP, facilities and other factors considered, consult the Assistant for Fuels and Lubricants, Directorate of Supply and Services, Middletown Air Materiel Area (MAAMA), or the Raw Materials Division, Topeka Air Force Depot, Topeka, Kansas, to ascertain the feasibility of supplying a particular contractor's requirements on a GFP basis and the approximate cost (depending upon which activity handles the item). When consulting these activities, the following information will be given them:

(a) Full nomenclature, specifications and stock numbers of items, or a statement that the items are nonstandard.

(b) Approximate total requirements, by months, for the period of the contract.

(c) Type of delivery acceptable to contractor (drums, tank car, tank truck, or barge).

(d) Location of plant and name of contractor.

(iii) Ascertain the cost to the Government, including contractor's service cost and fee or profit, if Category I materials are furnished by contractor.

(2) The procuring contracting officer's decision that an item will be GFP or CFP will be reviewed by the chief of the appropriate weapon system project office in procurements by Aircraft and Missiles Division, Hq AMC, or by the appropriate branch chief in other AMC procurement activities.

(d) *Subcontracts.* Before approving any subcontract involving materials of Category I, the responsible administrative contracting officer will investigate which method of procuring the materials will be most advantageous to the Government. In reaching their decisions, administrative contracting officers will be governed by paragraph (c) of this section. When investigation discloses that purchases of Category I materials from the contractor are inadvisable, administrative contracting officers will present their findings to the responsible procuring contracting officer, with recommendation that supplying materials as GFP be considered. If a decision has been made to supply Category I materials as CFP, the administrative contracting officer should not question subcontractors, unless conditions have changed to an extent which could be expected to affect the earlier decision.

(e) *GFP requirements.* (1) In all contracts that specify supply of Category I materials as GFP, the procuring contracting officer, upon distribution of the contracts, will submit the following information to the appropriate AMA or AF Depot.

- (i) The AF contract number.
- (ii) The period of the contract.
- (iii) Quantities.
- (iv) Specifications.
- (v) Stock numbers.
- (vi) Type of shipment.
- (vii) Estimated costs.

(f) *CFP requirements.* In the case of CFP, the cost of such materials will be included in the overall cost of the contract end item.

§ 1059.606 Procurement of liquid oxygen converters.

(a) *Scope.* Prescribes a provision to be inserted in Invitations for Bid or Requests for Proposal where liquid oxygen converters are procured and it is desired to permit the contractor to guarantee the initial evaporation loss requirements rather than conduct the second and third evaporation tests prescribed by Specification MIL-C-25666A (USAF) and MIL-C-009082D (USAF).

(b) *Applicability.* Applies to all liquid oxygen converters procured pursuant to the above mentioned specifications.

(c) *Provisions.* The following provision may be inserted in any Invitation for Bid or Request for Proposal which call for bids or proposals for the purchase of liquid oxygen converters requiring compliance with Specification MIL-C-25666A (USAF) or MIL-C-009082D (USAF) where it is desired to allow the contractor to guarantee the converters for one year against the initial evaporation loss rather than comply with the second and third evaporation tests called for in those specifications.

GUARANTEE IN LIEU OF EVAPORATION TESTS

The bidder, in lieu of conducting the second and third evaporation tests called for

under Paragraphs 4.5.3.2 and 4.5.3.3 of Specifications MIL-C-25666A (USAF) and MIL-C-009082D (USAF), may offer a guarantee that the converters procured hereunder will meet the initial evaporation loss requirements of Paragraph 4.5.3 of said specifications for one year after delivery under this contract. In the event the bidder elects to guarantee the converters furnished hereunder, it shall so indicate in the space following.

We elect to guarantee in accordance with the clause following:

The Contractor guarantees that the liquid oxygen converters furnished under this contract shall fulfill the initial evaporation loss requirements of Specifications (MIL-C-25666A USAF—or MIL-C-009082D USAF), for one year after delivery of the respective containers under this contract and agrees to replace any converters rejected by the Government for failure to meet said requirement at no additional charge to the Government. Transportation charges resulting from such rejection shall be borne by the Government. In consideration of the foregoing the Contractor shall not be required to conduct the second and third evaporation tests required by Paragraphs 4.5.3.2 and 4.5.3.3 of the above-mentioned specifications.

(Sec. 8012, 70A Stat. 488; 10 U.S.C. 8012. Interpret or apply secs. 2301-2314, 70A Stat. 127-133; 10 U.S.C. 2301-2314)

PART 1080—PRODUCTION, SURVEILLANCE AND CONTROL

Part 1080 is deleted.

[SEAL] CHARLES H. McDERMOTT,
Colonel, U.S. Air Force, Deputy
Director of Administrative
Services.

[F.R. Doc. 59-8479; Filed, Oct. 7, 1959;
8:52 a.m.]

Title 7—AGRICULTURE

Chapter I—Agricultural Marketing Service (Standards, Inspections, Marketing Practices), Department of Agriculture

PART 52—PROCESSED FRUITS AND VEGETABLES, PROCESSED PRODUCTS THEREOF, AND CERTAIN OTHER PROCESSED FOOD PRODUCTS

Subpart—United States Standards for Grades of Frozen Breaded Onion Rings

Correction

In F.R. Document 59-7705 appearing in the issue for Wednesday, September 16, 1959, at page 7435, the reference in the table of § 52.4071 to "New weight (ounces)" and should read "Net weight (ounces)".

Chapter XI—Agricultural Conservation Program Service, Department of Agriculture

PART 1104—AGRICULTURAL CONSERVATION; ALASKA

Subpart—1960

The protection and conservation of the soil and water resources of farmlands

is essential in order that these lands will continue to produce sufficient food and other raw materials to meet future needs. All people, not farmers alone, have a stake in, and a part of the responsibility for, protecting and conserving our farmlands. Recognizing this, the Congress appropriates funds to share with farmers the cost of carrying out needed soil and water conservation measures. The Agricultural Conservation Program is a means of making this Federal cost-sharing available to farmers.

INTRODUCTION

- Sec.
1104.900 Purpose.
1104.901 Funds.
1104.902 Maximum Federal cost-shares.

GENERAL PROGRAM PRINCIPLES

- 1104.903 General program principles.

COUNTY AGRICULTURE CONSERVATION PROGRAMS

- 1104.904 Developing the county program.
1104.905 Selection of practices.
1104.906 Adaptation of practices.
1104.907 County program approval.
1104.908 Practice specifications.
1104.909 Responsibility for technical phases of practices.

SPECIAL PROVISIONS

- 1104.910 Pooling agreements.
1104.911 Purchase orders.

ELIGIBILITY, APPLICATIONS, AND APPROVALS

- 1104.912 Eligibility.
1104.913 Applications.
1104.914 Approvals.
1104.915 Limitations of the program.

PRACTICE COMPLETION REQUIREMENTS

- 1104.916 Completion of practices.
1104.917 Practices substantially completed during the program year.
1104.918 Practices requiring more than one program year for completion.
1104.919 Practices involving the establishment or improvement of vegetative cover.

PAYMENTS

- 1104.921 Availability of funds.
1104.922 Eligibility for payment.
1104.923 Death, incompetency, or disappearance.
1104.924 Practices carried out with State or Federal aid.
1104.925 Division of payments.
1104.926 Filing applications for payment.
1104.927 Appeals.
1104.928 Increase in small Federal cost-shares.

GENERAL PROVISIONS RELATING TO PAYMENTS

- 1104.929 Compliance with regulatory measures.
1104.930 Maintenance of practices.
1104.931 Forbidden actions or practices.
1104.932 Federal cost-shares not subject to claims.
1104.933 Assignments.

DEFINITIONS

- 1104.934 Definitions.

CONSERVATION PRACTICES AND MAXIMUM RATES OF COST-SHARING

- 1104.935 Practices carried out before January 1, 1960.
1104.936 Practice 1: Diversion ditches.
1104.937 Practice 2: Sod waterways.
1104.938 Practice 3: Open drainage systems.
1104.939 Practice 4: Permanent vegetative cover.
1104.940 Practice 5: Clearing land.
1104.941 Practice 6: Sprinkler irrigation.
1104.942 Practice 7: Livestock wells.

Sec.

- 1104.943 Practice 8: Establishment of a stand of trees or shrubs for purposes other than erosion control.
1104.944 Practice 9: Improvement of a stand of forest trees.
1104.945 Practice 10: Establishment of stands of trees or shrubs for erosion control purposes.
1104.946 Practice 11: Springs or seeps.
1104.947 Practice 12: Dams, pits, or ponds.
1104.948 Practice 13: Streambank protection, levees, and dikes.
1104.949 Practice 14: Weed control.

AUTHORITY: §§ 1104.900 to 1104.949 issued under sec. 4, 49 Stat. 164; 16 U.S.C. 590d. Interpret or apply secs. 7 to 17, 49 Stat. 1148, as amended, 73 Stat. 167; 16 U.S.C. 590g-590q.

INTRODUCTION

§ 1104.900 Purpose.

(a) Through the 1960 Agricultural Conservation Program (referred to in this subpart as the "1960 program") administered by the Department of Agriculture, the Federal Government will share with Alaskan farmers the cost of carrying out approved conservation practices in accordance with the provisions of this subpart and such modifications thereof as may be hereafter made.

(b) The program contained in this subpart is approved pursuant to the authority vested in the Secretary of Agriculture under sections 7 to 17 of the Soil Conservation and Domestic Allotment Act, as amended (49 Stat. 1148; 16 U.S.C. 590g-590q), and the Department of Agriculture and Farm Credit Administration Appropriation Act, 1960.

(c) State handbooks, bulletins, instructions, and forms containing detailed information about the 1960 program as it applies to specific counties, areas, and farms, and the exact specifications and rates of cost-sharing for conservation practices, may be obtained from the county committee for the county in which the farm is located or from the State Committee.

§ 1104.901 Funds.

(a) The State Committee will allocate the funds available for conservation practices among the counties consistent with the needs for enduring conservation in the various counties and will give particular consideration to the furtherance of watershed conservation programs sponsored by local people and organizations.

(b) \$62,000 will be available for program purposes exclusive of the amount set aside for administrative expenses and the increase in small Federal cost-shares in § 1104.928. The proportion of this fund initially allocated to any county for the 1960 program shall not be reduced from the distribution of such funds for the 1958 program year.

§ 1104.902 Maximum Federal cost-shares.

A person may not receive more than \$2,500 in Federal cost-shares under the 1960 program for approved practices not under pooling agreements. He may not receive more than \$10,000 for all approved practices including those under pooling agreements. This includes all farms, ranching units, and turpentine places owned or operated by him in the

United States, including Puerto Rico and the Virgin Islands.

GENERAL PROGRAM PRINCIPLES

§ 1104.903 General program principles.

The 1960 program has been developed and is to be carried out on the basis of the following general principles:

(a) The program contains broad authorities to help meet the varied soil and water conservation problems. County committees and participating agencies shall design a program for each county. Such programs should include any additional limitations and restrictions necessary for the maximum conservation accomplishment in the area. The programs should be confined to the soil and water conservation practices on which Federal cost-sharing is most needed in order to achieve the maximum conservation benefit in the county.

(b) The county programs should be designed to encourage those soil and water conservation practices which provide the most enduring conservation benefits practicably attainable in 1960 on the lands where they are to be applied.

(c) Costs will be shared with a farmer only on satisfactorily performed soil and water conservation practices for which Federal cost-sharing was requested by the farmer before the conservation work was begun.

(d) Costs should be shared only on soil and water conservation practices which it is believed farmers would not carry out to the needed extent without program assistance. In no event should costs be shared on practices except those which are over and above those farmers would be compelled to perform in order to secure a crop.

(e) The rates of cost-sharing in a county are to be the minimum required to result in substantially increased performance of needed soil and water conservation practices within the limits prescribed in the State program.

(f) The purpose of the program is to help achieve additional conservation on the land. Such of the available funds that cannot be wisely utilized for this purpose will be returned to the Public Treasury.

(g) If the Federal Government shares the cost of the initial application of soil and water conservation practices which farmers otherwise would not perform but which are essential to sound soil and water conservation, the farmers should assume responsibility for the upkeep and maintenance of those practices through their life spans. Cost-shares are not applicable, after they are initially utilized, to undertake a practice during its normal life span unless the practice has failed to serve for its normal life span due to conditions beyond the control of the farm operator.

COUNTY AGRICULTURAL CONSERVATION PROGRAMS

§ 1104.904 Developing the county program.

(a) A county agricultural conservation program (referred to in this subpart as "county program") shall be developed

in each county in accordance with the provisions of the State program and such modifications thereof as may be made. The county program should include any additional limitations and restrictions necessary for the maximum conservation accomplishment in the area. It should be designed to encourage those conservation practices which provide the most enduring conservation benefits practicably attainable in 1960 on the lands where they are to be applied.

(b) The County ACP Development Group (County ASC Committee, including Extension agent, Soil Conservation Service technician for the county, and Federal Forest Service representative if available) will meet with the governing bodies of the local soil conservation sub-districts, the local Farmers Home Administration supervisor, and others with conservation interests to develop recommendations for the county program.

(c) The County ACP Development Group will then formulate the county program keeping in mind the overall conservation problems in the county and the work plans of the subdistricts and other agencies. Notwithstanding other provisions of the 1960 State program, no change shall be made in the 1960 county program which will have the effect of restricting eligibility requirements or cost-sharing on practices included in either the 1957 or 1958 program for the county, unless such change shall have been recommended by the county committee and approved by the State Committee.

§ 1104.905 Selection of practices.

Practices to be included in the county program shall be only those practices set forth in this subpart for which cost-sharing is essential to permit the accomplishment of needed conservation work which would not otherwise be carried out. Generally, practices that have become part of regular farming operations in a particular county should not be eligible for cost-sharing.

§ 1104.906 Adaptation of practices.

The practices included in the county program must meet all conditions and requirements of the State program. Additional conditions and requirements may be included where necessary for effective use in meeting the conservation problems in the county. The rates of cost-sharing in a county are to be the minimum required to result in substantially increased performance of needed practices within the limits prescribed in the State program. The rates of cost-sharing for practices included in the county program may be lower than the rates of cost-sharing in this subpart.

§ 1104.907 County program approval.

The County ACP Development Group will recommend its county program for approval to the State ACP Development Group (Alaska, ASC Committee, including the Director of Extension, Soil Conservation Service State Conservationist, and Forest Service representative). The program recommendation must state that the program was developed in consultation with the local subdistrict gov-

erning bodies, or shall state that the local subdistrict governing bodies were invited to participate in developing the program but did not accept. It should be signed by the ASC county chairman, SCS technician, and representative of the Forest Service when present in the county. The program for the county shall be that recommended by the County ACP Development Group and approved by the State ACP Development Group.

§ 1104.908 Practice specifications.

Minimum specifications which practices must meet to be eligible for Federal cost-sharing shall, where available, be set forth in the State program or in the county program, or be incorporated therein by specific reference to a standard publication or other written document containing such specifications. For practices involving the establishment or improvement of vegetative cover, the specifications shall include, where appropriate, fertilization and seeding rates, eligible seeds and mixtures, seeding dates, requirements for cultural operations and inoculation, and other steps essential to the successful establishment or improvement of the vegetative cover. For mechanical or construction type practices, the specifications shall include, where appropriate, the types and sizes of material, installation or construction requirements, and other steps essential to the proper functioning of the structure. For other practices, the specifications shall include those steps essential to the successful performance of the practice. Practice specifications shall provide minimum performance requirements which will qualify the practice for cost-sharing and, where applicable, may also provide maximum limits of performance which will be eligible for cost-sharing. The minimum performance requirements established for a practice shall represent those levels of performance which are necessary to assure a satisfactory practice. The maximum limits of performance for cost-sharing established for a practice shall represent these levels of performance which are needed for the practice to be most effective in meeting the conservation problem and which are not in excess of levels for which cost-sharing can be justified.

§ 1104.909 Responsibility for technical phases of practices.

(a) The Soil Conservation Service is responsible for the technical phases of practices 1, 2, 3, 6, 10, 11, 12, and 13 (§§ 1104.936 to 1104.938, 1104.941, and 1104.945 to 1104.948). This responsibility shall include (1) a finding that the practice is needed and practicable on the farm, (2) necessary site selection, other preliminary work, and layout work of the practice, (3) necessary supervision of the installation, and (4) certification of performance. For practice 5 (§ 1104.940), the Soil Conservation Service is responsible (i) for determining that the practice is needed and practicable on the farm, and (ii) for necessary site selection, other preliminary work, and layout work of the practice. The Soil Conservation Service may utilize assistance from private, State, or Federal agencies

in carrying out these assigned responsibilities.

(b) The Forest Service is responsible for the technical phases of practices 8 and 9 (§§ 1104.943 and 1104.944). This responsibility shall include (1) providing necessary specialized technical assistance, (2) developing specifications for the practice, and (3) working through State and county committees, determining performance in meeting these specifications. The Forest Service may utilize assistance from private, State, or Federal agencies in carrying out these assigned responsibilities.

SPECIAL PROVISIONS

§ 1104.910 Pooling agreements.

Farmers in any local area may agree in writing, with the approval of the county committee, to work together to perform practices which, by conserving or improving the agricultural resources of the community, will solve a mutual conservation problem on the farms of the participants. For purposes of eligibility for cost-sharing, practices carried out under such an approved written agreement will be regarded as having been carried out on the farms of the persons who performed the practices. Additional information about pooling agreements is available in each county office.

§ 1104.911 Purchase orders.

(a) *Availability.* Part or all of the Federal cost-share for an approved practice may be in the form of a purchase order for materials or services furnished through the program for use in carrying out the practice. Materials or services may not be furnished to persons who are indebted to the Federal Government, as indicated by the register of indebtedness maintained in the office of the county committee, except in those cases where the agency to which the debt is owed waives its rights to setoff to permit the furnishing of materials and services. Title to any material furnished through the program shall vest in the Federal Government until the material is applied or planted, or all charges for the material are satisfied.

(b) *Cost to farmer.* The farmer will pay that part of the cost of the material or service which is in excess of the Federal cost-share attributable to the use of the material or service, except that for practice 5 (§ 1104.940) the county committee may advance to the farmer the total cost-share he will earn at the time the heavy clearing is accomplished. However, the farmer must complete the practice by breaking the land to earn the payment. If the farmer fails to complete the practice, the money advanced becomes a debt to the Government.

(c) *Discharge of responsibility for materials and services.* The person to whom a material or service is furnished by purchase order under the 1960 program will be relieved of responsibility for the material or service when the county committee determines that (1) the material or service was used for the purpose for which it was furnished, and (2) the practice is completed so that it is eligible for payment. If a person uses any material or service for any purpose

other than that for which it was furnished, he shall be indebted to the Federal Government for that part of the cost borne by the Federal Government and shall pay such amount to the Treasurer of the United States direct or by withholdings from Federal cost-shares otherwise due him under the program. Any person to whom materials are furnished shall be responsible for any damage to the materials, unless he shows that the damage was caused by circumstances beyond his control. If materials are abandoned or not used during the program year, they may be transferred to another person or otherwise disposed of at the expense of the person who abandoned or failed to use the material, or be retained by the person for use in a subsequent program year.

ELIGIBILITY, APPLICATIONS, AND APPROVALS

§ 1104.912 Eligibility.

(a) The program is applicable to (1) privately owned lands; (2) lands owned by Alaska or a political subdivision or agency thereof; (3) lands owned by corporations which are partly owned by the United States, such as production credit associations; (4) lands temporarily owned by the United States or a corporation wholly owned by it which were not acquired or reserved for conservation purposes, including lands administered by the Farmers Home Administration and the U.S. Department of Defense; (5) any cropland farmed by private persons which is owned by the United States or a corporation wholly owned by it; and (6) noncropland owned by the United States for performance by private persons of conservation practices which directly conserve or benefit nearby or adjoining privately owned lands of such persons who maintain and use such federally owned noncropland under agreement with the Federal agency having jurisdiction thereof.

(b) The program is not applicable to (1) any department or bureau of the United States Government or any corporation wholly owned by the United States; (2) noncropland owned by the United States which was acquired or reserved for conservation purposes, or which is to be retained permanently under Government ownership, including, but not limited to, (i) grazing lands administered by the Forest Service of the U.S. Department of Agriculture; (ii) grazing lands administered by the Bureau of Land Management of the U.S. Department of the Interior; and (iii) lands administered by the Fish and Wildlife Service of the U.S. Department of the Interior, except as indicated in paragraph (a)(6) of this section; and (3) nonprivate persons for performance on any land owned by the United States or a corporation wholly owned by it.

§ 1104.913 Applications.

Each farmer shall be given an opportunity to request Federal cost-sharing for those practices on which he considers he needs such assistance to perform them on his farm. Individual farmers should be encouraged to utilize cost-sharing for only those practices which have not become a part of regular farming opera-

tions on their farms. Costs will be shared only for those practices, or components of practices, for which cost-sharing is requested before performance is started. A request for cost-sharing under the 1959 program may be regarded as meeting this requirement of the 1960 program if (a) approval was given under the 1959 program, (b) performance was started but not completed during the 1959 program year, and (c) the county committee believes the extension of the approval to the 1960 program is justified under the 1960 program regulations and provisions.

§ 1104.914 Approvals.

The county committee will determine the extent to which Federal funds will be made available to share the cost of each approved practice on each farm, taking into consideration (a) the county allocation of program funds; (b) the farms and practices where cost-sharing is considered most essential to the accomplishment of the basic conservation objective of the Department—the use of each acre of agricultural land within its capabilities and the treatment of each acre in accordance with its needs for protection and improvement; (c) the conservation problems in the county and the conservation work most needed in 1960; and (d) the conservation problems of the individual farm and any conservation plan developed by the farmer with the assistance of any State or Federal agency. The county committee will issue notices of approval showing, for each practice, the units approved and the total Federal cost-share for performing those units. Notices of practices approved should be issued before the farmer begins the practice. No practice may be approved for cost-sharing except as authorized by the State or county program, or in accordance with procedures incorporated therein. Available funds for cost-sharing shall not be allocated on a farm or acreage-quota basis, but shall be directed to the accomplishment of the most enduring conservation benefits obtainable.

§ 1104.915 Limitations of the program.

(a) *Initial establishment or installation of practices.* Cost-sharing may be authorized under the 1960 program only for the initial establishment or installation of the practices contained in this subpart. The initial establishment or installation of a practice, for the purposes of the 1960 program, shall be deemed to include the replacement, enlargement, or restoration of practices for which cost-sharing has been allowed since the 1953 program if the practice has served for its normal life span, or if all of the following conditions exist:

(1) Replacement, enlargement, or restoration of the practice is needed to meet the conservation problem.

(2) The failure of the original practice was not due to the lack of proper maintenance by the current operator.

(3) The county committee believes the replacement, enlargement, or restoration of the practice merits consideration under the program to an equal extent with other practices for which cost-sharing has not been allowed under a previous program.

(b) *Repair, upkeep, and maintenance of practices.* Federal cost-sharing is not authorized for repairs or for normal upkeep or maintenance of any practice.

PRACTICE COMPLETION REQUIREMENTS

§ 1104.916 Completion of practices.

The farmer must complete each practice in accordance with all applicable specifications and program provisions to earn payment. Purchase orders represent an advance to the farmer before he completes the practice, but he must complete the practice to earn the money advanced. Except as provided in §§ 1104.917 to 1104.919 of this subpart, the farmer must complete the practice during the program year to be eligible for cost-sharing.

§ 1104.917 Practices substantially completed during the program year.

Approved practices may be deemed, for purposes of payment of cost-shares, to have been carried out during the 1960 program year if the county committee determines that they are substantially completed by the end of the program year. However, no cost-shares for such practices shall be paid until they have been completed in accordance with all applicable specifications and program provisions, except as provided in § 1104.918 of this subpart. Practice 5 (§ 1104.940) normally requires more than one year for completion and shall be administered under § 1104.918.

§ 1104.918 Practices requiring more than one program year for completion.

Cost-shares approved under the 1960 program will not be considered as earned until all components of the approved practices are completed in accordance with all applicable specifications and program provisions. Cost-shares for completed components of a practice may be paid only after the practice is substantially completed, and only on the condition that the farmer will complete the remaining components of the practice within a reasonable time prescribed by the county committee, unless prevented from doing so for reasons beyond his control and regardless of whether cost-sharing therefor is offered, or refund the cost-shares paid him. If an approved practice is not substantially completed by the end of the 1960 program year, the practice may be considered for reapproval under the 1961 program. For practice 5 (§ 1104.940), the completion of the bulldozing or other heavy clearing operation will be considered as substantial completion of the practice and cost-shares may be paid in accordance with the Alaska ACP Administrative Handbook.

§ 1104.919 Practices involving the establishment or improvement of vegetative cover.

Costs for practices involving the establishment or improvement of vegetative cover, including trees, may be shared even though a good stand is not established, if the county committee determines, in accordance with standards approved by the State Committee, that the practice was carried out in a manner

which would normally result in the establishment of a good stand, and that failure to establish a good stand was due to weather or other conditions beyond the control of the farm operator. The county committee may require as a condition of cost-sharing in such cases that the area be reseeded or replanted, or that other needed protective measures be carried out. Cost-sharing in such cases may be approved also for repeat applications of measures previously carried out or for additional eligible measures. Cost-sharing for such measures shall be approved to the extent such measures are needed to assure a good stand even though less than that required by the applicable practice wording for initial approvals.

PAYMENTS

§ 1104.921 Availability of funds.

The provisions of the 1960 program are necessarily subject to such legislation as the Congress of the United States may hereafter enact. Paying of the Federal cost-shares provided in this subpart is contingent upon such appropriations as the Congress may hereafter provide for such purpose. The amounts of such Federal cost-shares will necessarily be within the limits finally determined by such appropriation. The funds provided for the 1960 program will not be available for paying Federal cost-shares for which applications are filed in the county office after December 31, 1961.

§ 1104.922 Eligibility for payment.

Any person who, as landlord, tenant, or sharecropper on a farm, bore a part of the cost of an approved conservation practice is eligible to file an application for payment of the Federal cost-share due him.

§ 1104.923 Death, incompetency, or disappearance.

In case of death, incompetency, or disappearance of any person, any Federal share of the cost due him shall be paid to his successor, determined in accordance with the provisions of the regulations in ACP-122, as amended (Part 1108 of this chapter).

§ 1104.924 Practices carried out with State or Federal aid.

The county committee, when computing the cost-shares, will reduce the total cost of the practice by the percentage of the total cost of the items of performance on which costs are shared which the county committee determines was furnished by a State or Federal agency. Materials or services furnished by purchase order through this program shall not be regarded as State or Federal aid for the purposes of this section.

§ 1104.925 Division of payments.

Cost-shares attributable to the use of conservation materials or services shall be credited to the person to whom the materials or services are furnished. Other cost-shares shall be credited to the person who carried out the practices by which such other cost-shares are earned. If more than one person contributed to the carrying out of such practices, the cost-share shall be divided

among such persons in the proportion that the county committee determines they contributed to carrying out the practices. In making this determination, the county committee shall take into consideration the value of the labor, equipment, or material contributed by each person toward carrying out the practice on a particular acreage and shall assume that each contributed equally unless it is established to its satisfaction that the contributions were not in equal proportion. Furnishing land or the right to use water is not a contribution to carrying out any practice.

§ 1104.926 Filing applications for payment.

(a) Each person participating in the program is responsible for submitting to the county office the forms and information needed to establish the extent of performance of approved practices and compliance with applicable program provisions.

(b) The county committee will establish time limits for submission of performance reports and allied information for efficient administration of the program. Such time limits shall afford a full and fair opportunity to those eligible to file the forms or information within the period prescribed. The county committee will notify each farmer, in his notice of approval, of the time by which he must report performance. Exceptions to time limits may be made in cases where failure to submit the required forms and information within the applicable time limit is due to reasons beyond the control of the farmer.

(c) Payment of Federal cost-shares will be made only upon application submitted on Form ACP-245 to the county office by December 31, 1961, or such earlier date as may be prescribed. Any application for payment may be rejected if any form or information required of the applicant is not submitted to the county office within the applicable time limit.

§ 1104.927 Appeals.

Any person may, within 15 days after notice thereof is forwarded to or made available to him, request the county committee or State Committee in writing to reconsider its recommendation or determination in any matter affecting the right to or the amount of his Federal cost-shares with respect to the farm. The county committee or State Committee shall notify him of its decision in writing within 15 days after receipt of written request for reconsideration. If the person is dissatisfied with the decision of the county committee, he may, within 15 days after the decision is forwarded to or made available to him, appeal in writing to the State Committee. The State Committee shall notify him of its decision in writing within 30 days after the submission of the appeal. If he is dissatisfied with the decision of the State Committee, he may, within 15 days after its decision is forwarded to or made available to him, request the Administrator, ACPS, to review the decision of the State Committee. The decision of the Administrator, ACPS, shall be final. Written notice of any decision rendered

under this section by the county or State committee shall also be issued to each other landlord, tenant, or sharecropper on the farm who may be adversely affected by the decision.

§ 1104.928 Increase in small Federal cost-shares.

The Federal cost-shares computed for any person with respect to any farm shall be increased as follows: *Provided, however,* That in the event legislation is enacted which repeals or amends the authority for making such increases, the Secretary may, in such manner and at such time as is consistent with such legislation, discontinue such increases:

(a) Any Federal cost-share amounting to \$0.71 or less shall be increased to \$1.00.

(b) Any Federal cost-share amounting to more than \$0.71 but less than \$1.00 shall be increased by 40 percent.

(c) Any Federal cost-share amounting to \$1.00 or more shall be increased in accordance with the following schedule:

Amount of cost-share computed	Increase in cost-share
\$1 to \$1.99	\$0.40
\$2 to \$2.99	.80
\$3 to \$3.99	1.20
\$4 to \$4.99	1.60
\$5 to \$5.99	2.00
\$6 to \$6.99	2.40
\$7 to \$7.99	2.80
\$8 to \$8.99	3.20
\$9 to \$9.99	3.60
\$10 to \$10.99	4.00
\$11 to \$11.99	4.40
\$12 to \$12.99	4.80
\$13 to \$13.99	5.20
\$14 to \$14.99	5.60
\$15 to \$15.99	6.00
\$16 to \$16.99	6.40
\$17 to \$17.99	6.80
\$18 to \$18.99	7.20
\$19 to \$19.99	7.60
\$20 to \$20.99	8.00
\$21 to \$21.99	8.20
\$22 to \$22.99	8.40
\$23 to \$23.99	8.60
\$24 to \$24.99	8.80
\$25 to \$25.99	9.00
\$26 to \$26.99	9.20
\$27 to \$27.99	9.40
\$28 to \$28.99	9.60
\$29 to \$29.99	9.80
\$30 to \$30.99	10.00
\$31 to \$31.99	10.20
\$32 to \$32.99	10.40
\$33 to \$33.99	10.60
\$34 to \$34.99	10.80
\$35 to \$35.99	11.00
\$36 to \$36.99	11.20
\$37 to \$37.99	11.40
\$38 to \$38.99	11.60
\$39 to \$39.99	11.80
\$40 to \$40.99	12.00
\$41 to \$41.99	12.10
\$42 to \$42.99	12.20
\$43 to \$43.99	12.30
\$44 to \$44.99	12.40
\$45 to \$45.99	12.50
\$46 to \$46.99	12.60
\$47 to \$47.99	12.70
\$48 to \$48.99	12.80
\$49 to \$49.99	12.90
\$50 to \$50.99	13.00
\$51 to \$51.99	13.10
\$52 to \$52.99	13.20
\$53 to \$53.99	13.30
\$54 to \$54.99	13.40
\$55 to \$55.99	13.50
\$56 to \$56.99	13.60
\$57 to \$57.99	13.70
\$58 to \$58.99	13.80
\$59 to \$59.99	13.90
\$60 to \$185.99	14.00

Amount of cost-share computed	Increase in cost-share
\$186 to \$199.99	(¹)
\$200 and over	(²)

¹ Increase to \$200.

² No increase.

GENERAL PROVISIONS RELATING TO PAYMENTS

§ 1104.929 Compliance with regulatory measures.

Persons who carry out conservation practices under the 1960 program shall be responsible for obtaining the authorities, rights, easements, or other approvals necessary to the performance and maintenance of the practices in keeping with applicable laws and regulations. The person with whom the cost of the practice is shared shall be responsible to the Federal Government for any losses it may sustain because he infringes on the rights of others or fails to comply with applicable laws or regulations.

§ 1104.930 Maintenance of practices.

The sharing of costs, by the Federal Government, for the performance of approved conservation practices on any farm under the 1960 program will be subject to the condition that the person with whom the costs are shared will maintain such practices throughout their normal life spans in accordance with good farming practices as long as the land on which they are carried out is under his control.

§ 1104.931 Forbidden actions or practices.

(a) *Practices defeating purposes of programs.* If the county committee finds, with the concurrence of the State Committee, that any person has adopted or participated in any practice during the 1960 program year which tends to defeat the purposes of the 1960 or any previous program, including, but not limited to, failure to maintain, in accordance with good farming practices, practices carried out under a previous program, it may withhold or require to be refunded, all or any part of the Federal cost-share which otherwise would be due him under the 1960 program.

(b) *Depriving others of Federal cost-shares.* If the State Committee finds that any person has employed any scheme or device (including coercion, fraud, or misrepresentation), the effect of which would be or has been to deprive any other person of the Federal cost-share due that person under the program, it may withhold, in whole or in part, from the person participating in or employing such a scheme or device, or require him to refund in whole or in part, the Federal cost-share which otherwise would be due him under the 1960 program.

(c) *Filing of false claims.* If the State Committee finds that any person has knowingly filed claim for payment of the Federal cost-share under the program for practices not carried out or for practices carried out in such a manner that they do not meet the required specifications therefor, such person shall not be eligible for any Federal cost-share under the 1960 program and shall refund all

amounts that may have been paid to him under the 1960 program. The withholding or refunding of Federal cost-shares will be in addition to and not in substitution of any other penalty or liability which might otherwise be imposed.

(d) *Misuse of purchase orders.* If the State Committee finds that any person has knowingly used a purchase order issued to him for conservation materials or services for a purpose other than that for which it was issued, and that such misuse of the purchase order tends to defeat the purpose for which it was issued, such person shall not be eligible for any Federal cost-share under the 1960 program and shall refund all amounts that may have been paid to him under the 1960 program. The withholding or refunding of Federal cost-shares will be in addition to and not in substitution of any other penalty or liability which might otherwise be imposed.

(e) *Evasion of maximum cost-share limitation.* All or any part of any Federal cost-share which would otherwise be due any person under the 1960 program may be withheld, or required to be refunded, if he has adopted, or participated in adopting, any scheme or device, including the dissolution, reorganization, revival, formation, or use of any corporation, partnership, estate, trust, or any other means, designed to evade, or which has the effect of evading, the maximum cost-share limitation.

§ 1104.932 Federal cost-shares not subject to claims.

Any Federal cost-share, or portion thereof, due any person shall be determined and allowed (a) without regard to questions of title under State law; (b) without deduction of claims for advances (except as provided in § 1104.933, and except for indebtedness to the United States subject to setoff under orders issued by the Secretary (Part 13 of this title)); and (c) without regard to any claim or lien against any crop, or proceeds thereof, in favor of the owner or any other creditor.

§ 1104.933 Assignments.

Any person who may be entitled to any Federal cost-share under the 1960 program may assign his right thereto, in whole or in part, as security for cash loaned or advances made for the purpose of financing the making of a crop in 1960, including the carrying out of soil and water conservation practices. No assignment will be recognized unless it is made in writing on Form ACP-69 and in accordance with the regulations issued by the Secretary (Part 1110 of this chapter).

DEFINITIONS

§ 1104.934 Definitions.

For the purposes of the 1960 program:

(a) "Secretary" means the Secretary of Agriculture of the United States or any officer or employee of the Department to whom authority has been delegated, or to whom authority may hereafter be delegated, to act in his stead.

(b) "Administrator, ACPs," means the Administrator of the Agricultural Conservation Program Service.

(c) "State" means Alaska.

(d) "State Committee" means the persons designated by the Secretary as the Agricultural Stabilization and Conservation State Committee under section 8(b) of the Soil Conservation and Domestic Allotment Act, as amended.

(e) "State ACP Development Group" means the State ASC Committee, including the Director of Extension, the State Conservationist of the Soil Conservation Service, and the Forest Service representative.

(f) "County" refers to any of the three areas designated as "counties" by the State Committee. Fairbanks County is the Second and Fourth Judicial Districts. Homer County is the Kenai Peninsula and Kodiak Island. Palmer County is the First and Third Judicial Districts exclusive of Homer County.

(g) "County committee" means the persons elected within a county as the county committee pursuant to regulations governing the selection and functions of Agricultural Stabilization and Conservation county and community committees under section 8(b) of the Soil Conservation and Domestic Allotment Act, as amended.

(h) "County ACP Development Group" means the County ASC Committee, including the district Extension agent, the Soil Conservation Service technician, and the Forest Service representative when available.

(i) "Person" means an individual, partnership, association, corporation, estate, or trust, or other business enterprise, or other legal entity (and, wherever applicable, a State, a political subdivision of a State, or any agency thereof) that, as landlord, tenant, or sharecropper, participates in the operation of a farm.

(j) "Farm" means (1) all adjoining or nearby and easily accessible farm, wood, or range land under the same ownership which is operated by one person, and (2) all additional farm, wood, or range land under different ownership operated by such person which the county committee determines (i) is nearby and easily accessible, (ii) is approximately equally productive, and (iii) for the past two years has been operated by such person and will be so operated during the current year, or has been operated by such person for one year with proof satisfactory to the county committee that it will be operated by such person for at least two more years. Notwithstanding the conditions set forth in subparagraphs (1) and (2) of this paragraph, fields and subdivisions of fields which are part of a farm shall remain a part of such farm when operated under a short-term agreement by another operator, unless and until such fields or subdivisions of fields may be properly constituted as a separate farm or part of another farm under this definition. Land which is properly constituted as a farm shall not be reconstituted when a change of farm operators is the only basis for such action.

(k) "Cropland" means land which the county committee determines (1) was tilled in at least one of the five calendar years immediately preceding the crop

year for which the determination is being made; or (2) was established in permanent vegetative cover within the five calendar years immediately preceding the crop year for which the determination is being made and was classified as cropland at the time of establishment; or (3) has been tilled but at the time of determination is in an established crop rotation pattern recognized in the community. Land planted to vineyards, orchards, or other trees which was classified as cropland at the time of planting shall retain the cropland classification only for the year of planting, except that portions of the land area within an orchard or vineyard not devoted to trees or vines shall be classified as cropland if such land area meets the requirements of the first sentence of this definition.

(1) "Program year" means the period during which conservation practices, or components thereof, must be carried out to be eligible for cost-sharing. The program year begins on September 1, 1959, and continues through December 31, 1960.

CONSERVATION PRACTICES AND MAXIMUM RATES OF COST-SHARING

§ 1104.935 Practices carried out before January 1, 1960.

The specifications and rates of cost-sharing in this subpart are applicable to practices carried out on or after January 1, 1960. The specifications and rates of cost-sharing in the 1959 State program are applicable to practices carried out under the 1960 program prior to January 1, 1960, except that any provision of the 1959 State program which has the effect of restricting eligibility requirements or cost-sharing for practices included in the 1957 or 1958 program for a county shall apply to the 1960 program for the county only if recommended by the county committee and approved by the State Committee.

§ 1104.936 Practice 1: Diversion ditches.

(a) *Purpose.* These ditches are for diverting and removing excess water from snow melting in the spring, or from seeps, springs, or other ground water to protected outlets, to protect cropland or potential cropland below.

(b) *Requirements.* In all cases the ditches must be staked by a qualified technician. Capacities will depend on the area draining to each ditch. Diversion ditches must be provided with a proper outlet such as a sodded waterway (see practice 2 (§ 1104.937)). Where diversion ditches are built to protect cropland that is now subject to water erosion, a higher cost-share will be paid.

(c) *Additional recommendations.* Diversion ditches should be constructed on a grade ranging from 0 at the upper end to not in excess of 1 percent at the lower end. Grades should be either uniform or gradually increasing from the upper end. Side slopes normally should not be steeper than 1 foot vertical to 3 feet horizontal.

(d) *Technical responsibility.* Soil Conservation Service.

(e) *Reference.* ACP Practice Guide Sheet for Diversion Ditches.

Maximum Federal cost-share. (1) 70 percent of the cost when constructed to protect cropland.

(2) 50 percent of the cost when constructed to protect other than cropland.

§ 1104.937 Practice 2: Sod waterways.

(a) *Purpose.* Permanent sod waterways dispose of excess water on steep land without causing erosion. The waterway may be either an excavated ditch or a natural drainageway. In either case more than natural runoff is carried in the outlet channel; therefore, protection is needed to avoid the formation of gullies.

(b) *Requirements.* In all cases the outlet channels will be selected by a qualified technician. New channels must be staked and constructed according to lines and grades. Sod must be established. Sod waterways must be seeded long enough in advance to develop a protective cover in the channel before water is diverted into them. Seedings in established permanent sod waterways shall be at a rate of at least 15 pounds per acre and will contain not less than 50 percent of adapted sod-forming perennial grasses with the balance in other grasses. The seeding must be properly fertilized. The minimum application of commercial fertilizer on which cost-sharing is authorized shall, in each case, be determined on the basis of a current soil test or Extension Service recommendations.

(c) *Additional recommendations.* A cereal nurse crop in conjunction with grass seeding should be used where desirable. Sod stripping may be used.

(d) *Technical responsibility.* Soil Conservation Service.

(e) *Reference.* ACP Practice Guide Sheet for Permanent Sod Waterways.

Maximum Federal cost-share. (1) 70 percent of the cost of earth moving, and

(2) 70 percent of the cost of grass seed, or sodding, and the minimum required application of commercial fertilizer.

§ 1104.938 Practice 3: Open drainage systems.

(a) *Purpose.* Drainage systems are one or more drainage ditches for the purpose of removing excess water from agricultural land.

(b) *Requirements.* In all cases the system must be staked by a qualified technician. Cost-sharing is limited to construction or enlargement of permanent ditches and the structural work necessary to the proper functioning of the ditches. No cost-sharing will be allowed for cleaning or maintaining a ditch or for structures installed for crossings or the convenience of the operator. Due consideration shall be given to the maintenance of wildlife habitat.

(c) *Additional recommendations.* Cost-sharing may be authorized for clearing the necessary minimum width right-of-way and, where necessary for the effective operation of the drainage system, for the spreading of spoil banks. Ditching with dynamite is a satisfactory method in very wet areas.

(d) *Technical responsibility.* Soil Conservation Service.

(e) *Reference.* ACP Practice Guide Sheet for Open Drainage Systems.

Maximum Federal cost-share. (1) 50 percent of the cost of necessary land clearing, (2) 50 percent of the cost of earth moving, and (3) 50 percent of the cost of materials used in the permanent structure, excluding forms.

§ 1104.939 Practice 4: Permanent vegetative cover.

(a) *Purpose.* This practice provides for the initial establishment of vegetative cover for soil or watershed protection. Such cover is obtained by seeding adapted varieties of perennial grasses and legumes on areas which will remain in such cover.

(b) *Requirements.* (1) The seed must be adapted to local conditions and must be properly distributed over the area sown. A sufficient amount must be used to insure a good stand at maturity. Seeding on steep slopes must be at a rate of one and one-half times that for normal land conditions. Each county committee will establish seeding rates, mixtures, and varieties in line with Extension Service recommendations for that area. Not over 90 pounds pure live seed per acre of small grains may be used as a nurse crop. Peas or vetch may not be used as a nurse crop. Adequate fertilizer must be applied. The minimum application of commercial fertilizer on which cost-sharing is authorized shall, in each case, be determined on the basis of a current soil test or Extension Service recommendations. Weeds must be controlled to the extent that they will not cause serious damage to the stand.

(2) In Homer and Fairbanks Counties, to assure successful establishment of the vegetative cover, an application of commercial fertilizer must be made at or in connection with the seeding and also in the year subsequent to the seeding. Accordingly, in the approval of this practice, provision shall be made for the needed application of commercial fertilizer on a component basis in addition to that applied at or in connection with the seeding. The application of the additional commercial fertilizer in the following program year will not be required in those cases where the county committee determines by field inspection that such application of commercial fertilizer is not essential to the establishment of the cover. The application of fertilizer shall be at the level recommended by the Extension Service or on the basis of a current soil test. Failure to apply the second application of fertilizer at the proper level, except when determined not necessary, means the practice is not completed and all cost-share payments must be refunded to the Government.

(c) *Additional recommendations.* None.

(d) *Technical responsibility.* County ASC Committee.

(e) *Reference.* Practice Guide Sheet for Permanent Grass Cover.

Maximum Federal cost-share. 50 percent of the cost of seed and the minimum required application of commercial fertilizer.

§ 1104.940 Practice 5: Clearing land.

(a) *Purpose.* This practice is for clearing and breaking, or breaking land

to permit land-use adjustments needed in establishing soil conserving cropping systems. The conservation value of this practice is in getting sufficient cleared land on the farm so that good land management can be carried out on all parts of the farm. Farmers who own 100 acres or more of cleared cultivable land are considered to have adequate cleared land for good land management and are not eligible for this practice.

(b) *Requirements.* Homesteaders must have completed their homestead land-clearing requirements, except in Homer County and in remote areas (areas more than 50 miles from the Alaska rail or highway net). Homesteaders in remote areas must have made a bona fide filing, have built a cabin on the homestead, and have met their first-year residence requirements. Persons who have filed on an allotment under the act of May 17, 1906, are eligible if they have a bona fide filing, have constructed a cabin on the allotment, and have resided on the allotment during at least 4 months of the 12 months preceding the application. In all cases the land to be cleared must be approved by a qualified technician. Methods of clearing which result in destruction of needed organic materials disqualify the clearing for cost-sharing. Removal of mineral soil will be considered evidence of excessive removal of organic material. Needed conservation practices must be applied to land cleared under previous programs in order to qualify an applicant for cost-sharing for additional land clearing, under this program. Clearing areas which will result in increased erosion will not qualify. Windbreaks and uncleared land along streams must be left when, in the opinion of the county committee and Soil Conservation Service technician, such protective cover is necessary to control present or potential erosion. Land cleared under the 1960 program must be broken not later than the end of the following program year.

(c) *Additional recommendations.* The Government will advance the full 50 percent up to \$40 per acre at the time the bulldozing or other heavy clearing operation is completed. The practice is considered substantially completed at this time. The farmer actually earns this payment when he also completes the breaking operation and the land is ready for tillage. Farmers should contact the Bureau of Land Management fire control people before they burn. They should leave adequate firebreaks when clearing and generally clear with the ultimate burning in mind.

(d) *Technical responsibility.* (See § 1104.909(a).)

(e) *Reference.* ACP Practice Guide Sheet for Land Clearing.

Maximum Federal cost-share. 50 percent of the cost, but not in excess of \$40 per acre.

§ 1104.941 Practice 6: Sprinkler irrigation.

(a) *Purpose.* To provide sprinkler irrigation facilities for irrigating permanent vegetable cover for soil protection on rolling land.

(b) *Requirements.* The installation must be in accordance with written plans approved by the Soil Conservation Service technician and the county committee. The power unit must be of capacity adequate to supply uniform distribution. Nozzle openings shall be of a size to hold application rate within intake capacity of soils to be irrigated.

(c) *Additional recommendations.* None.

(d) *Technical responsibility.* Soil Conservation Service.

(e) *Reference.* ACP Practice Guide Sheet for Sprinkler Irrigation.

Maximum Federal cost-share. 50 percent of the cost of pipe and fittings.

§ 1104.942 Practice 7: Livestock wells.

(a) *Purpose.* To construct or deepen wells to provide water for livestock. This will help provide soil protection through the adoption or maintenance of livestock farming systems and increased acreages of permanent vegetative cover.

(b) *Requirements.* Homesteaders are eligible only after they have completed their homestead cultivation requirements. The farmer must show that the well will lead to the establishment or continuance of livestock on the farm. Standards and requirements shall be established by the county committee. Even though the well may be constructed at the headquarters to prevent freezing during the winter months, it is not to be used primarily for household utility. The well and pumping equipment must be large enough to provide the minimum amount of water for the particular livestock enterprise. Adequate storage facilities must be provided and pumping equipment installed except for artesian wells.

(c) *Additional recommendations.* None.

(d) *Technical responsibility.* County ASC Committee.

(e) *Reference.* None.

Maximum Federal cost-share. 50 percent of the cost of constructing or deepening the well, and casing, including installation of the casing.

§ 1104.943 Practice 8: Establishment of a stand of trees or shrubs for purposes other than erosion control.

(a) *Purpose.* The establishment of a stand of trees or shrubs by seeding, planting, or interplanting desirable trees or shrubs, for purposes other than the prevention of wind or water erosion. No Federal cost-sharing will be allowed for planting orchard trees, or for plantings for ornamental purposes.

(b) *Requirements.* Technical assistance shall be utilized as available. The area must be protected from fire and grazing, and should be protected from browsing.

(c) *Additional recommendations.* None.

(d) *Technical responsibility.* Forest Service.

(e) *Reference.* None.

Maximum Federal cost-share. 50 percent of the cost, including land preparation.

§ 1104.944 Practice 9: Improvement of a stand of forest trees.

(a) *Purpose.* The improvement of an existing stand of trees by (1) thinning, (2) pruning crop trees, (3) release of desirable tree seedlings by removing or killing competing and undesirable vegetation, (4) site preparation for natural reseeding, and (5) establishing fire lanes.

(b) *Requirements.* Technical assistance shall be utilized as available. The area must be protected from fire. Where seedlings are present or needed, the area must be protected from grazing, and should be protected from browsing. Federal cost-sharing for site preparation will be limited to areas which have a sufficient number of desirable seed trees for natural reseeding, which will not restock unless brush, dense litter, and other material on the forest soil is broken up or removed so that soil is exposed, and on which the seed trees will be left until the area is restocked.

(c) *Additional recommendations.* None.

(d) *Technical responsibility.* Forest Service.

(e) *Reference.* ACP Practice Guide Sheet.

Maximum Federal cost-share. 50 percent of the cost, including land preparation.

§ 1104.945 Practice 10: Establishment of stands of trees or shrubs for erosion control purposes.

(a) *Purpose.* To prevent wind or water erosion by planting or interplanting forest trees or shrubs on farmland. This practice consists of the planting or interplanting of desirable trees or shrubs for the prevention of wind or water erosion (1) in windbreaks, (2) in shelterbelts, (3) along gullies, and (4) along streambanks, and where desirable, site preparation for natural reseeding.

(b) *Requirements.* Technical assistance shall be utilized as available. The area must be protected from fire. Seedlings must be protected from grazing, and should be protected from browsing. Federal cost-sharing for site preparation will be limited to areas which have a sufficient number of desirable seed trees for natural reseeding, which will not restock unless brush, dense litter, and other material on the soil is broken up or removed so that soil is exposed and on which the seed trees will be left until the area is restocked.

(c) *Additional recommendations.* None.

(d) *Technical responsibility.* Soil Conservation Service.

(e) *Reference.* ACP Practice Guide Sheet.

Maximum Federal cost-share. 70 percent of the cost, including land preparation.

§ 1104.946 Practice 11: Springs or seeps.

(a) *Purpose.* To encourage better grassland management through providing water supplies for livestock and/or grassland irrigation by developing springs or seeps.

(b) *Requirements.* Site selection must be approved by a qualified technician and plans must be approved by the Soil Conservation Service. The spring or developed seep must be protected from livestock. Cutoff walls must be of impervious material. Water developed must be piped to a suitable utilization or storage structure. Appreciable use of this water for other than livestock and/or grassland irrigation shall be considered as defeating the purpose of this practice.

(c) *Additional recommendations.* None.

(d) *Technical responsibility.* Soil Conservation Service.

(e) *Reference.* ACP Practice Guide Sheet for Developing Springs and Seeps.

Maximum Federal cost-share. (1) 50 percent of the cost of excavating earth, rock, and gravel, and

(2) 50 percent of the cost of materials used in the permanent structure, excluding forms.

§ 1104.947 Practice 12: Dams, pits, or ponds.

(a) *Purpose.* To encourage better grassland management by (1) providing water for livestock, and/or (2) providing water for grassland irrigation (see practice 6 (§ 1104.941)) through the construction or sealing of dams, pits, or ponds.

(b) *Requirements.* Design and construction must conform to Soil Conservation Service specifications and be supervised by a qualified technician. Earth fills must be thoroughly compacted and core walls extended to nearly impervious material. Downstream slopes shall be not less than 3 feet horizontal to 1 foot vertical. Upstream slopes shall not be less than 4 feet horizontal to 1 foot vertical. Necessary fencing and seeding or sodding to protect the dam and pond must be accomplished. Dams shall have a spillway capacity adequate to carry off surplus water. The spillway must be designed by a qualified engineer. If used for livestock water, a suitable water trough must be installed with pipe from pond to trough. Appreciable use of this water source for other than livestock or grassland irrigation shall be considered as defeating the purpose of this practice.

(c) *Additional recommendations.* None.

(d) *Technical responsibility.* Soil Conservation Service.

(e) *Reference.* ACP Practice Guide Sheet for Dams and Ponds.

Maximum Federal cost-share. (1) 50 percent of the cost of earth moving, and

(2) 50 percent of the cost of materials used in the permanent structure, excluding forms.

§ 1104.948 Practice 13: Streambank protection, levees, and dikes.

(a) *Purpose.* To prevent streambank erosion or flood damage to farmland by protecting streambanks; clearing, enlarging, or realigning channels; or constructing levees or dikes.

(b) *Requirements.* Plans for each installation must be designed by a qualified technician and approved by the Soil

Conservation Service and county committee. The Soil Conservation Service is responsible for laying out and supervising the installation. This practice shall not be approved in cases where there is a likelihood that it will create an erosion or flood hazard to other adjacent land.

(c) *Additional recommendations.* None.

(d) *Technical responsibility.* Soil Conservation Service.

(e) *Reference.* ACP Practice Guide Sheet for Streambank Protection.

Maximum Federal cost-share. 50 percent of the cost.

§ 1104.949 Practice 14: Weed control.

(a) *Purpose.* To control Canada thistle, perennial sowthistle, and other perennial weeds designated as noxious by the State ACP Development Group, as a necessary step in soil and water conservation.

(b) *Requirements.* Costs will be shared for the control of designated weeds when it is a necessary step in the establishment or improvement of permanent vegetative cover, and for the control of designated weeds on cropland where failure to control the designated weeds will make the cropland unsuited for crop production. Costs will also be shared for the control of designated weeds on land other than cropland or pasture where this is essential to prevent infestation or reinfestation of cropland or pastureland on the farm. This practice is limited to areas where the State ACP Development Group determines, with the approval of the Administrator, ACPS, that weed control measures in the infested area will be carried out on an organized basis which will minimize the probability of reinfestation. The county committee will establish specifications based on the latest research findings that will insure effective control. They will include such requirements and safety measure as the State ACP Development Group determines necessary for an effective program of control and to insure the sound investment of public funds. Prior inspection of the area by the county committee will be required to determine eligibility and the portion of the total cost of the measures attributable for the control of the designated weeds. Cost-sharing will be limited to those measures which are in addition to farming or treatment measures normally required to produce a crop.

(c) *Additional recommendations.* None.

(d) *Technical responsibility.* County ASC Committee.

Maximum Federal cost-share. 50 percent of the cost of approved materials, labor, and the use of equipment required for control measures.

Done at Washington, D.C., this 5th day of October 1959.

E. L. PETERSON,
Assistant Secretary.

[F.R. Doc. 59-8450; Filed, Oct. 7, 1959; 8:47 a.m.]

[ACP—1959—Hawaii, Supp. 1]

PART 1105—AGRICULTURAL
CONSERVATION; HAWAII

Subpart—1959

INCREASE IN SMALL FEDERAL COST-SHARES;
CONSTRUCTION OF PERMANENT FENCES

Pursuant to the authority vested in the Secretary of Agriculture under sections 7-17 of the Soil Conservation and Domestic Allotment Act, as amended, and the Department of Agriculture and Farm Credit Administration Appropriation Act, 1959, the 1959 Agricultural Conservation Program for Hawaii, approved September 3, 1958 (23 F.R. 6860), is amended as follows:

1. In § 1105.818, the item "\$60 to \$60.99—\$14.00" in the schedule in paragraph (c) is corrected to read "\$60 to \$185.99—\$14.00."

2. The following sentence is added to the practice wording of § 1105.855, immediately preceding the last sentence: "Permanent electric fences of acceptable quality are eligible."

(Sec. 4, 49 Stat. 164; 16 U.S.C. 590d. Interpret or apply secs. 7-17, 49 Stat. 1148, as amended, 72 Stat. 192; 16 U.S.C. 590g-590q)

Done at Washington, D.C., this 5th day of October 1959.

E. L. PETERSON,
Assistant Secretary.

[F.R. Doc. 59-8451; Filed, Oct. 7, 1959;
8:47 a.m.]

Title 15—COMMERCE AND
FOREIGN TRADEChapter III—Bureau of Foreign Commerce,
Department of Commerce

SUBCHAPTER B—EXPORT REGULATIONS

[9th Gen. Rev. of Export Reg., Amdt. 23¹]

PART 371—GENERAL LICENSES

PART 373—LICENSING POLICIES AND
RELATED SPECIAL PROVISIONS

PART 374—PROJECT LICENSES

PART 385—EXPORTATIONS OF
TECHNICAL DATA

§ 371.51 [Amendment]

1. Section 371.51 *Supplement 1; Commodities subject to General License GHK or GLSA* is amended as follows:

a. The following entry is deleted:

Commodity	Schedule B No.	Symbol
Motion-picture films, exposed, or exposed and developed, except 35 mm and over negative motion-picture feature films, 4,000 linear feet or over (91215); and 35 mm and over, short subject, negative, less than 4,000 linear feet (91245)	91211-91245	H

¹ This amendment was published in Current Export Bulletin 821, dated September 24, 1959.

b. The following entries are added:

Commodity	Schedule B No.	Symbol
Motion-picture film, positive or negative, exposed but not developed, except negative film 35 mm or over (schedule B Nos. 91215 and 91245) ¹	91211-91245	H
Motion-picture film, positive or negative, developed ¹	91211-91245	H S

¹ Motion-picture film containing technical data, as defined in § 385.1 of this chapter, is not exportable under General Licenses GHK or GLSA unless the technical data is exportable to Hong Kong or Macao under either General Licenses GTDP, GTDU, or GTDS, or to a Subgroup A country under General Licenses GTDP or GTDS.

§ 371.52 [Amendment]

2. Section 371.52 *Supplement 2; Commodities destined to Poland (including Danzig) which are excepted from General License GRO* is amended by adding the following commodities:

Schedule B No.	Commodity
61944	Metal manufactures: Cobalt alloy welding rods, wires and electrodes (including brazing rods) ¹
61957	Cobalt alloy metal powder ¹
61995	Cobalt alloy metal foil ¹
	Other nonferrous ores, concentrates, scrap and semifabricated forms (except precious):
66429	Cobalt alloy metal in crude forms.
66429	Cobalt alloy scrap and residues. (See § 399.2 of this chapter, Interpretations 10 and 12.)
66431	Cobalt alloy metal in semifabricated forms, n.e.c.
	Chemical specialties:
82999	Combustion catalysts containing cobalt. ¹
	Industrial chemicals (exclusive of medicinal chemicals, U.S.P. and N.F.):
83979	Cobalt salts of organic compounds. ¹
83990	Cobalt compounds, n.e.c. ¹

¹ For other items under this Schedule B number which require a validated license for shipments to Poland (including Danzig) see the Positive List (§ 399.1).

§ 373.2 [Amendment]

3. Section 373.2 *Confirmation of country of ultimate destination and verification of actual delivery*, paragraph (d) *Submission of Import Certificate*, subparagraph (2) *Multiple transactions Import Certificate* is amended to read as follows:

(2) *Multiple transactions Import Certificates*. (i) Instead of a single transaction Import Certificate, the applicant may submit a multiple transactions Import Certificate.² A multiple transactions Import Certificate is an officially authenticated original of an Import Certificate which covers more than one proposed transaction.

(ii) In those instances where the multiple transactions Import Certificate does not specify either the validity period or the amount of the commodities (in terms of either quantity or value), applications for licenses related to this Import Certificate may be submitted to the Bureau of Foreign Commerce as follows:

(a) If the Import Certificate does not specify the amount of the commodities (in terms of either quantity or value) and, in addition, does not specify the validity period, applications may be submitted only within 12 months from the issuance date of the Import Certificate.

² For Hong Kong, see § 373.2(c).

(b) If the Import Certificate does not specify the amount of the commodities (in terms of either quantity or value) but does specify the validity period, applications may be submitted any time within the indicated validity period.

(c) If the Import Certificate does specify the amount of the commodities (in terms of either quantity or value) but does not specify the validity period, applications may be submitted until such time as the amount of the commodities is exhausted.

(iii) Where an Import Certificate specifies the amount of the commodities (in terms of either quantity or value), all export licenses, including a commodity shown on the export license in a value of less than \$500, will be charged against the amount of the commodities shown on the Import Certificate.

(iv) The applicant shall attach to the first license application covered by the multiple transactions Import Certificate, the original Import Certificate,² bearing the official authentication of governmental authorities in the importing country. On each subsequent application for export license submitted against the multiple transactions Import Certificate, one of the following certifications (depending on whether a quantity or value is shown on the Import Certificate) signed by the applicant, shall be inserted on the application in the space entitled "Additional Information" or on an attachment thereto:

If quantity or value is shown on the certificate:

I (We) certify that the quantities (values) of commodities shown on all export licenses based on the (-----) Import

(Name of country)
Certificate) or (Hong Kong Import License) Number -----, when added to the quantities (values) shown on all additional applications pending in the Bureau of Foreign Commerce based on the same Import Certificate, including the present application, do not total more than the quantities (values) shown on that Import Certificate. This Import Certificate was submitted in support of application number -----

(BFC case No. or if BFC case No. is unknown the applicant's reference No., date of submission of the application to which the Import Certificate or Hong Kong Import License was attached and Schedule B Nos. and processing codes shown on that application)

Or if the amount of commodities in terms of quantity or value is not shown on the certificate:

I (We) certify that this application is supported by the multiple transactions (-----) Import Certificate)

(Name of country)
or (Hong Kong Import License) Number -----, which was submitted in support of application No. -----

(BFC case No. or if BFC case No. is unknown the applicant's reference No., date of submission of the application to which the Import Certificate or Import License was attached, and Schedule B Nos. and processing codes shown on that application)

NOTE: See Notes 1 and 2 following § 373.2 (d) (1) (i):

² For Hong Kong, see § 373.2(c).

4. Section 374.1 *Project licenses* is amended to read as follows:

§ 374.1 *Project licenses.*

This part establishes a procedure for obtaining a project license which, if issued, authorizes exportations of commodities (and technical data related to the project when specifically authorized), as set forth in § 374.2, for use in specified activities abroad for a period of approximately one year from issuance of the license.

5. Section 374.2 *Commodities subject to project license* is amended to read as follows:

§ 374.2 *Commodities and technical data subject to project license.*

The project licensing procedure is applicable to all Positive List commodities except complete aircraft, either assembled or knocked down,² and technical data which require a validated license for export. Except as set forth in § 374.9(e), this licensing procedure may not be used to export commodities or technical data exportable from the United States under a general license.

§ 374.4 [Amendment]

6. Section 374.4 *Application procedure*, paragraph (b) *Preparation of documents*, subparagraphs (2), (3) and (4) are amended to read as follows:

(2) *Form FC-419, Application for Export License.* Form FC-419, Application for Export License, shall be prepared and submitted in accordance with instructions contained in § 372.5 of this chapter, with the following specific modifications:

(i) Where there is more than one ultimate consignee, enter in the "ultimate consignee in foreign country" space of Form FC-419 "See attached list" and submit the list in duplicate. In listing the ultimate consignees, the country of ultimate destination (alphabetically arranged) shall be listed first with the name(s) of the ultimate consignee(s) (alphabetically arranged) following. The example below illustrates the manner in which ultimate consignees shall be listed:

Dominican Republic: Central Corp., Development Corp.
Mexico: Consolidated Copper; Fairway Limited.

(ii) In the commodity description space enter the following statements:

Articles and materials set forth on the attached statement of estimated requirements constitute the known requirements of commodities (and technical data) requiring validated licenses for the _____

(Insert name of program or project)

I (We) hereby certify that if a license is granted in response to this application, (a) no commodities (or technical data)¹ will be exported under the license unless specifically required for the (program) (project) and (b) after exportation, the commodities (and

² Applicants who propose to export a complete aircraft, either assembled or knocked down, must apply for an individual validated license for the aircraft. However, a project license may be used, where applicable, to export related parts, accessories, or components for the aircraft.

technical data)¹ will not be disposed of or used for any purpose other than that stated in this application.

¹ Delete if inapplicable.

(3) *Statement by ultimate consignee in support of project license application*—(i) *General.* The applicant shall furnish Form FC-988, Statement by Ultimate Consignee in Support of Project License Application, ⁴ from each ultimate consignee named in the license application.

(ii) *Exemption.* Form FC-988 is not required from the ultimate consignee where the license applicant is the same person as the ultimate consignee in the country of destination. This exemption does not apply where the applicant and the consignee are separate entities such as parent and subsidiary, or affiliated or associated firms.

(iii) *Signature.* Form FC-988 shall be manually signed by the ultimate consignee (the person abroad who is actually to receive the material for the project), or by a responsible official of the ultimate consignee who has personal knowledge of the information included in the statement, who has authority to bind the ultimate consignee, and who has the power and authority to control the use and disposition of the licensed commodities and technical data in the country of ultimate destination. The authority to sign this document may not be delegated to any person (agent, employee, or other) whose authority to sign is not inherent in his official position with the ultimate consignee. The official signing the statement shall include his official title with his signature.

(4) *Statement of estimated requirements*—(i) *Commodities.* The statement, submitted in duplicate, shall specify the estimated requirements for commodities requiring a validated license (including shipments which are exportable under General License GLV but which the licensee prefers to ship under the project license) which are expected to be exported during the first year validity period. If the commodities are for use in a project representing a capital expansion, an additional statement, in duplicate, shall be included covering the estimated requirements of commodities requiring a validated license which are expected to be exported during the period required for the full completion of the project. The statement shall be made in terms of broad descriptive categories corresponding with the unnumbered commodity subgroup headings which appear on the Positive List under the main commodity group headings. For each such commodity entry show the total value of expected exports requiring a validated license with subtotals for exports to country group R and country group O and the grand totals for all exports to group R and O

⁴ Form FC-988 may be obtained at all Department of Commerce field offices and from the Bureau of Foreign Commerce, Department of Commerce, Washington 25, D.C.

⁵ Where technical data related to the project is proposed for export, the words "and technical data" shall be inserted on Form FC-988 in items 3 and 5 following the word "commodities."

countries. The following example illustrates the manner in which these entries should be made on the statement:

Example:

POSITIVE LIST REQUIREMENTS FOR FIRST YEAR

Commodity group	Country Group R	Country Group O	Subtotal
Group 2: Rubber (natural allied gums and synthetics) and manufactures.....	\$7,000	\$3,000	\$10,000
Group 5: Petroleum and products.....	50,000	20,000	70,000
Glass and products.....	30,000	15,000	45,000
Clay and products.....	40,000	15,000	55,000
Group 6: Metal manufactures.....	150,000	75,000	225,000
Group 7: Electrical machinery and apparatus.....	70,000	40,000	110,000
Power generating machinery, n.e.c.....	50,000	20,000	70,000
Metal working machine tools.....	80,000	40,000	120,000
Grand totals.....	477,000	228,000	705,000

NOTE: If the application is approved and a project license issued, these estimates constitute a limitation only as to the grand total dollar value of all exports to be made under the license. A license amendment is not necessary to increase the dollar value of any group of commodities, or to export commodities not listed on the approved statement of estimated requirements. For example, in the above illustration, an amendment is necessary only if the grand total value of shipments of R and O Positive List commodities is to exceed \$705,000.

(ii) *Technical data.* Where technical data related to a project is proposed for export the following information shall accompany the statement of estimated commodity requirements:

(a) A detailed description of the subject matter or substance of the technical data and its relationship to the project;

(b) Processes involved, if any; and

(c) The form in which the information will be furnished to the foreign consignee (e.g., blueprints, specifications, technical aid contracts, manufacturing agreements, patent licensing arrangements, instructional or training material, training in the United States or abroad of foreign personnel, supervision or operation abroad by United States personnel, or any other form of communication).

§ 374.5 [Amendment]

7. Section 374.5 *Action by Bureau of Foreign Commerce on license applications*, paragraph (a) *Approved license application* is amended to read as follows:

(a) *Approved license application*—(1) *Issuance of license.* When an application for a project license is approved by the Bureau of Foreign Commerce, an export license is issued on a separate document (Form FC-628) authorizing, subject to provisions of the export regulations and to the terms and provisions of the license, the exportation of Positive List commodities (and technical data where specifically authorized) during the validity period shown on the license. A project license shall be used for exportations of Positive List commodities (and certain technical data where authorized) only. The project license will be similar to validated license documents described in § 372.11 of this chapter with the following exceptions:

(i) *Validation.* The license will be validated in the license number space with a stamp which includes a facsimile

of the Department of Commerce seal and a series of numbers which identifies the date on which the license was validated. The stamp will include the letter "D" and a series of numbers to indicate the year, month, and day on which the license was validated. A validation stamp in this space which reads "D-9-110" indicates that the license was validated in the year 195(9) in the month of January (1) and on the 10th day of the month (10).

(ii) *License number.* Immediately below the validation stamp the license number assigned to the project will be indicated. This license number will be a four-digit number prefixed by the letters DL and suffixed by a one letter code indicating the Bureau of Foreign Commerce product division to which the project was assigned. (See § 374.4(b) (1).)

(iii) *Entries.* Entries will be made on the license document in the appropriate space but there will be no specific description of quantities, kinds, or values of commodities and technical data. Instead, there will appear in the commodity description item on the license one of the following legends:

PROJECT LICENSE STATEMENT

If commodities only: This license authorizes exportation of commodities requiring a validated license subject to the specific limitations set forth in the export regulations and on this license.

If commodities and technical data: This license authorizes exportation of commodities and technical data requiring a validated license subject to the specific limitations set forth in the export regulations and on this license.

If any special conditions are imposed with respect to the use of a specific project license more restrictive than the general conditions set forth in the export regulations, these conditions will be set forth on the license document at the time of issuance, or the licensee will be advised by other means.

(2) *Notification to Collectors of Customs.* The Bureau of Foreign Commerce will notify all Collectors of Customs of the issuance of the project license.

8. Section 374. *Extensions and amendments to project licenses* is amended to read as follows:

§ 374.7 *Extensions and amendments to project licenses.*

(a) *Extension—(1) General.* Upon receipt of a request for extension of a project license, an analysis of the past activity and nature of the project covered in the request is made by the Bureau of Foreign Commerce to determine whether an extension beyond the present expiration date is warranted. Therefore, an applicant prior to requesting an extension should examine his records as to whether the criteria described in § 374.3(a) were met during the validity period of the project license. Where the criteria were not met, the applicant is advised to file an individual license application or other appropriate license application.

(2) *Submission of request, Form FC-957.* Requests for extension of the expiration date on a project license shall be submitted on Form FC-957 (Rev. May 1958), Application for and Notice of Ex-

ension of Project License,⁶ in triplicate. In accordance with the provisions of § 374.4(b) (3), Form FC-988, Statement by Ultimate Consignee in Support of Project License Application, for each ultimate consignee named on the request for extension (Form FC-957) shall either accompany the request for extension or have been submitted previously to the Bureau of Foreign Commerce.

(3) *Time of submission.* In order to permit shipments to move without interruption, Form FC-957, Application for and Notice of Extension of Project License, shall be submitted within 60 days prior to the expiration date of the license but not earlier than 90 days prior to the expiration date.

(4) *Information required.* All numbered items shown on Form FC-957 must be completely filled in on all copies in accordance with the instructions described below. Where the answer to any item is "none", indicate "none" in the appropriate space. If more space is needed for the completion of any item attach an additional sheet. Write on each sheet the project license number to which the application for extension applies and also indicate the item number to which the answer applies.

Item 1—Enter the name and address of present project license holder.

Item 2—Enter the project license number assigned by the Bureau of Foreign Commerce.

Item 3—Enter the current expiration date of the project license or expiration date of the current approved extension.

Item 4—Enter the date of this application.

Item 5—Enter the new date of expiration which is being requested. This should be the date after which no further shipments are expected to be made under this license, or one year from current expiration date, whichever is earlier.

Item 6—Enter the name and address of intermediate consignee(s) presently approved on project license.

Item 7—Enter the name and address of ultimate consignee(s) presently approved on project license.¹

Item 8—Enter the name and address of intermediate consignee(s) not presently approved on the project license.

Item 9—Enter the name and address of ultimate consignee(s) not presently approved on the project license.¹

Item 10—Enter the name and address of intermediate consignee(s) presently approved on the project license who will be deleted.

Item 11—Enter the name and address of ultimate consignee(s) presently approved on the project license who will be deleted.¹

Item 12—Enter in this space a brief description of the type of project, e.g., whether it is the construction of a specific installation; whether the items to be exported are to be used for the continued maintenance, repair, and operation of the installation, etc. For a construction type project, indicate the extent of completion and estimated completion date. Include also a concise justification for the continued use of this license.

¹ See § 374.4(b) (2) (1) relative to the manner in which ultimate consignees should be listed.

⁶ Form FC-957 may be obtained at all Department of Commerce field offices and from the Bureau of Foreign Commerce, Department of Commerce, Washington 25, D.C.

Item 13a—List the Positive List commodities to be exported during the period covered by this request. (This period would begin the day following the date shown in Item 3 and end on the date shown in Item 5.) The Positive List commodities shall be listed in terms of broad descriptive categories corresponding with the unnumbered commodity subgroup headings which appear on the Positive List. It is essential that the total for each subgroup heading include only Positive List commodities which require a validated license.

Item 13b—List the total value of each commodity category shown in Item 13a to be exported to Group "R" destinations.

Item 13c—List the total value of each commodity category shown in Item 13a to be exported to Group "O" destinations.

Item 13d—List the sub-totals for exports to Group R and O destinations.

Item 13e—List the grand totals for all exports to Group R and O destinations for each commodity category.

Where technical data related to the project is proposed for export, the Form FC-957 shall be accompanied by the information required by § 374.4(b) (4) (ii). This information may be entered on the Form FC-957 following the listing of commodities or on an attachment thereto. In addition, if not previously submitted, the request shall be accompanied by the certification set forth in § 374.7(b) (1) and a Form FC-988, "Statement by Ultimate Consignee in Support of Project License Application", from each ultimate consignee who will receive the data. (See § 374.4(b) (3).)

Item 14—The application must be signed by the applicant or his agent.

(5) *Statements regarding new consignees.* Where a new ultimate consignee is to be added, Form FC-957 shall be accompanied by a statement from the new ultimate consignee (see § 374.4(b) (3)), as well as a statement from the U.S. exporter setting forth the information required by § 374.4(b) (5) (iii).

(b) *All other amendments—(1) Amendments required.* (i) Requests for amendments to project licenses for purposes of adding an intermediate consignee, ultimate consignee, etc., shall be submitted to the Bureau of Foreign Commerce on Form IT- or FC-763, Request for and Notice of Amendment Action, in accordance with the provisions of § 380.2 of this chapter. However, if the request for amendment is made together with a request for extension of the validity period of a project license, the request for amendment may be included on Form FC-957 (see paragraph (a) of this section). In preparing Form IT- or FC-763, the "License Has Been or Will Be, Deposited With" space shall not be completed by the applicant. Where a new ultimate consignee is proposed for addition, Form IT- or FC-763 shall be accompanied by a statement from the new ultimate consignee as described in § 374.4(b) (3) and by a statement from the U.S. exporter setting forth the information required by § 374.4(b) (5) (iii).

(ii) Where an amendment request is submitted for the purpose of adding technical data, the Form IT- or FC-763 shall include the certification set forth below and shall be accompanied by the information required by § 374.4(b) (4) (ii). In addition, a Form FC-988,

"Statement by Ultimate Consignee in Support of Project License" from each ultimate consignee who will receive the data shall accompany the amendment request as described in § 374.4(b) (3).

I (We) certify that if the request for amendment of project license No. _____ is granted, the technical data will be used only in connection with the (program) (project) and after exportation will not be disposed of or used for any other purpose than that stated in this request.

(2) *Amendments not required.* No amendment is required to add a commodity group or change the total value of a single commodity group in the statement of estimated requirements unless the grand total value of the Positive List shipments shown in the statement will be exceeded. (See Note following § 374.4 (b) (4).)

NOTE: For transfer of project license see § 380.1(c) of this chapter.

§ 374.9 [Amendment]

9. Section 374.9 *Export clearance*, paragraph (e) *Shipments exportable under General License GLV* is amended to read as follows:

(e) *Shipments exportable under General License GLV.* Notwithstanding any statement appearing on a project license, a project license holder may use either his project license or General License GLV to export Positive List commodities which meet the provisions of General License GLV. The project license, however, may not be used for shipments which can be made under General License GRO or GO.

10. Section 374.10 *Reexportation* is amended to read as follows:

§ 374.10 *Reexportation.*

Commodities and technical data exported under a project license may be reexported between ultimate consignees covered by the terms of the project license without the necessity of obtaining specific approval from the Bureau of Foreign Commerce.

§ 385.3 [Amendment]

11. Section 385.3 *Security provisions for certain types of technical data*, paragraph (c) *Substance* is amended to read as follows:

(c) *Substance.* (1) Before completing arrangements to export or release for use in any friendly foreign country any unpublished technical data included in the scope of the security provisions, an exporter should request an official opinion from the United States Government, through the Bureau of Foreign Commerce, as to the desirability of exporting or releasing the technical data. A request for official opinion from the United States Government shall be submitted by letter, in duplicate, to the Department of Commerce, Bureau of Foreign Commerce, Reference FC-2620, Washington 25, D.C. Information included in this request will be treated in confidence so that competitive relationships will not be disturbed.

(2) The request shall set forth all the necessary facts required to present to the Bureau of Foreign Commerce a complete

disclosure of the relationships existing between the applicant and the consignee and an adequate description of the type of technical data to be exported. The request should present a composite picture of the kind and types of technical data, the uses for which and by whom such data will be employed, identification of all parties to the transaction, and specifications of the conditions or agreements relative thereto.

(3) As a minimum, the letter should include the following information:

(i) A detailed itemization of the technical data to be exported, including a detailed description of the nature of the specific technical data, processes involved, if any, and whether new installations, developments or projects are concerned.

(ii) A list of names and addresses of the firms in foreign countries who will use or see the technical data.

(iii) Whether the technical data will be used abroad in the production of any material or product that is to be exported from the country of ultimate destination, and if so, name of the country (ies) to which the material or product is to be exported, and if possible, the estimated quantities of each material or product.

(iv) Whether the technical information is required for the national defense, public health, or safety of the country of destination. If the technical data are to be used in a project sponsored by the United States Government, it should be so indicated.

(v) The form in which the information will be furnished to the foreign consignee (e.g., blue prints, specifications, technical aid contracts, manufacturing agreements, patent licensing arrangements, instructional or training material, training in the United States or abroad of foreign personnel, supervision or operation abroad by United States personnel, or any other form of communication).

(Sec. 3, 63 Stat. 7; 50 U.S.C. App. 2023. E.O. 9630, 10 F.R. 12245, 3 CFR, 1945 Supp., E.O. 9919, 13 F.R. 59, 3 CFR, 1948 Supp.)

This amendment shall become effective as of September 24, 1959, except as to item 3, concerning § 373.2, which shall become effective October 26, 1959.

LORING K. MACY,
Director,

Bureau of Foreign Commerce.

[F.R. Doc. 59-8460; Filed, Oct. 7, 1959; 8:49 a.m.]

[9th Gen. Rev. of Export Reg., Amtd. P.L. 16¹]

PART 399—POSITIVE LIST OF COMMODITIES AND RELATED MATTERS

Section 399.1 *Appendix A—Positive List of Commodities* is amended in the following particulars:

1. The following commodities are deleted from the Positive List:

Dept. of Commerce Schedule B No.	Commodity description
82999	Chemical specialty compounds, n.e.c.: Combustion catalysts containing cobalt. Metal salts of organic compounds, except paint and varnish driers:
83979	Cobalt salts of organic compounds.

This item of the amendment shall become effective as of September 24, 1959.

2. The following entries set forth below are substituted for entries presently on the Positive List. Where the Positive List contains more than one entry under a Schedule B number, the entry to be superseded is identified by a numerical reference in parentheses following the commodity description in the revised entry:

Dept. of Commerce Schedule B No.	Commodity description	Unit	Processing code and related commodity group	GLV dollar value limits	Val-dated license re-quired	Com-modity lists
61944	Welding rods and wires, including brazing rods: Cobalt metal welding rods, wires and electrodes (including brazing rods). (1) ¹⁷	Lb.	MINL 5	100	RO	A
61944	Cobalt alloy welding rods, wires and electrodes (including brazing rods), special types only. (1) ^{14 17 18}	Lb.	MINL 5	100	RO	A
61987	Metal powders, n.e.c.: Cobalt metal powder. (2) ¹¹	Lb.	MINL 5	100	RO	A
61987	Cobalt alloy metal powder, special types only. (2) ^{14 17 18}	Lb.	MINL 5	100	RO	A
	Metal manufactures, n.e.c., and parts, n.e.c.: Metal manufactures, n.e.c., and parts, n.e.c. except iron and steel and except precious metals:					
61995	Cobalt metal foil. (2) ¹⁷	Lb.	MINL 5	100	RO	A
61995	Cobalt alloy metal foil, special types only. (2) ^{14 17 18}	Lb.	MINL 5	100	RO	A
66429	Cobalt ores and concentrates (including red and white alloys). (2) ¹²	Lb.	MINL 5	100	RO	A
66429	Cobalt-metal in crude forms. (2) ¹⁰	Lb.	MINL 5	100	RO	A
66429	Cobalt alloy metal in crude forms, special types only. (2) ^{14 18 19}	Lb.	MINL 5	100	RO	A
66429	Cobalt metal scrap and residues. (See § 399.2, Interpretations 10 and 12.) (3) ¹²	Lb.	MINL 5	100	RO	A
66429	Cobalt alloy scrap and residues, special types only. (See § 399.2, Interpretations 10 and 12.) (3) ^{14 18 19}	Lb.	MINL 5	100	RO	A
66429	Alloy steel scrap containing 5% or more cobalt by weight. (See § 399.2, Interpretations 10 and 12.) (3) ^{12 19}	Lb.	STEE 1	100	RO	A
66431	Cobalt metal in semifabricated forms, n.e.c. (Specify by name.) ¹⁷	Lb.	MINL 5	100	RO	A
66431	Cobalt alloy metal in semifabricated forms, n.e.c., special types only. (Specify by name.) ^{14 17 18}	Lb.	MINL 5	100	RO	A

See footnotes at end of table.

¹ This amendment was published in Current Export Bulletin 821, dated September 24, 1959.

Dept. of Commerce Schedule B No.	Commodity description	Unit	Processing code and related commodity group	GLV dollar value limits	Validated license required	Commodity lists
70374	Metal manufactures, n.e.c., and parts, n.e.c.—Con. Metal manufactures, n.e.c., and parts, n.e.c. except iron and steel and except precious metals—Con. Waveform measuring, analyzing and/or testing instruments, except optical. (Specify by name.) Report spectrum analyzers, optical type in 91920. Other waveform measuring, analyzing and/or testing instruments operating at frequencies over 300 megacycles. (Specify by name and model number.) (3) ¹²	No.	ELME 3	100	RO	A
70356	Electronic equipment, n.e.c., and parts: Resistors: Linear potentiometers or variable resistors having a rated linearity of 0.1 percent or less. (1) ¹²	No.	RARA 1	100	RO	A
70356	Non-linear potentiometers or variable resistors having a rated conformity of 1 percent or less. (2) ¹²	No.	RARA 1	100	RO	A
70356	Resistors, fixed or variable, designed to operate over the range of ambient temperatures from below minus 45° C., to above plus 100° C., or at ambient temperatures of 200° C. or higher. (3) ¹²	No.	RARA 1	100	RO	A
70921	Starting, lighting and ignition equipment, n.e.c., aircraft type, and specially fabricated parts and accessories, n.e.c. ¹	No.	TRAN 2	500	RO	E
82593	Synthetic resin film and sheeting, except laminated, and except scrap (including printed, embossed, planished, or otherwise treated surface).	Lb.	RESN 2	100	RO	E
83930	Industrial chemicals, n.e.c.: Cobalt carbonate, cobalt hydroxides, cobalt oxalate, cobalt oxides, cobalt sulfide, cobalt phosphide. (2) ¹⁴	Lb.	SALT 1	100	RO	A
91050	Research laboratory apparatus and equipment, n.e.c., and specially fabricated parts and accessories, n.e.c.: Mass spectrometers; mass spectrographs; and specially fabricated parts and accessories, n.e.c. (2) ¹⁴	No.	SATE 1	25	RO	A

¹ The GLV dollar-value limit is increased.

² The processing code is changed or related commodity group number is changed (see § 372.5(f) of this chapter).

³ The destination control is changed from R to RO, effective October 1, 1959.

¹² The commodity description is revised without change in commodity coverage.

¹⁴ The commodity coverage is decreased.

¹⁷ Two entries are substituted for one presently on the Positive List under this Schedule B number.

¹⁸ For export control purposes, "special types" of cobalt alloy include alloys containing any of the following: (a) 50 percent or more cobalt; or (b) 19 percent or more cobalt and 14 percent or more chromium and less than 1 percent carbon; or (c) 19 percent or more cobalt and 14 percent or more chromium and 3 percent or more molybdenum.

¹⁴ Three entries are substituted for one presently on the Positive List under this Schedule B number.

This item of the amendment shall become effective as of September 24, 1959, except as otherwise indicated in the footnotes.

Shipments of any commodities removed from general license to Country Group O destinations as a result of changes set forth in item 2 above which were on dock for lading, on lighter, laden aboard an exporting carrier, or in transit to a port of exit pursuant to actual orders for export prior to 12:01 a.m., October 1, 1959, may be exported under the previous general license provisions up to and including October 26, 1959. Any such shipment not laden aboard the exporting carrier on or before October 26, 1959 requires a validated license for export.

(Sec. 3, 63 Stat. 7; 50 U.S.C. App. 2023. E.O. 9630, 10 F.R. 12245, 3 CFR, 1945 Supp., E.O. 9919, 13 F.R. 59, 3 CFR, 1948 Supp.)

LORING K. MACY,
Director,

Bureau of Foreign Commerce.

[F.R. Doc. 59-8461; Filed Oct. 7, 1959; 8:49 a.m.]

Title 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

Chapter I—Veterans Administration PART 1—GENERAL PROVISIONS

Release of Information From Veterans Administration Records

1. In § 1.500, paragraph (a) is amended and paragraph (b) is added to read as follows:

§ 1.500 General.

(a) Files, records, reports, and other papers and documents pertaining to any claim filed with the Veterans Administration, whether pending or adjudicated, will be deemed confidential and privileged, and no disclosure therefrom will be made except in the circumstances and under the conditions set forth in §§ 1.501 through 1.526.

(b) A claimant may not have access to or custody of official Veterans Administration records concerning himself nor

may a claimant inspect records concerning himself. Disclosure of information from Veterans Administration records to a claimant or his duly authorized agent or representative may be made, however, under the provisions of §§ 1.501 through 1.526.

2. Section 1.525(a) is amended to read as follows:

§ 1.525 Inspection of records by or disclosure of information to recognized representatives of organizations.

(a) (1) The accredited representatives of any of the organizations recognized under 38 U.S.C. 3402 holding appropriate power of attorney may, subject to the restrictions imposed by subparagraph (2) of this paragraph inspect the claims and allied folders of any claimant upon the condition that only such information contained therein as may be properly disclosed under §§ 1.500 through 1.526 will be disclosed by him to the claimant or, if the claimant is incompetent, to his legally constituted fiduciary. All other information in the file shall be treated as confidential and will be used only in determining the status of the cases inspected or in connection with the presentation to officials of the Veterans Administration of the claim of the claimant. The managers of field stations and the directors of the services concerned in central office will each designate a responsible officer to whom requests for all files must be made, except that managers of district offices and centers with district office activities will designate two responsible officials, recommended by the service directors concerned, one responsible for claims and allied folders and the other for insurance files.

(2) In the case of a living veteran a representative acting under a power of attorney from any person not acting on behalf of the veteran will not be permitted to review the records of the veteran or be furnished any information therefrom to which the person is not entitled, i.e., information not relating to such person alone. Powers of attorney submitted by the other person will be considered "limited" and will be so noted when associated with the veteran's records.

(3) When power of attorney does not obtain, the accredited representative will explain to the designated officer of the Veterans Administration the reason for requesting information from the file, and the information will be made available only when in the opinion of the designated officer it is justified; in no circumstances will such representatives be allowed to inspect the file; in such cases a contact report will be made out and attached to the case, outlining the reasons which justify the verbal or written release of the information to the accredited representative. In any case where there is an unrevoked power of

attorney, no persons or organizations other than the one named in the power of attorney shall be afforded information from the file; and when any claimant has filed notice with the Veterans Administration that he does not want his file inspected, such file will not be made available for inspection.

(72 Stat. 1114; 38 U.S.C. 210)

These regulations are effective October 8, 1959.

[SEAL] ROBERT J. LAMPHERE,
Associate Deputy Administrator.

[F.R. Doc. 59-8481; Filed, Oct. 7, 1959; 8:52 a.m.]

Title 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 2002]

[81767]

UTAH

Revoking in Whole or in Part Certain Executive and Departmental Orders Affecting the Uintah and Ouray Indian Reservation

By virtue of the authority vested in the President by section 1 of the act of June 25, 1910 (36 Stat. 847; 43 U.S.C. 141), the act of March 3, 1905 (33 Stat. 1048, 1070), and pursuant to Executive Order No. 10355 of May 26, 1952, and as Secretary of the Interior, it is ordered as follows:

1. The departmental order of January 16, 1908, which withdrew the following-described lands for Indian cemetery purposes is hereby revoked:

UINTAH SPECIAL MERIDIAN

T. 1 N., R. 1 W.,
Sec. 26, E $\frac{1}{2}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$, and SW $\frac{1}{4}$ SE $\frac{1}{4}$.

Totalling 160 acres.

2. The Executive order of May 11, 1915, which established Phosphate Reserve No. 24, Utah No. 3, is hereby revoked so far as it affects the following-described lands:

UINTAH SPECIAL MERIDIAN

T. 1 N., R. 6 W.,
Sec. 20, N $\frac{1}{2}$ NE $\frac{1}{4}$;
Sec. 21, N $\frac{1}{2}$ N $\frac{1}{2}$.

T. 1 N., R. 7 W.,
Sec. 19, lot 1.

T. 1 N., R. 8 W.,
Sec. 20, E $\frac{1}{2}$ SE $\frac{1}{4}$;
Secs. 21 and 22;
Sec. 23, E $\frac{1}{2}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, W $\frac{1}{2}$ NW $\frac{1}{4}$, S $\frac{1}{2}$;
Sec. 24, N $\frac{1}{2}$, SW $\frac{1}{4}$, and W $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 25, NW $\frac{1}{4}$, and NW $\frac{1}{4}$ SW $\frac{1}{4}$;
Sec. 26, N $\frac{1}{2}$, and N $\frac{1}{2}$ S $\frac{1}{2}$;
Sec. 27, N $\frac{1}{2}$, N $\frac{1}{2}$ S $\frac{1}{2}$, and SW $\frac{1}{4}$ SW $\frac{1}{4}$;
Sec. 28;
Sec. 33, N $\frac{1}{2}$, SW $\frac{1}{4}$, and NW $\frac{1}{4}$ SE $\frac{1}{4}$.

Totalling 5,075.33 acres.

3. The Executive order of July 20, 1905, as amended by the Executive order of

July 21, 1905, which withdrew lands for reservoir site purposes to protect Indian water supplies, is hereby revoked so far as it affects the following-described lands:

UINTAH SPECIAL MERIDIAN

T. 2 S., R. 5 W.,
Sec. 7, lots 1 to 4, inclusive, and E $\frac{1}{2}$ SW $\frac{1}{4}$;
Sec. 18, lot 1 and W $\frac{1}{2}$ E $\frac{1}{2}$;
Sec. 19, W $\frac{1}{2}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$, NW $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$, and SE $\frac{1}{4}$ SW $\frac{1}{4}$;
Sec. 20, N $\frac{1}{2}$ SW $\frac{1}{4}$.
T. 2 S., R. 6 W.,
Sec. 12, E $\frac{1}{2}$.

Totalling 1,155.37 acres.

4. The departmental order of July 11, 1905, which withdrew lands for school and other purposes is hereby revoked so far as it affects the following-described lands:

UINTAH SPECIAL MERIDIAN

T. 2 S., R. 1 E.,
Sec. 11, lots 1, 4, 12, 13, SW $\frac{1}{4}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$, and W $\frac{1}{2}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$.

Totalling 202.3 acres.

5. The departmental order of August 17, 1905, which withdrew lands for reservoir purposes is hereby revoked so far as it affects the following-described lands:

UINTAH SPECIAL MERIDIAN

T. 2 S., R. 1 E.,
Sec. 21, NW $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$.

Totalling 10 acres.

6. The Executive order of September 1, 1887, which set aside the following-described lands in the Uintah Reservation as a military reservation for the post of Fort Duchesne, Utah, is hereby revoked:

Beginning at a point 2 miles due north of the flagstaff of Fort Duchesne, Utah Territory, and running thence due west 1 mile, to the northwest corner; thence due south 3 miles, to the southwest corner; thence due east 2 miles, to the southeast corner; thence north 3 miles to the northeast corner; thence due west 1 mile, to the point of beginning.

Totalling 3,840 acres.

7. Executive Order No. 1579 of August 19, 1912, which placed under the jurisdiction of the Department of the Interior all lands comprised within the military reservation of Fort Duchesne, Utah, as reserved by Executive order dated September 1, 1887, supra, with the exception of the following-described lands which the said Executive Order No. 1579 retained in reservation for military purposes, is hereby revoked:

UINTAH SPECIAL MERIDIAN

T. 2 S., R. 1 E.,
Sec. 23, SW $\frac{1}{4}$ SW $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$, and W $\frac{1}{2}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$;
Sec. 26, NW $\frac{1}{4}$ NW $\frac{1}{4}$, and W $\frac{1}{2}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$.

Totalling 150 acres.

8. The Executive order of May 17, 1921, placing under full jurisdiction and control of the Department of the Interior, the 150 acres specifically described in paragraph 7 of this order, is hereby revoked.

9. The lands described in this order total in the aggregate approximately

9,803 acres. They are a part of the Uintah and Ouray Indian Reservation.

ROGER ERNST,
Assistant Secretary of the Interior.

OCTOBER 1, 1959.

[F.R. Doc. 59-8438; Filed, Oct. 7, 1959; 8:46 a.m.]

[Public Land Order 2003]

[1813387]

MISSOURI

Abolishing Missouri Wildlife Management Area

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952, it is ordered as follows:

The Missouri Wildlife Management Area established by Executive Order No. 8509, of August 8, 1940 on the following-described acquired lands, is hereby abolished:

FIFTH PRINCIPAL MERIDIAN

T. 46 N., R. 11 W.,
Sec. 17, NE $\frac{1}{4}$, all that part of the NW $\frac{1}{4}$ bounded by the following-described lines:

Beginning at the center one-quarter corner of sec. 17;

Thence westerly with the center line of said section to the one-quarter corner common to secs. 17 and 18;

Thence with the line common to said sections, Northerly 906 feet;

Thence in the NW $\frac{1}{4}$, sec. 17,

Easterly 420 feet;

Northerly 414 feet;

Easterly 1,824 feet;

Northerly 550 feet;

Easterly 396 feet to a point in the center line of sec. 17;

Thence with the center line of said section, Southerly 1,870 feet to the place of beginning;

and SW $\frac{1}{4}$, N $\frac{1}{2}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$, N $\frac{1}{2}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$, and all that part of the S $\frac{1}{2}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$ and SW $\frac{1}{4}$ SE $\frac{1}{4}$ lying west of Conner Creek;

Sec. 18, lot 1, all that part of the NE $\frac{1}{4}$ SE $\frac{1}{4}$ bounded by the following-described lines:

Beginning at the one-quarter corner common to secs. 17 and 18;

Thence with the line common to said sections, Southerly 1,345 feet;

Thence S. 89°00' W., 350 feet;

Thence in the NE $\frac{1}{4}$ SE $\frac{1}{4}$, sec. 18, N. 0°25' W., 1,344 feet; N. 89°35' E., 350 feet to the place of beginning;

and W $\frac{1}{2}$ SE $\frac{1}{4}$, and SE $\frac{1}{4}$ SE $\frac{1}{4}$;

Sec. 19, lot 1, NE $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, and SE $\frac{1}{4}$;

Sec. 20, W $\frac{1}{2}$ NE $\frac{1}{4}$, except that part bounded by the following-described lines:

Beginning at the center east one-sixteenth corner of sec. 20;

Thence with the center line of said section, Westerly 483 feet;

Thence northeasterly to a point in the east one-sixteenth line, 724 feet northerly of the center east one-sixteenth corner;

Thence southerly 724 feet to the place of beginning;

and W $\frac{1}{2}$;

Sec. 29, all that part of the W $\frac{1}{2}$ NE $\frac{1}{4}$ lying south and west of the public road, NW $\frac{1}{4}$, and all that part of the NW $\frac{1}{4}$ SW $\frac{1}{4}$ lying west of Cedar Creek;

Sec. 30, lots 1 and 2 of the NW $\frac{1}{4}$, lot 1, and the N $\frac{1}{2}$ and E $\frac{1}{2}$ S $\frac{1}{2}$ of lot 2 of the SW $\frac{1}{4}$, NE $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, and SW $\frac{1}{4}$ SE $\frac{1}{4}$.

The areas described aggregate approximately 2,250 acres.

Jurisdiction over the lands was transferred to the Department of Agriculture for use, administration and disposition in accordance with the provisions of Title III, and related provisions of Title IV of the Bankhead-Jones Farm Tenant Act, by an order of July 7, 1959 of the Acting Director of the Bureau of the Budget, the transfer to become effective when this order is signed.

ROGER ERNST,
Assistant Secretary of the Interior.

OCTOBER 1, 1959.

[F.R. Doc. 59-8439; Filed, Oct. 7, 1959;
8:46 a.m.]

[Public Land Order 2004]

[BLM 04E272]

ARKANSAS

Reserving Lands for Use of Department of the Army (Beaver Dam and Reservoir Project)

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952, it is ordered as follows:

Subject to valid existing rights, and to the provisions of existing withdrawals, the following-described public lands are hereby withdrawn from all forms of appropriation under the public land laws, including the mining and mineral leasing laws but not disposals of materials under the Act of July 31, 1947 (61 Stat. 861; 30 U.S.C. 601-604) as amended, and reserved for use of the Department of the Army in connection with the construction, operation and maintenance of the Beaver Dam and Reservoir Project as authorized by the Act of September 3, 1954 (68 Stat. 1248):

FIFTH PRINCIPAL MERIDIAN

T. 20 N., R. 27 W.,
Sec. 10, S $\frac{1}{2}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$;
Sec. 15, NE $\frac{1}{4}$ NW $\frac{1}{4}$;
Sec. 20, SW $\frac{1}{4}$ NW $\frac{1}{4}$.
T. 19 N., R. 28 W.,
Sec. 1, NE $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 18, E $\frac{1}{2}$ SW $\frac{1}{4}$.
T. 20 N., R. 28 W.,
Sec. 36, NE $\frac{1}{4}$ SE $\frac{1}{4}$.

The areas described aggregate 260 acres.

ROGER ERNST,
Assistant Secretary of the Interior.

OCTOBER 1, 1959.

[F.R. Doc. 59-8440; Filed, Oct. 7, 1959;
8:46 a.m.]

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

PART 1—PRACTICE AND PROCEDURE

Alien Applicants for Radio Operator Licenses who are Aircraft Pilots; Supplemental Applications

At a session of the Federal Communications Commission held at its offices in

Washington, D.C., on the 30th day of September 1959:

The Commission having under consideration an amendment to section 303(1) of the Communications Act of 1934 (Pub. Law 85-817) authorizing the Commission to waive the requirement of U.S. citizenship in the case of certain applicants for radio operator licenses who are aircraft pilots; and

It appearing, that an additional application form¹ should be provided on which alien aircraft pilots may request a waiver of the citizenship requirement and submit additional information required in connection with such request; and

It further appearing, that § 1.70 of the Commission's rules should be amended to specify the application form (FCC Form 755) to be used in requesting a waiver of the aforementioned citizenship requirement; and

It further appearing, that the amendment hereinafter ordered and the adoption of FCC Form 755 "Supplemental Application for Commercial Radio Operator License" do not involve any substantive change requiring compliance with the public notice and procedure provided by section 4 of the Administrative Procedure Act:

It is ordered, Pursuant to authority contained in sections 4(i), 303(l) and 303(r) of the Communications Act of 1934, as amended, that:

1. Application FCC Form 755, "Supplemental Application for Commercial Radio Operator License" is adopted.
2. Effective September 30, 1959, Part 1 of the Commission's rules is amended as set forth below.

(Sec. 4, 48 Stat. 1066, as amended; 47 U.S.C. 154. Interprets or applies sec. 303, 48 Stat. 1082, as amended; 47 U.S.C. 303)

Released: October 5, 1959.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] MARY JANE MORRIS,
Secretary.

1. Section 1.70(a) of the Commission's rules is amended to read as follows:

§ 1.70 Application for radio operator license.

(a) Application for a new, renewed, replacement, or duplicate commercial radio operator license, for a verification card, or for a verification of operator license (for additional posting) FCC Form 759, shall be filed on FCC Form 756 entitled "Application for Radio Operator License"; Except that, if a restricted radiotelephone operator permit is being applied for, FCC Form 756 shall not be used but application shall in all cases be filed on FCC Form 753-1 entitled "Application for Restricted Radiotelephone Operator Permit by Declaration." In addition to these application forms, where waiver of citizenship requirements is desired pursuant to section 303(1) of the Communications Act, request therefor shall be filed on FCC Form 755

¹ Form filed as part of original document.

entitled "Supplemental Application for Commercial Radio Operator License".

* * * * *
[F.R. Doc. 59-8462; Filed, Oct. 7, 1959;
8:49 a.m.]

PART 13—COMMERCIAL RADIO OPERATORS

Issuance of Provisional Radio Operator Certificates

At a session of the Federal Communications Commission held at its offices in Washington, D.C., on the 30th day of September 1959;

The Commission having under consideration the time required in some circumstances for an applicant for a Commercial Radio Operator License to submit proof of eligibility or of qualifications and for the Commission to make a determination as to these matters; and

It appearing, that provision should be made in the Commission's Commercial Radio Operator rules (Part 13) for issuance of a Provisional Radio Operator Certificate pending determination as to the aforementioned matters; and

It further appearing, that the amendment hereinafter ordered relates to Commission procedure and does not involve any substantive change requiring compliance with the public notice and procedure provided by section 4 of the Administrative Procedure Act.

It is ordered, Pursuant to authority contained in sections 4(i), 303(l), and 303(r) of the Communications Act of 1934 as amended, that effective September 30, 1959, Part 13 of the Commission's rules is amended as set forth below.

(Sec. 4, 48 Stat. 1066, as amended; 47 U.S.C. 154. Interprets or applies sec. 303, 48 Stat. 1082, as amended; 47 U.S.C. 303)

Released: October 5, 1959.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] MARY JANE MORRIS,
Secretary.

Part 13 of the Commission's rules is amended by adding a new § 13.8 as follows:

§ 13.8 Provisional Radio Operator Certificate.

In circumstances requiring immediate authority to operate a radio station pending submission of proof of eligibility or of qualifications or pending a determination by the Commission as to these matters, an applicant for a radio operator license may request a Provisional Radio Operator Certificate. Any such request may be in letter form and shall be in addition to the formal application. If the Commission finds that the public interest will be served it may issue such certificate for a period not to exceed six months with such additional limitation as may be indicated. In no case will the Commission issue a Provisional Radio Operator Certificate if the applicant has not fulfilled examination or service requirements, if any, for the license applied for.

[F.R. Doc. 59-8463; Filed, Oct. 7, 1959;
8:49 a.m.]

Title 50—WILDLIFE

Chapter I—Fish and Wildlife Service, Department of the Interior

SUBCHAPTER C—MANAGEMENT OF WILDLIFE CONSERVATION AREAS

PART 17—LIST OF AREAS

Wildlife Management Areas

CROSS REFERENCE: For order affecting the tabulation in § 17.5, see Title 43, Chapter I, Appendix, Public Land Order 2003, *supra*, abolishing the Missouri Wildlife Management Area.

PART 35—NORTHEASTERN REGION

Subpart—Missisquoi National Wildlife Refuge, Vermont

HUNTING

Basis and purpose. Pursuant to the authority conferred upon the Secretary of the Interior by section 10 of the Migratory Bird Conservation Act of February 18, 1929 (45 Stat. 1224; 16 U.S.C. 715i), as amended and supplemented, and acting in accordance with the authority delegated to me by Commissioner's Order No. 4 (22 F.R. 8126), I have determined that the hunting of deer during a part of the 1959 State season on the Missisquoi National Wildlife Refuge, Vermont, would be consistent with the management of the refuge.

By Notice of Proposed Rule Making published in the FEDERAL REGISTER OF

August 21, 1959 (24 F.R. 6814), the public was invited to participate in the adoption of a proposed regulation (conforming substantially with the rule set forth below) which would permit the hunting of deer during a part of the 1959 State season on the Missisquoi National Wildlife Refuge, Vermont, by submitting written data, views, or arguments to the Director, Bureau of Sport Fisheries and Wildlife, Washington 25, D.C., within a period of 30 days from the date of publication. No comments, suggestions, or objections having been received within the 30-day period, the regulations constituting Part 35 are amended by amending § 35.52 of Subpart—Missisquoi National Wildlife Refuge, Vermont, as follows:

§ 35.52 Hunting of deer permitted.

Subject to compliance with the provisions of Parts 18 and 21 of this chapter, the hunting of deer is permitted on the hereinafter described lands of the Missisquoi National Wildlife Refuge, Vermont, by bow and arrow only, on November 14 and 15, 1959, and by shotgun only on November 21 and 22, 1959, subject to the following conditions, restrictions, and requirements:

(a) *Hunting area.* The hunting of deer is permitted on all lands of the refuge except that area of Big Marsh Slough lying east of a posted line between the north end of the Goose Bay dike and the northwest boundary of the Julian Clark tract, and except within posted areas around refuge headquarters, around the Missisquoi River bank work center, and around the Cora Tabor residence.

(b) *State laws.* Strict compliance with all applicable State laws and regulations is required.

(c) *Hunting methods.* Hunting of buck deer with antlers 3 inches or more in length is permitted only by bow and arrow on November 14 and 15, 1959, and only by firearms, other than rifled firearms, on November 21 and 22, 1959. All equipment must meet requirements of State laws and regulations. Dogs are not permitted on the refuge for use in the hunting of deer. Hours of hunting are from 6:00 a.m. to 5:00 p.m.

(d) *Checking stations.* A checking station will be established and publicized locally by the Refuge Manager. Hunters, upon entering the hunting area, shall report at the checking station to qualify and obtain a permit. Hunters, upon leaving the hunting area, shall exhibit any deer killed and report at the checking station any information that may be requested.

(Sec. 10, 45 Stat. 1224; 16 U.S.C. 715i)

In accordance with the requirements imposed by section 4(c) of the Administrative Procedure Act of June 11, 1946, 60 Stat. 238; 5 U.S.C. 1003(c), the foregoing amendment shall become effective on the 31st day following publication in the FEDERAL REGISTER.

Dated: October 5, 1959.

D. H. JANZEN,
Director, Bureau of Sport
Fisheries and Wildlife.

[F.R. Doc. 59-8478; Filed, Oct. 7, 1959; 8:51 a.m.]

PROPOSED RULE MAKING

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR (1954) Part 1]

INCOME TAX; TAXABLE YEARS BE- GINNING AFTER DECEMBER 31, 1953

Deductions for Losses

Pursuant to the Administrative Procedure Act, approved June 11, 1946, proposed regulations under section 165 of the Internal Revenue Code of 1954 were published in tentative form with a notice of proposed rule making in the FEDERAL REGISTER for July 3, 1956 (21 F.R. 4925). Notice is hereby given that such proposed regulations are withdrawn.

Further, notice is hereby given, pursuant to the Administrative Procedure Act, approved June 11, 1946, that the regulations set forth in tentative form in the attached appendix are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing,

in duplicate, to the Commissioner of Internal Revenue, Attention: T:P, Washington 25, D.C., within the period of 30 days from the date of publication of this notice in the FEDERAL REGISTER. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Commissioner within the 30-day period. In such a case, a public hearing will be held, and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

DANA LATHAM,

Commissioner of Internal Revenue.

The regulations set forth in paragraph 1 below are hereby prescribed under section 165 of the Internal Revenue Code of 1954, as amended, relating to losses.

In order to conform the Income Tax Regulations under section 167 of the Internal Revenue Code of 1954, relating to depreciation, to the regulations prescribed by paragraph 1, the regulations under section 167 are amended as set forth in paragraph 2 below.

Except as specifically provided otherwise, the regulations contained in paragraphs 1 and 2 are applicable for taxable years beginning after December 31, 1953, and ending after August 16, 1954.

PARAGRAPH 1. The following regulations are hereby prescribed under section 165 of the Internal Revenue Code of 1954, as amended by sections 7 and 57(c) (1) of the Technical Amendments Act of 1953 (72 Stat. 1608, 1646) and section 202(a) of the Small Business Tax Revision Act of 1953 (72 Stat. 1676).

Sec.	
1.165	Statutory provisions; losses.
1.165-1	Losses.
1.165-2	Obsolescence of nondepreciable property.
1.165-3	Demolition of buildings.
1.165-4	Decline in value of stock.
1.165-5	Worthless securities.
1.165-6	Farming losses.
1.165-7	Casualty losses.
1.165-8	Theft losses.
1.165-9	Sale of residential property.
1.165-10	Wagering losses.

§ 1.165 Statutory provisions; losses.

Sec. 165. *Losses*—(a) *General rule.* There shall be allowed as a deduction any loss sustained during the taxable year and not compensated for by insurance or otherwise.

(b) *Amount of deduction.* For purposes of subsection (a), the basis for determining the amount of the deduction for any loss

shall be the adjusted basis provided in section 1011 for determining the loss from the sale or other disposition of property.

(c) *Limitation on losses of individuals.* In the case of an individual, the deduction under subsection (a) shall be limited to—

(1) Losses incurred in a trade or business;

(2) Losses incurred in any transaction entered into for profit, though not connected with a trade or business; and

(3) Losses of property not connected with a trade or business, if such losses arise from fire, storm, shipwreck, or other casualty, or from theft. No loss described in this paragraph shall be allowed if, at the time of the filing of the return, such loss has been claimed for estate tax purposes in the estate tax return.

(d) *Wagering losses.* Losses from wagering transactions shall be allowed only to the extent of the gains from such transactions.

(e) *Theft losses.* For purposes of subsection (a), any loss arising from theft shall be treated as sustained during the taxable year in which the taxpayer discovers such loss.

(f) *Capital losses.* Losses from sales or exchanges of capital assets shall be allowed only to the extent allowed in sections 1211 and 1212.

(g) *Worthless securities—(1) General rule.* If any security which is a capital asset becomes worthless during the taxable year, the loss resulting therefrom shall, for purposes of this subtitle, be treated as a loss from the sale or exchange, on the last day of the taxable year, of a capital asset.

(2) *Security defined.* For purposes of this subsection, the term "security" means—

(A) A share of stock in a corporation;

(B) A right to subscribe for, or to receive, a share of stock in a corporation; or

(C) A bond, debenture, note, or certificate, or other evidence of indebtedness, issued by a corporation or by a government or political subdivision thereof, with interest coupons or in registered form.

(3) *Securities in affiliated corporation.* For purposes of paragraph (1), any security in a corporation affiliated with a taxpayer which is a domestic corporation shall not be treated as a capital asset. For purposes of the preceding sentence, a corporation shall be treated as affiliated with the taxpayer only if—

(A) At least 95 percent of each class of its stock is owned directly by the taxpayer, and

(B) More than 90 percent of the aggregate of its gross receipts for all taxable years has been from sources other than royalties, rents (except rents derived from rental of properties to employees of the corporation in the ordinary course of its operating business), dividends, interest (except interest received on deferred purchase price of operating assets sold), annuities, and gains from sales or exchanges of stocks and securities.

In computing gross receipts for purposes of the preceding sentence, gross receipts from sales or exchanges of stocks and securities shall be taken into account only to the extent of gains therefrom.

(h) *Cross references.* (1) For special rule for banks with respect to worthless securities, see section 582.

(2) For disallowance of deduction for worthlessness of securities to which subsection (g) (2) (C) applies, if issued by a political party or similar organization, see section 271.

(3) For special rule for losses on stock in a small business investment company, see section 1242.

(4) For special rule for losses of a small business investment company, see section 1243.

(5) For special rule for losses on small business stock, see section 1244.

[Sec. 165 as amended by secs. 7 and 57(c) (1), Technical Amendments Act 1958 (72 Stat. 1608, 1646) and by sec. 202(a), Small Business Tax Revision Act 1958 (72 Stat. 1676)]

§ 1.165-1 Losses.

(a) *Allowance of deduction.* Section 165(a) provides that, in computing taxable income under section 63, any loss actually sustained during the taxable year and not made good by insurance or some other form of compensation shall be allowed as a deduction subject to any provision of the internal revenue laws which prohibits or limits the amount of deduction. This deduction for losses sustained shall be taken in accordance with section 165 and the regulations thereunder.

(b) *Nature of loss allowable.* To be allowable as a deduction under section 165(a), a loss must be evidenced by closed and completed transactions, fixed by identifiable events, and actually sustained during the taxable year. Only a bona fide loss is allowable. Substance and not mere form shall govern in determining a deductible loss.

(c) *Amount deductible.* (1) The amount of loss allowable as a deduction under section 165(a) shall not exceed the amount prescribed by § 1.1011-1 as the adjusted basis for determining the loss from the sale or other disposition of the property involved. In the case of each such deduction claimed, therefore, the basis of the property must be properly adjusted as prescribed by § 1.1011-1 for such items as expenditures, receipts, or losses, properly chargeable to capital account, and for such items as depreciation, obsolescence, amortization, and depletion, in order to determine the amount of loss allowable as a deduction. To determine the allowable loss in the case of property acquired before March 1, 1913, see also paragraph (b) of § 1.1053-1.

(2) The amount of loss recognized upon the sale or exchange of property shall be determined for purposes of section 165(a) in accordance with § 1.1002-1.

(3) A loss from the sale or exchange of a capital asset shall be allowed as a deduction under section 165(a) but only to the extent allowed in section 1211, relating to the limitation on capital losses, and section 1212, relating to the capital loss carryover, and in the regulations under those sections.

(4) In determining the amount of loss actually sustained for purposes of section 165(a), proper adjustment shall be made for any salvage value and for any insurance or other compensation received.

(d) *Year of deduction.* (1) A loss shall be allowed as a deduction under section 165(a) only for the taxable year in which the loss is sustained. For this purpose, a loss shall be treated as sustained during the taxable year in which the loss occurs as evidenced by closed and completed transactions and as fixed by identifiable events occurring in such taxable year.

(2) (i) If a casualty or other event occurs which may result in a loss and, in the year of such casualty or event,

there exists a claim for reimbursement with respect to which there is a reasonable prospect of recovery, no portion of the loss with respect to which reimbursement may be received is sustained, for purposes of section 165, until it can be ascertained with reasonable certainty whether or not such reimbursement will be received. Whether a reasonable prospect of recovery exists with respect to a claim for reimbursement of a loss is a question of fact to be determined upon an examination of all facts and circumstances. Whether or not such reimbursement will be received may be ascertained with reasonable certainty, for example, by a settlement of the claim, by an adjudication of the claim, or by an abandonment of the claim. When a taxpayer claims that the taxable year in which a loss is sustained is fixed by his abandonment of the claim for reimbursement, he must be able to produce objective evidence of his having abandoned the claim, such as the execution of a release.

(ii) If in the year of the casualty or other event a portion of the loss is not covered by a claim for reimbursement with respect to which there is a reasonable prospect of recovery, then such portion of the loss is sustained during the taxable year in which the casualty or other event occurs. For example, if property having an adjusted basis of \$10,000 is completely destroyed by fire in 1961, and if the taxpayer's only claim for reimbursement consists of an insurance claim for \$8,000 which is settled in 1962, the taxpayer sustains a loss of \$2,000 in 1961. However, if the taxpayer's automobile is completely destroyed in 1961 as a result of the negligence of another person and there exists a reasonable prospect of recovery on a claim for the full value of the automobile against such person, the taxpayer does not sustain any loss until the taxable year in which the claim is adjudicated or otherwise settled. If the automobile had an adjusted basis of \$5,000 and the taxpayer secures a judgment of \$4,000 in 1962, \$1,000 is deductible for the taxable year 1962. If in 1963 it becomes reasonably certain that only \$3,500 can ever be collected on such judgment, \$500 is deductible for the taxable year 1963.

(iii) If the taxpayer deducted a loss in accordance with the provisions of this paragraph and in a subsequent taxable year receives reimbursement for such loss, he does not recompute the tax for the taxable year in which the deduction was taken but includes the amount of such reimbursement in his gross income for the taxable year in which received, subject to the provisions of section 111, relating to recovery of amounts previously deducted.

(3) Any loss arising from theft shall be treated as sustained during the taxable year in which the taxpayer discovers the loss (see § 1.165-8, relating to theft losses). However, if in the year of discovery there exists a claim for reimbursement with respect to which there is a reasonable prospect of recovery, no portion of the loss with respect to which reimbursement may be received is sus-

tained, for purposes of section 165, until the taxable year in which it can be ascertained with reasonable certainty whether or not such reimbursement will be received.

(4) The rules of this paragraph are applicable with respect to a casualty or other event which may result in a loss and which occurs after the date of the publication of this paragraph in the FEDERAL REGISTER as a Treasury decision. If the casualty or other event occurs on or before such date, a taxpayer may treat any loss resulting therefrom in accordance with the rules then applicable, or, if he so desires, in accordance with the provisions of this paragraph; but no provision of this paragraph shall be construed to permit a deduction of the same loss or any part thereof in more than one taxable year or to extend the period of limitations within which a claim for credit or refund may be filed under section 6511.

(e) *Limitation on losses of individuals.* In the case of an individual, the deduction for losses granted by section 165(a) shall, subject to the provisions of section 165(c) and paragraph (a) of this section, be limited to:

(1) Losses incurred in a trade or business;

(2) Losses incurred in any transaction entered into for profit, though not connected with a trade or business; and

(3) Losses of property not connected with a trade or business and not incurred in any transaction entered into for profit, if such losses arise from fire, storm, shipwreck, or other casualty, or from theft, and if the loss involved has not been allowed for estate tax purposes in the estate tax return. For additional provisions pertaining to the allowance of casualty and theft losses, see §§ 1.165-7 and 1.165-8, respectively.

§ 1.165-2 Obsolescence of nondepreciable property.

(a) *Allowance of deduction.* A loss incurred in a business or in a transaction entered into for profit and arising from the sudden termination of the usefulness in such business or transaction of any nondepreciable property, in a case where such business or transaction is discontinued or where such property is permanently discarded from use therein, shall be allowed as a deduction under section 165(a) for the taxable year in which the loss is actually sustained. For this purpose, the taxable year in which the loss is sustained is not necessarily the taxable year in which the overt act of abandonment, or the loss of title to the property, occurs.

(b) *Exceptions.* This section does not apply to losses sustained upon the sale or exchange of property, losses sustained upon the obsolescence or worthlessness of depreciable property, casualty losses, or losses reflected in inventories required to be taken under section 471. The limitations contained in sections 1211 and 1212 upon losses from the sale or exchange of capital assets do not apply to losses allowable under this section.

(c) *Cross references.* For the allowance under section 165(a) of losses aris-

ing from the permanent withdrawal of depreciable property from use in the trade or business or in the production of income, see § 1.167(a)-8. For provisions respecting the obsolescence of depreciable property, see § 1.167(a)-9. For the allowance of casualty losses, see § 1.165-7.

§ 1.165-3 Demolition of buildings.

(a) *Intent to demolish formed at time of purchase.* (1) Except as provided in subparagraph (2) of this paragraph, the following rule shall apply when, in the course of a trade or business or in a transaction entered into for profit, real property is purchased with the intention of demolishing either immediately or subsequently the buildings situated thereon: No deduction shall be allowed under section 165(a) on account of the demolition of the old buildings even though any demolition originally planned is subsequently deferred or abandoned. The entire basis of the property so purchased shall, notwithstanding the provisions of § 1.167(a)-5, be allocated to the land only. Such basis shall be increased by the net cost of demolition or decreased by the net proceeds from demolition.

(2) (i) If the property is purchased with the intention of demolishing the buildings and the buildings are used in a trade or business or held for the production of income before their demolition, a portion of the basis of the property may be allocated to such buildings and depreciated over the period during which they are so used or held. The fact that the taxpayer intends to demolish the buildings shall be taken into account in making the apportionment of basis between the land and buildings under § 1.167(a)-5. In any event, the portion of the purchase price which may be allocated to the buildings shall not exceed the present value of the right to receive rentals from the buildings over the period of their intended use. The present value of such right shall be determined at the time that the buildings are first used in the trade or business or first held for the production of income. If the taxpayer does not rent the buildings, but uses them in his own trade or business or in the production of his income, the present value of such right shall be determined by reference to the rentals which could be realized during such period of intended use. The fact that the taxpayer intends to rent or use the buildings for a limited period before their demolition shall also be taken into account in computing the useful life in accordance with paragraph (b) of § 1.167(a)-1.

(ii) Any portion of the purchase price which is allocated to the buildings in accordance with this subparagraph shall not be included in the basis of the land computed under subparagraph (1) of this paragraph, and any portion of the basis of the buildings which has not been recovered through depreciation or otherwise at the time of the demolition of the buildings is allowable as a deduction under section 165.

(iii) The application of this subparagraph may be illustrated by the following example:

Example. In January 1958, A purchased land and a building for \$60,000 with the intention of demolishing the building. In the following April, A concludes that he will be unable to commence the construction of a proposed new building for a period of more than 3 years. Accordingly, on June 1, 1958, he leased the building for a period of 3 years at an annual rental of \$1,200. A intends to demolish the building upon expiration of the lease. A may allocate a portion of the \$60,000 basis of the property to the building to be depreciated over the 3-year period. That portion is equal to the present value of the right to receive \$3,600 (3 times \$1,200). Assuming that the present value of that right determined as of June 1, 1958, is \$2,850, A may allocate that amount to the building and, if A files his return on the basis of a taxable year ending May 31, 1959, A may take a depreciation deduction with respect to such building of \$950 for such taxable year. The basis of the land to A as determined under subparagraph (1) of this paragraph is reduced by \$2,850. If on June 1, 1960, A ceases to rent the building and demolishes it, the balance of the undepreciated portion allocated to the buildings, \$950, may be deducted from gross income under section 165.

(3) The basis of any building acquired in replacement of the old buildings shall not include any part of the basis of the property originally purchased even though such part was, at the time of purchase, allocated to the buildings to be demolished for purposes of determining allowable depreciation for the period before demolition.

(b) *Intent to demolish formed subsequent to time of acquisition.* The loss incurred in a trade or business or in a transaction entered into for profit and arising from a demolition of old buildings shall be allowed as a deduction under section 165(a) if the demolition occurs as a result of a plan formed subsequent to the acquisition of the buildings demolished. The basis of any building acquired in replacement of the old buildings shall not include any part of the basis of the property so demolished.

(c) *Evidence of intention.* (1) Whether real property has been purchased with the intention of demolishing the buildings thereon or whether the demolition of the buildings occurs as a result of a plan formed subsequent to their acquisition is a question of fact, and the answer depends upon an examination of all the surrounding facts and circumstances. The answer to the question does not depend solely upon the statements of the taxpayer at the time he acquired the property or demolished the buildings, but such statements, if made, are relevant and will be considered. Certain other relevant facts and circumstances that exist in some cases and the inferences that might reasonably be drawn from them are described in subparagraphs (2) and (3) of this paragraph. The question as to the taxpayer's intention is not answered by any inference that is drawn from any one fact or circumstance but can be answered only by a consideration of all relevant facts and circumstances and the reasonable inferences to be drawn therefrom.

(2) An intention at the time of acquisition to demolish may be suggested by:

(i) A short delay between the date of acquisition and the date of demolition;

(ii) Evidence of prohibitive remodeling costs determined at the time of acquisition;

(iii) Existence of municipal regulations at the time of acquisition which would prohibit the continued use of the buildings for profit purposes;

(iv) Unsuitability of the buildings for the taxpayer's trade or business at the time of acquisition; or

(v) Inability at the time of acquisition to realize a reasonable income from the buildings.

(3) The fact that the demolition occurred pursuant to a plan formed subsequent to the acquisition of the property may be suggested by:

(i) Substantial improvement of the buildings immediately after their acquisition;

(ii) Prolonged use of the buildings for business purposes after their acquisition;

(iii) Suitability of the buildings for investment purposes at the time of acquisition;

(iv) Substantial change in economic or business conditions after the date of acquisition;

(v) Loss of useful value occurring after the date of acquisition;

(vi) Substantial damage to the buildings occurring after their acquisition;

(vii) Discovery of latent structural defects in the buildings after their acquisition;

(viii) Decline in the taxpayer's business after the date of acquisition;

(ix) Condemnation of the property by municipal authorities after the date of acquisition; or

(x) Inability after acquisition to obtain building material necessary for the improvement of the property.

(d) *Buildings demolished to obtain lease.*—If, pursuant to the terms of a lease, the lessor of real property demolishes buildings situated thereon, no deduction shall be allowed to the lessor under section 165(a) on account of the demolition of the old buildings. Likewise, if, pursuant to the terms of a lease, the lessee of real property demolishes the buildings, no deduction shall be allowed to the lessor. However, the adjusted basis of the demolished buildings shall be considered as a part of the cost of the lease to be amortized over the term thereof.

§ 1.165-4 Decline in value of stock.

(a) *Deduction disallowed.* No deduction shall be allowed under section 165(a) solely on account of a decline in the value of stock owned by the taxpayer when the decline is due to a fluctuation in the market price of the stock or to other similar cause. A mere shrinkage in the value of stock owned by the taxpayer, even though extensive, does not give rise to a deduction under section 165(a) if the stock has any recognizable value on the date claimed as the date of loss. No loss for a decline in the value of stock owned by the taxpayer shall be allowed as a deduction under section 165(a) except insofar as the loss is recognized under § 1.1002-1 upon the sale or exchange of the stock and except as otherwise provided in § 1.165-5 with re-

spect to stock which becomes worthless during the taxable year.

(b) *Stock owned by banks.* (1) In the regulation of banks and certain other corporations, Federal and State authorities may require that stock owned by such organizations be charged off as worthless or written down to a nominal value. If, in any such case, this requirement is premised upon the worthlessness of the stock, the charging off or writing down will be considered prima facie evidence of worthlessness for purposes of section 165(a); but, if the charging off or writing down is due to a fluctuation in the market price of the stock or if no reasonable attempt to determine the worthlessness of the stock has been made, then no deduction shall be allowed under section 165(a) for the amount so charged off or written down.

(2) This paragraph shall not be construed, however, to permit a deduction under section 165(a) unless the stock owned by the bank or other corporation actually becomes worthless in the taxable year. Such a taxpayer owning stock which becomes worthless during the taxable year is not precluded from deducting the loss under section 165(a) merely because, in obedience to the specific orders or general policy of such supervisory authorities, the value of the stock is written down to a nominal amount instead of being charged off completely.

(c) *Application to inventories.* This section does not apply to a decline in the value of corporate stock reflected in inventories required to be taken by a dealer in securities under section 471. See § 1.471-5.

(d) *Definition.* As used in this section, the term "stock" means a share of stock in a corporation or a right to subscribe for, or to receive, a share of stock in a corporation.

§ 1.165-5 Worthless securities.

(a) *Definition of security.* As used in section 165(g) and this section, the term "security" means:

(1) A share of stock in a corporation;

(2) A right to subscribe for, or to receive, a share of stock in a corporation; or

(3) A bond, debenture, note, or certificate, or other evidence of indebtedness to pay a fixed or determinable sum of money, which has been issued with interest coupons or in registered form by a domestic or foreign corporation or by any government or political subdivision thereof.

(b) *Ordinary loss.* If any security which is not a capital asset becomes wholly worthless during the taxable year, the loss resulting therefrom may be deducted under section 165(a) as an ordinary loss.

(c) *Capital loss.* If any security which is a capital asset becomes wholly worthless at any time during the taxable year, the loss resulting therefrom may be deducted under section 165(a) but only as though it were a loss from a sale or exchange, on the last day of the taxable year, of a capital asset. See section 165(g)(1). The amount so allowed as a deduction shall be subject to the

limitations upon capital losses described in paragraph (c)(3) of § 1.165-1.

(d) *Loss on worthless securities of an affiliated corporation.*—(1) *Deductible as an ordinary loss.* If a taxpayer which is a domestic corporation owns any security of a domestic or foreign corporation which is affiliated with the taxpayer within the meaning of subparagraph (2) of this paragraph and such security becomes wholly worthless during the taxable year, the loss resulting therefrom may be deducted under section 165(a) as an ordinary loss in accordance with paragraph (b) of this section. The fact that the security is in fact a capital asset of the taxpayer is immaterial for this purpose, since section 165(g)(3) provides that such security shall be treated as though it were not a capital asset for the purposes of section 165(g)(1). A debt which becomes wholly worthless during the taxable year shall be allowed as an ordinary loss in accordance with the provisions of this subparagraph, to the extent that such debt is a security within the meaning of paragraph (a)(3) of this section.

(2) *Affiliated corporation defined.* For purposes of this paragraph, a corporation shall be treated as affiliated with the taxpayer owning the security if:

(i) The taxpayer owns directly at least 95 percent of each class of the stock of such corporation,

(ii) None of the stock of such corporation was acquired by the taxpayer solely for the purpose of converting a capital loss sustained by reason of the worthlessness of any such stock into an ordinary loss under section 165(g)(3), and

(iii) More than 90 percent of the aggregate of the gross receipts of such corporation for all the taxable years during which it has been in existence has been from sources other than royalties, rents (except rents derived from rental of properties to employees of such corporation in the ordinary course of its operating business), dividends, interest (except interest received on the deferred purchase price of operating assets sold), annuities, and gains from sales or exchanges of stocks and securities. For this purpose, the term "gross receipts" means total receipts determined without any deduction for cost of goods sold, and gross receipts from sales or exchanges of stocks and securities shall be taken into account only to the extent of gains from such sales or exchanges.

(e) *Bonds issued by an insolvent corporation.* A bond of an insolvent corporation secured only by a mortgage from which nothing is realized for the bondholders on foreclosure shall be regarded as having become worthless not later than the year of the foreclosure sale, and no deduction in respect of the loss shall be allowed under section 165(a) in computing a bondholder's taxable income for a subsequent year. See also paragraph (d) of § 1.165-1.

(f) *Decline in market value.* A taxpayer possessing a security to which this section relates shall not be allowed any deduction under section 165(a) on account of mere market fluctuation in the value of such security. See also § 1.165-4.

(g) *Application to inventories.* This section does not apply to any loss upon the worthlessness of any security reflected in inventories required to be taken by a dealer in securities under section 471. See § 1.471-5.

(h) *Special rules for banks.* For special rules applicable under this section to worthless securities of a bank, including securities issued by an affiliated bank, see § 1.582-1.

(i) *Examples.* The provisions of this section may be illustrated by the following examples:

Example (1). (i) X Corporation, a domestic manufacturing corporation which makes its return on the basis of the calendar year, owns 100 percent of each class of the stock of Y Corporation; and, in addition, 4 percent of the common stock (the only class of stock) of Z Corporation, which it acquired in 1948. Y Corporation, a domestic manufacturing corporation which makes its return on the basis of the calendar year, owns 96 percent of the common stock of Z Corporation, which it acquired in 1946. It is established that the stock of Z Corporation, which has from its inception derived all its gross receipts from manufacturing operations, became worthless during 1956.

(ii) Since the stock of Z Corporation which is owned by X Corporation is a capital asset and since X Corporation does not directly own at least 95 percent of the stock of Z Corporation, any loss sustained by X Corporation upon the worthlessness of such stock shall be deducted under section 165 (g) (1) and paragraph (c) of this section as a loss from a sale or exchange on December 31, 1956, of a capital asset. The loss so sustained by X Corporation shall be considered a long-term capital loss under the provisions of section 1222(4), since the stock was held by that corporation for more than 6 months.

(iii) Since Z Corporation is considered to be affiliated with Y Corporation under the provisions of paragraph (d) (2) of this section, any loss sustained by Y Corporation upon the worthlessness of the stock of Z Corporation shall be deducted in 1956 under section 165(g)(3) and paragraph (d) (1) of this section as an ordinary loss.

Example (2). (i) On January 1, 1956, X Corporation, a domestic manufacturing corporation which makes its return on the basis of the calendar year, owns 80 percent of each class of the stock of Y Corporation, a foreign corporation, which it acquired in 1950. Y Corporation has, from the date of its incorporation, derived all of its gross receipts from manufacturing operations. It is established that the stock of Y Corporation became worthless on June 30, 1956. On August 1, 1956, X Corporation acquires the balance of the stock of Y Corporation for the purpose of obtaining the benefit of section 165(g) (3) with respect to the loss it has sustained on the worthlessness of the stock of Y Corporation.

(ii) Since the stock of Y Corporation which is owned by X Corporation is a capital asset and since Y Corporation is not to be treated as affiliated with X Corporation under the provisions of paragraph (d) (2) of this section, notwithstanding the fact that, at the close of 1956, X Corporation owns 100 percent of each class of stock of Y Corporation, any loss sustained by X Corporation upon the worthlessness of such stock shall be deducted under the provisions of section 165 (g) (1) and paragraph (c) of this section as a loss from a sale or exchange on December 31, 1956, of a capital asset.

Example (3). (i) X Corporation, a domestic manufacturing corporation which makes its return on the basis of the calendar year, owns 95 percent of each class of the stock of Y Corporation, which from its inception has derived all of its gross receipts from manu-

facturing operations. As one of its capital assets, X Corporation owns \$100,000 in registered bonds issued by Y Corporation payable at maturity on December 31, 1960. It is established that these bonds became worthless during 1956.

(ii) Since Y Corporation is considered to be affiliated with X Corporation under the provisions of paragraph (d) (2) of this section, any loss sustained by X Corporation upon the worthlessness of these bonds may be deducted in 1956 under section 165(g) (3) and paragraph (d) (1) of this section as an ordinary loss. The loss may not be deducted under section 166 as a bad debt. See section 166(e).

§ 1.165-6 Farming losses.

(a) *Allowance of losses.* (1) Except as otherwise provided in this section, any loss incurred in the operation of a farm as a trade or business shall be allowed as a deduction under section 165(a) or as a net operating loss deduction in accordance with the provisions of section 172. See § 1.172-1.

(2) If the taxpayer owns and operates a farm for profit in addition to being engaged in another trade or business, but sustains a loss from the operation of the farming business, then the amount of loss sustained in the operation of the farm may be deducted from gross income, if any, from all other sources.

(3) Loss incurred in the operation of a farm for recreation or pleasure shall not be allowed as a deduction from gross income. See § 1.162-12.

(b) *Loss from shrinkage.* If, in the course of the business of farming, farm products are held for a favorable market, no deduction shall be allowed under section 165(a) in respect of such products merely because of shrinkage in weight, decline in value, or deterioration in storage.

(c) *Loss of prospective crop.* The total loss by frost, storm, flood, or fire of a prospective crop being grown in the business of farming shall not be allowed as a deduction under section 165(a).

(d) *Loss of livestock—(1) Raised stock.* A taxpayer engaged in the business of raising and selling livestock, such as cattle, sheep, or horses, may not deduct as a loss under section 165(a) the value of animals that perish from among those which were raised on the farm.

(2) *Purchased stock.* The loss sustained upon the death by disease, exposure, or injury of any livestock purchased and used in the trade or business of farming shall be allowed as a deduction under section 165(a). See, also, paragraph (e) of this section.

(e) *Loss due to compliance with orders of governmental authority.* The loss sustained upon the destruction by order of the United States, a State, or any other governmental authority, of any livestock, or other property, purchased and used in the trade or business of farming shall be allowed as a deduction under section 165(a).

(f) *Amount deductible—(1) Expenses of operation.* The cost of any feed, pasture, or care which is allowed under section 162 as an expense of operating a farm for profit shall not be included as a part of the cost of livestock for purposes of determining the amount of loss deductible under section 165(a) and

this section. For the deduction of farming expenses, see § 1.162-12.

(2) *Losses reflected in inventories.* If inventories are taken into account in determining the income from the trade or business of farming, no deduction shall be allowed under this section for losses sustained during the taxable year upon livestock or other products, whether purchased for resale or produced on the farm, to the extent such losses are reflected in the inventory on hand at the close of the taxable year. Nothing in this section shall be construed to disallow the deduction of any loss reflected in the inventories of the taxpayer. For provisions relating to inventories of farmers, see section 471 and the regulations thereunder.

(3) *Other limitations.* For other provisions relating to the amount deductible under this section, see paragraph (c) of § 1.165-1, relating to the amount deductible under section 165(a); § 1.165-7, relating to casualty losses; and § 1.1231-1, relating to gains and losses from the sale or exchange of certain property used in the trade or business.

(g) *Other provisions applicable to farmers.* For other provisions relating to farmers, see § 1.61-4, relating to gross income of farmers; paragraph (b) of § 1.167(a)-6, relating to depreciation in the case of farmers; and § 1.175-1, relating to soil and water conservation expenditures.

§ 1.165-7 Casualty losses.

(a) *In general—(1) Allowance of deduction.* Except as otherwise provided in paragraph (c) of this section, any loss arising from fire, storm, shipwreck, or other casualty is allowable as a deduction under section 165(a) for the taxable year in which the loss is sustained. However, see § 1.165-6, relating to farming losses. The manner of determining the amount of a casualty loss allowable as a deduction in computing taxable income under section 63 is the same whether the loss has been incurred in a trade or business or in any transaction entered into for profit, or whether it has been a loss of property not connected with a trade or business and not incurred in any transaction entered into for profit. The amount of a casualty loss shall be determined in accordance with paragraph (b) of this section. For other rules relating to the treatment of deductible casualty losses, see § 1.1231-1, relating to the involuntary conversion of property.

(2) *Method of valuation.* (i) In determining the amount of loss deductible under this section, the fair market value of the property immediately before and immediately after the casualty shall generally be ascertained by competent appraisal. This appraisal must recognize the effects of any general market decline affecting undamaged as well as damaged property which may occur simultaneously with the casualty, in order that any deduction under this section shall be limited to the actual loss resulting from damage to the property.

(ii) The cost of repairs to the property damaged is acceptable as evidence of the loss of value if the taxpayer shows

that (a) the repairs are necessary to restore the property to its condition immediately before the casualty, (b) the amount spent for such repairs is not excessive, (c) the repairs do not care for more than the damage suffered, and (d) the repairs do not increase the value of the property.

(3) *Damage to automobiles.* An automobile owned by the taxpayer, whether used for business purposes or maintained for recreation or pleasure, may be the subject of a casualty loss, including those losses specifically referred to in subparagraph (1) of this paragraph. In addition, a casualty loss occurs when an automobile owned by the taxpayer is damaged and when:

(i) The damage results from the faulty driving of the taxpayer or other person operating the automobile but is not due to the willful act or willful negligence of the taxpayer or of one acting in his behalf, or

(ii) The damage results from the faulty driving of the operator of the automobile with which the automobile of the taxpayer collides.

(4) *Application to inventories.* This section does not apply to a casualty loss reflected in the inventories of the taxpayer. For provisions relating to inventories, see section 471 and the regulations thereunder.

(5) *Property converted from personal use.* In the case of property which originally was not used in the trade or business or for income-producing purposes and which is thereafter converted to either of such uses, the fair market value of the property on the date of conversion, if less than the adjusted basis of the property at such time, shall be used, after making proper adjustments in respect of basis, as the basis for determining the amount of loss under paragraph (b) (1) of this section. See paragraph (b) of § 1.165-9, and § 1.167(f)-1.

(6) *Theft losses.* A loss which arises from theft is not considered a casualty loss for purposes of this section. See § 1.165-8, relating to theft losses.

(b) *Amount deductible—(1) General rule.* In the case of any casualty loss whether or not incurred in a trade or business or in any transaction entered into for profit, the amount of loss to be taken into account for purposes of section 165(a) shall be the lesser of either:

(i) The amount which is equal to the fair market value of the property immediately before the casualty reduced by the fair market value of the property immediately after the casualty; or

(ii) The amount of the adjusted basis prescribed in § 1.1011-1 for determining the loss from the sale or other disposition of the property involved.

(2) *Aggregation of property for computing loss.* (i) A loss incurred in a trade or business or in any transaction entered into for profit shall be determined under subparagraph (1) of this paragraph by reference to the single, identifiable property damaged or destroyed. Thus, for example, in determining the fair market value of the property before and after the casualty in a case where damage by casualty has

occurred to buildings and ornamental or fruit trees used in a trade or business, the decrease in value shall be measured by taking the buildings and trees into account separately, and not together as an integral part of the realty, and separate losses shall be determined for such buildings and trees.

(ii) In determining a casualty loss involving real property and improvements thereon not used in a trade or business or in any transaction entered into for profit, the improvements (such as buildings and ornamental trees and shrubbery) to the property damaged or destroyed shall be considered an integral part of the property, for purposes of subparagraph (1) of this paragraph, and no separate basis need be apportioned to such improvements.

(3) *Examples.* The application of this paragraph may be illustrated by the following examples:

Example (1). In 1956 B purchases for \$3,600 an automobile which he uses for non-business purposes. In 1959 the automobile is damaged in an accidental collision with another automobile. The fair market value of B's automobile is \$2,000 immediately before the collision and \$1,500 immediately after the collision. B receives insurance proceeds of \$300 to cover the loss. The amount of the deduction allowable under section 165(a) for the taxable year 1959 is \$200, computed as follows:

Value of automobile immediately before casualty	\$2,000
Less: Value of automobile immediately after casualty	1,500
Value of property actually destroyed	500
Loss to be taken into account for purposes of section 165(a): Lesser amount of property actually destroyed (\$500) or adjusted basis of property (\$3,600)	500
Less: Insurance received	300
Deduction allowable	200

Example (2). In 1958 A purchases land containing an office building for the lump sum of \$90,000. The purchase price is allocated between the land (\$18,000) and the building (\$72,000) for purposes of determining basis. After the purchase A planted trees and ornamental shrubs on the grounds surrounding the building. In 1961 the land, building, trees, and shrubs are damaged by hurricane. At the time of the casualty the adjusted basis of the land is \$18,000 and the adjusted basis of the building is \$66,000. At that time the trees and shrubs have an adjusted basis of \$1,200. The fair market value of the land and building immediately before the casualty is \$18,000 and \$70,000, respectively, and immediately after the casualty is \$18,000 and \$52,000, respectively. The fair market value of the trees and shrubs immediately before the casualty is \$2,000 and immediately after the casualty is \$400. Insurance of \$5,000 is received to cover the loss to the building. The amount of the deduction allowable under section 165(a) with respect to the building for the taxable year 1961 is \$13,000, computed as follows:

Value of property immediately before casualty	\$70,000
Less: Value of property immediately after casualty	52,000
Value of property actually destroyed	18,000

Loss to be taken into account for purposes of section 165(a): Lesser amount of property actually destroyed (\$18,000) or adjusted basis of property (\$66,000)

	\$18,000
Less: Insurance received	5,000
Deduction allowable	13,000

The amount of the deduction allowable under section 165(a) with respect to the trees and shrubs for the taxable year 1961 is \$1,200, computed as follows:

Value of property immediately before casualty	\$2,000
Less: Value of property immediately after casualty	400
Value of property actually destroyed	1,600

Loss to be taken into account for purposes of section 165(a): Lesser amount of property actually destroyed (\$1,600) or adjusted basis of property (\$1,200)

	1,200
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Example (3). Assume the same facts as in example (1) except that A purchases land containing a house instead of an office building. The house is used as his private residence. Since the property is used for personal purposes, no allocation of the purchase price is necessary for the land and house. Likewise, no individual determination of the fair market values of the land, house, trees, and shrubs is necessary. The amount of the deduction allowable under section 165(a) with respect to the land, house, trees, and shrubs for the taxable year 1961 is \$14,600, computed as follows:

Value of property immediately before casualty	\$90,000
Less: Value of property immediately after casualty	70,400
Value of property actually destroyed	19,600
Loss to be taken into account for purposes of section 165(a): Lesser amount of property actually destroyed (\$19,600) or adjusted basis of property (\$91,200)	19,600
Less: Insurance received	5,000
Deduction allowable	14,600

(c) *Loss sustained by an estate.* A casualty loss of property not connected with a trade or business and not incurred in any transaction entered into for profit which is sustained during the settlement of an estate shall be allowed as a deduction under sections 165(a) and 641(b) in computing the taxable income of the estate if the loss has not been allowed under section 2054 in computing the taxable estate of the decedent and if the statement has been filed in accordance with § 1.642(g)-1. See section 165(c) (3).

(d) *Loss treated as though attributable to a trade or business.* For the rule treating a casualty loss not connected with a trade or business as though it were a deduction attributable to a trade or business for purposes of computing a net operating loss, see paragraph (a) (3) (iii) of § 1.172-3.

(e) *Effective date.* The rules of this section are applicable to any taxable year beginning after the date of the publication of this section in the FEDERAL REGISTER as a Treasury decision. If, for any taxable year beginning on or before

such date, a taxpayer computed the amount of any casualty loss in accordance with the rules then applicable, such taxpayer is not required to change the amount of the casualty loss allowable for any such prior taxable year. On the other hand, the taxpayer may, if he so desires, amend his income tax return for such year to compute the amount of a casualty loss in accordance with the provisions of this section, but no provision in this section shall be construed as extending the period of limitations within which a claim for credit or refund may be filed under section 6511.

§ 1.165-3 Theft losses.

(a) *Allowance of deduction.* (1) Except as otherwise provided in paragraph (b) of this section, any loss arising from theft is allowable as a deduction under section 165(a) for the taxable year in which the loss is sustained. See section 165(c)(3).

(2) A loss arising from theft shall be treated under section 165(a) as sustained during the taxable year in which the taxpayer discovers the loss. See section 165(e). Thus, a theft loss is not deductible under section 165(a) for the taxable year in which the theft actually occurs unless that is also the year in which the taxpayer discovers the loss. However, if in the year of discovery there exists a claim for reimbursement with respect to which there is a reasonable prospect of recovery, see paragraph (d) of § 1.165-1.

(3) The same theft loss shall not be taken into account both in computing a tax under chapter 1, relating to the income tax, or chapter 2, relating to additional income taxes, of the Internal Revenue Code of 1939 and in computing the income tax under the Internal Revenue Code of 1954. See section 7852(c), relating to items not to be twice deducted from income.

(b) *Loss sustained by an estate.* A theft loss of property not connected with a trade or business and not incurred in any transaction entered into for profit which is discovered during the settlement of an estate, even though the theft actually occurred during a taxable year of the decedent, shall be allowed as a deduction under sections 165(a) and 641 (b) in computing the taxable income of the estate if the loss has not been allowed under section 2054 in computing the taxable estate of the decedent and if the statement has been filed in accordance with § 1.642(g)-1. See section 165(c)(3). For purposes of determining the year of deduction, see paragraph (a)(2) of this section.

(c) *Amount deductible.* The amount deductible under this section in respect of a theft loss shall be determined consistently with the manner prescribed in § 1.165-7 for determining the amount of casualty loss allowable as a deduction under section 165(a). In applying the provisions of paragraph (b) of § 1.165-7 for this purpose, the fair market value of the property immediately after the theft shall be considered to be zero. For other rules relating to the treatment of deductible theft losses, see § 1.1231-1, relating to the involuntary conversion of property.

(d) *Definition.* For purposes of this section the term "theft" shall be deemed to include, but shall not necessarily be limited to, larceny, embezzlement, and robbery.

(e) *Application to inventories.* This section does not apply to a theft loss reflected in the inventories of the taxpayer. For provisions relating to inventories, see section 471 and the regulations thereunder.

(f) *Example.* The application of this section may be illustrated by the following example:

Example. In 1955 B, who makes her return on the basis of the calendar year, purchases for personal use a diamond brooch costing \$4,000. On November 30, 1961, at which time it has a fair market value of \$3,500, the brooch is stolen; but B does not discover the loss until January 1962. A controversy develops with the insurance company over its liability in respect of the loss. The controversy is settled in March 1963, at which time B receives \$2,000 in insurance proceeds to cover the loss from theft. No deduction for the loss is allowable for 1961 or 1962; but the amount of the deduction allowable under section 165(a) for the taxable year 1963 is \$1,500, computed as follows:

Value of property immediately before theft.....	\$ 3,500
Less: Value of property immediately after the theft.....	0
Balance.....	3,500
Loss to be taken into account for purposes of section 165(a): (\$3,500 but not to exceed adjusted basis of \$4,000 at time of theft).....	3,500
Less: Insurance received in 1963.....	2,000
Deduction allowable for 1963.....	1,500

§ 1.165-9 Sale of residential property.

(a) *Losses not allowed.* A loss sustained on the sale of residential property purchased or constructed by the taxpayer for use as his personal residence and so used by him up to the time of the sale is not deductible under section 165(a).

(b) *Property converted from personal use.* (1) If property purchased or constructed by the taxpayer for use as his personal residence is, prior to its sale, rented or otherwise appropriated to income-producing purposes and is used for such purposes up to the time of its sale, a loss sustained on the sale of the property shall be allowed as a deduction under section 165(a).

(2) The loss allowed under this paragraph upon the sale of the property shall be the excess of the adjusted basis prescribed in § 1.1011-1 for determining loss over the amount realized from the sale. For this purpose, the adjusted basis for determining loss shall be the lesser of either of the following amounts, adjusted as prescribed in § 1.1011-1 for the period subsequent to the conversion of the property to income-producing purposes:

- (i) The fair market value of the property at the time of conversion, or
- (ii) The adjusted basis for loss, at the time of conversion, determined under § 1.1011-1 but without reference to the fair market value.

(3) For rules relating to casualty losses of property converted from personal use, see paragraph (a)(5) of § 1.165-7. To determine the basis for

depreciation in the case of such property, see § 1.167(f)-1. For limitations on the loss from the sale of a capital asset, see paragraph (c)(3) of § 1.165-1.

(c) *Examples.* The application of paragraph (b) of this section may be illustrated by the following examples:

Example (1). Residential property is purchased by the taxpayer in 1943 for use as his personal residence at a cost of \$25,000, of which \$15,000 is allocable to the building. The taxpayer uses the property as his personal residence until January 1, 1952, at which time its fair market value is \$22,000, of which \$12,000 is allocable to the building. The taxpayer rents the property from January 1, 1952, until January 1, 1955, at which time it is sold for \$18,000. On January 1, 1952, the building has an estimated useful life of 20 years. It is assumed that the building has no estimated salvage value and that there are no adjustments in respect of basis other than depreciation, which is computed on the straight-line method. The loss to be taken into account for purposes of section 165(a) for the taxable year 1955 is \$4,200, computed as follows:

Basis of property at time of conversion for purposes of this section (that is, the lesser of \$25,000 cost or \$22,000 fair market value).....	\$22,000
Less: Depreciation allowable from January 1, 1952, to January 1, 1955 (3 years at 5 percent based on \$12,000, the value of the building at time of conversion, as prescribed by § 1.167(f)-1).....	1,800
Adjusted basis prescribed in § 1.1011-1 for determining loss on sale of the property.....	20,200
Less: Amount realized on sale.....	16,000
Loss to be taken into account for purposes of section 165(a).....	4,200

In this example the value of the building at the time of conversion is used as the basis for computing depreciation. See example (2) wherein the adjusted basis of the building is required to be used for such purpose.

Example (2). Residential property is purchased by the taxpayer in 1940 for use as his personal residence at a cost of \$23,000, of which \$10,000 is allocable to the building. The taxpayer uses the property as his personal residence until January 1, 1953, at which time its fair market value is \$20,000, of which \$12,000 is allocable to the building. The taxpayer rents the property from January 1, 1953, until January 1, 1957, at which time it is sold for \$17,000. On January 1, 1953, the building has an estimated useful life of 20 years. It is assumed that the building has no estimated salvage value and that there are no adjustments in respect of basis other than depreciation, which is computed on the straight-line method. The loss to be taken into account for purposes of section 165(a) for the taxable year 1957 is \$1,000, computed as follows:

Basis of property at time of conversion for purposes of this section (that is, the lesser of \$23,000 cost or \$20,000 fair market value).....	\$20,000
Less: Depreciation allowable from January 1, 1953, to January 1, 1957 (4 years at 5% based on \$10,000, the cost of the building, as prescribed by § 1.167(f)-1).....	2,000
Adjusted basis prescribed in § 1.1011-1 for determining loss on sale of the property.....	18,000
Less: Amount realized on sale.....	17,000
Loss to be taken into account for purposes of section 165(a).....	1,000

§ 1.165-10 Wagering losses.

Losses sustained during the taxable year on wagering transactions shall be allowed as a deduction but only to the extent of the gains during the taxable year from such transactions. In the case of a husband and wife making a joint return for the taxable year, the combined losses of the spouses from wagering transactions shall be allowed to the extent of the combined gains of the spouses from wagering transactions.

§ 1.167 [Amendment]

PAR. 2. Section 1.167 (a)-9 of the Income Tax Regulations (26 CFR 1.167 (a)-9), as prescribed by Treasury Decision 6182 (21 F.R. 3985), approved June 7, 1956, is amended by striking "an asset is suddenly terminated, see section 165 and the regulations thereunder" in the seventh sentence thereof and inserting in lieu thereof "depreciable property is suddenly terminated, see § 1.167(a)-8".

[F.R. Doc. 59-8474; Filed, Oct. 7, 1959; 8:51 a.m.]

DEPARTMENT OF THE INTERIOR**National Park Service****[36 CFR Part 1]****VEHICLES****Notice of Proposed Rule Making**

Basis and purpose. Notice is hereby given that pursuant to the authority vested in the Secretary of the Interior by section 3 of the act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 3), it is proposed to amend 36 CFR 1.35 and 1.36. The purpose of this amendment is to permit rental cars to enter the national parks and monuments having common carrier service under contract with the Government where the party using a rental car does not hire also the service of a driver.

This proposed amendment relates to matters which are exempt from the rule making requirements of the Administrative Procedure Act (5 U.S.C. 1003); however, it is the policy of the Department of the Interior that, wherever practicable, the rule making requirements be observed voluntarily. Accordingly, interested persons may submit in triplicate, written comments, suggestions, or objections with respect to the proposed amendment to the National Park Service, Washington 25, D.C., within thirty days of the date of publication of this notice in the FEDERAL REGISTER.

ROGER ERNST,
Assistant Secretary of the Interior.

OCTOBER 1, 1959.

1. Section 1.35 is amended to read as follows:

§ 1.35 Automobiles operated for pleasure.

The parks and monuments where common carrier service is established under authorization and supervision of the Government are open to automobiles, operated for pleasure, including rental cars, provided the party using a rental

car does not hire also the services of a driver. Admission under this section will be accorded such pleasure cars upon payment of the usual automobile permit fee for the particular park.

§ 1.36 [Amendment]

2. Section 1.36 *Commercial motor vehicles*, is amended in the following particulars:

a. The introductory text of paragraph (a), is amended as follows:

(a) In Yellowstone, (except that portion of U.S. Highway 191 traversing the northwest corner of the park), Yosemite, Sequoia-Kings Canyon, Mount Rainier, Crater Lake, Glacier, (except that portion of the park road from the Sherburne entrance to the Many Glacier area), Rocky Mountain, Grand Canyon, (except the service road branch of the south entrance road serving park headquarters and Grand Canyon Village, including the portion of the south entrance road which lies between the park boundary and said service road), Zion, Lassen Volcanic, (except those portions of Highway 89 and Highway No. 44 crossing the northwest corner of the park outside the Manzanita Lake checking station), Bryce Canyon, and Mount McKinley National Parks, and Cedar Breaks National Monument, the commercial use of the Government roads by all operators of public transportation facilities, except by those holding a contract from the Secretary for a particular park or monument, is prohibited: *Provided*, That motor vehicles operated under the following conditions are not deemed "commercial" within the meaning of this section, and may be admitted to the foregoing parks and monuments upon a satisfactory showing to the superintendent or his representative that the conditions of operation are within the following exceptions, and upon the following conditions:

b. Subparagraph (2) of paragraph (a) is revoked, and subparagraph (3) of paragraph (a) is redesignated as subparagraph (2).

[F.R. Doc. 59-8444; Filed, Oct. 7, 1959; 8:46 a.m.]

DEPARTMENT OF AGRICULTURE**Agricultural Marketing Service****[7 CFR Part 927]**

[Docket No. AO-71-A39]

MILK IN NEW YORK-NEW JERSEY MILK MARKETING AREA**Notice of Hearing on Proposed Amendments to Tentative Marketing Agreement and Order**

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), notice is hereby given of a public hearing to be held in the Robert Treat Hotel, Newark, New Jersey, beginning at 10:00 a.m., e.s.t. on

October 27, 1959, with respect to proposed amendments to the tentative marketing agreement and to the order, regulating the handling of milk in the New York-New Jersey milk marketing area.

The public hearing is for the purpose of receiving evidence with respect to the economic and marketing conditions which relate to the proposed amendments, hereinafter set forth, and any appropriate modifications thereof, to the tentative marketing agreement and to the order.

The proposed amendments, set forth below, have not received the approval of the Secretary of Agriculture.

Proposed by Dairymen's League Cooperative Association, Inc., and Metropolitan Cooperative Milk Producers Bargaining Agency, Inc.:

Proposal No. 1. Amend subparagraph (6) of § 927.71(b) to read as follows:

(6) The differential shall be reduced by 10 percent for each full .01 that the ratio computed by dividing the total receipts of milk subject to the nearby differential in the preceding 12 months by the total Class I-A milk in such 12 months exceeds .352.

Proposed by Milk Dealers' Association of Metropolitan New York, Inc., and Sealtest Foods, Metropolitan Division of National Dairy Products:

Proposal No. 2. Eliminate § 927.25 (b).

Proposal No. 3. Amend § 927.37 to provide that all milk the butterfat from which is shipped to the Connecticut marketing area in the form of a product which would be classified as Class II under the Connecticut order (No. 119) shall be classified as Class III under Order No. 27.

Proposed by the Dairy Division, Agricultural Marketing Service:

Proposal No. 4. Make such changes as may be necessary to make the entire marketing agreement and the order conform with any amendments thereto that may result from this hearing.

Copies of this notice of hearing and the order may be procured from the Market Administrator, 205 East 42d Street, New York 17, New York, or from the Hearing Clerk, Room 112, Administration Building, United States Department of Agriculture, Washington 25, D.C., or may be there inspected.

Issued at Washington, D.C., this 2d day of October 1959.

ROY W. LENNARTSON,
Deputy Administrator.

[F.R. Doc. 59-8452; Filed, Oct. 7, 1959; 8:48 a.m.]

[7 CFR Part 927]

[Docket No. AO-71-A40]

MILK IN NEW YORK-NEW JERSEY MILK MARKETING AREA**Notice of Hearing on Proposed Amendments to Tentative Marketing Agreement and Order**

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.),

and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), notice is hereby given of a public hearing to be held at a date and place to be set forth in a supplemental notice, with respect to proposed amendments to the tentative marketing agreement and to the order, regulating the handling of milk in the New York-New Jersey milk marketing area.

The public hearing is for the purpose of receiving evidence with respect to the economic and marketing conditions which relate to the proposed amendments, hereinafter set forth, and any appropriate modifications thereof, to the tentative marketing agreement and to the order.

The proposed amendments, set forth below, have not received the approval of the Secretary of Agriculture.

Proposed by the Dairymen's League Co-operative Association, Inc. and Metropolitan Co-operative Milk Producers Bargaining Agency, Inc.:

Proposal No. 1. Revise the appropriate sections concerning pricing and pooling of bulk tank milk in accordance with the following:

(a) The full uniform price will be paid to producers in the pool bulk tank pick-up units, as hereinafter provided, with no deduction for hauling and with the freight zone transportation differential for the zone of the farm on a township basis, unless all the producers in the unit belong to one or more cooperative associations which agree in writing with the operator of the unit that the zone used in paying such producers shall be either the zone of the plant to which it is contemplated the milk will be customarily delivered or some one zone within the range of the individual farm zones of such producers.

(b) Identification of bulk tank milk that may be fully pooled by requiring that the operator who is picking up milk in any area with one or more trucks on one or more routes shall list as a unit with the market administrator the producers whose milk he picks up. The operator may list additional names from time to time.

(c) Pooling milk on a month-to-month basis if the unit meets the same qualifications now provided by the order for the pooling of temporary pool plants (not permanently designated) except that the percentages of Class I-A utilization required by the temporary plant provisions shall be applied irrespective of utilization of deliveries of the milk to pool plants or plants within the marketing area. The temporary plant rules should also be modified when applied to these units to provide that no unit could qualify as a pool unit for April, May or June if it took on any dairy farmer who was producing milk but not as a pool producer, during the preceding August, September, October, and November.

(d) That bulk tank pick-up units meet the "operating requirements" applicable to permanently designated plants as set forth in § 927.26.

Proposed by Eastern Milk Producers Cooperative Association, Inc.:

Proposal No. 2. Amend Order No. 27 to provide for regulation of the pooling and pricing of bulk tank milk to include:

(a) Financial responsibility by handlers for milk when pumped into the farm pick-up truck and weights and tests at that point be established as the receipt from producers.

(b) The full uniform price will be paid to producers in the pool bulk tank pick-up units with no deduction for hauling and with the freight zone transportation differential established for the individual farm or, until such time as the farms of bulk milk producers are individually zoned, such zone shall be the zone of the nearest point in the township in which the farm is located.

(c) Identification of bulk tank milk that may be fully pooled by requiring that the operator who is picking up milk in any area with one or more trucks on one or more routes shall list as a unit with the market administrator the producers whose milk he picks up. The operator may list additional names from time to time.

(d) Pooling milk on a month-to-month basis if the unit meets the same qualifications now provided by the order for the pooling of temporary pool plants (not permanently designated) except that the percentage of Class I-A utilization required by the temporary plant provisions shall be applied irrespective of utilization of deliveries of the milk to pool plants or plants within the marketing area. The temporary plant rules should also be modified when applied to these units to provide that no unit could qualify as a pool unit for April, May or June if it took on any dairy farmer who was producing milk but not as a pool producer, during the preceding August, September, October and November.

(e) That bulk tank units will also meet the "operating requirements" applicable to permanently designated plants.

Proposed by the Mutual Federation of Independent Cooperatives, Inc.:

Proposal No. 3. Amend sections of the order or add new sections as follows:

§ 927.6 Producer.

"Producer" means any dairy farmer whose milk is delivered in cans directly from farm to a pool plant or any dairy farmer who is associated with a pool tank pick-up unit.

§ 927.7 Handler.

"Handler" means (a) any person who engages in the handling of milk or products therefrom, which milk was received at a pool plant, or at a plant approved by any health authority as a source of milk for the marketing area, or from producers associated with a pool tank pick-up unit, (b) any person who engages in the handling of milk, concentrated fluid milk, cultured or flavored milk drinks, cream, half and half, or skim milk, all or a portion of which is shipped to, or received in, the marketing area, or (c) any cooperative association of dairy farmers with respect to any milk which it causes to be delivered from dairy farmers to a pool plant of any other handler for the account of such association

and for which such association receives payment.

§ 927.11 Tank pick-up unit.

"Tank pick-up unit" means a group of one or more dairy farmers whose milk is picked up at the farm from a farm tank by a tank truck. The milk of the tank pick-up unit shall include all of the milk of all of the dairy farmers, listed as hereinafter provided, from whom milk is received from a farm tank by a tank truck receiving the milk of the group, and shall not include the milk of any dairy farmer not listed or from whom milk is not so received. The names of the group of dairy farmers comprising the tank pick-up unit shall be listed by the handler with the market administrator together with their addresses, and the name and address of the truck(s) operator. A dairy farmer may be added to the list of producers comprising the tank pick-up unit at any time.

§ 927.12 Pool tank pick-up unit.

"Pool tank pick-up unit" means a tank pick-up unit determined to be a pool tank pick-up unit pursuant to § 927.29.

(Renumber § 927.25 as § 927.24, § 927.26 as § 927.25, § 927.27 as § 927.26, § 927.28 as § 927.27, § 927.29 as § 927.28, and add a new § 927.29 for pool tank pick-up unit requirements.)

§ 927.29 Pool tank pick-up unit requirements.

Any tank pick-up unit shall automatically be designated a pool tank pick-up unit in accordance with provisions of paragraph (a) or (b) of this section.

(a) For any of the months of July through March, a tank pick-up unit which has 25 percent of its milk delivered to a pool plant or a plant in the marketing area shall automatically be determined to be a pool tank pick-up unit.

(b) For any of the months April, May or June, any tank pick-up unit may automatically be determined to be a pool tank pick-up unit if:

(1) It was a pool tank pick-up unit during the preceding period of August, September, October and November and had 60 percent of its milk classified in Class I-A or Class I-B or delivered to a pool plant or a plant in the marketing area, or

(2) 10 percent of its milk is delivered to a pool plant or a plant in the marketing area: *Provided*, That for the months of April through June, no tank pick-up unit shall be a pool tank pick-up unit on the basis of this subparagraph unless the dairy farmers in the tank pick-up unit were producers during the previous August, September, October and November.

Proposal No. 4. Amend § 927.42 (transportation differentials) by inserting prior to the last sentence thereof, which begins with the words "The class prices set forth", etc., a sentence which shall read: "The freight zone for a pool tank pick-up unit shall be the plant to which the milk of such unit is delivered: *Provided*, That in case delivery is to plants in more than one freight zone during a delivery period, the plant with the lowest mileage zone shall be the freight zone for the unit."

Proposal No. 5. (a) The handler listing the producers with the market administrator be the reporting handler for the pool tank pick-up unit. (§§ 927.30-927.36)

(b) Dairy farmer or other source milk included in the handler's report for the unit shall be subject to the provisions of §§ 927.83 and 927.84.

(c) Amend § 927.29(f) to provide for the inclusion of pool tank pick-up unit data.

Proposal No. 6. The point of pricing of bulk tank milk would continue to be the mileage zone of the plant to which a tank pick-up unit delivers its milk, with the plant in the lowest mileage zone governing in cases where a tank pick-up unit delivers to plants in two or more zones.

Proposed by the Milk Dealers' Association of Metropolitan New York and Sealtest Foods, Metropolitan Division of National Dairy Products:

Proposal No. 7. Amend the sections of the order entitled "Pool plants" (§§ 927.25-927.29, inclusive) or add a new section entitled "Pool bulk tank producers" to provide that each Order No. 27 handler who picks up milk at a dairy farm from a bulk tank in the producer's milk house, shall list with the market administrator the names and locations of the producers (milk house locations) which will be the handlers Order No. 27 bulk tank producers. The milk picked up by the handler from the listed producers shall be pool milk under Order No. 27, regardless of the plant to which such milk is shipped.

Proposal No. 8. Amend the sections of the order entitled "Payment by handlers directly to producers" (§§ 927.70-927.72) to provide that the uniform price to the Order No. 27 bulk tank producer shall be the same as the price at a plant in the same mileage zone as the producer's milk house minus a deduction from the producer to compensate the handler for the extra service performed by him in picking up the milk at the producer's milk house instead of the producer delivering the milk to a plant.

Proposal No. 9. Amend § 927.65 entitled "Net pool obligation of handlers" to provide that the handler with bulk tank producers outside the 1-80-mile zone who delivers such milk to a plant or plants in the 1-80-mile zone, shall pay into the producer settlement fund on the milk so delivered the differentials specified in the order and applicable at the plant where the milk is unloaded.

Proposal No. 10. Amend § 927.30 entitled "Basis of classification" to provide that milk from Order No. 27 bulk tank producers lost due to traffic accidents or other casualties between the farm and a plant shall be classified as Class III.

Proposed by Fairdale Farms Inc. and Maplewood Dairy:

Proposal No. 11. Amend § 927.6, "Producer", to include any dairy farmer whose milk is sold direct from farm bulk tank to a handler; and who, following appropriate application, becomes designated by the market administrator as a producer of pooled bulk tank milk; and if necessary, to further provide for the pooling of such milk at the producer's milk house.

Proposal No. 12. Amend § 927.30, "Basis of classification", to provide for the classification of pooled bulk tank milk in accordance with the form in which it is sold in the marketing area.

Proposal No. 13. Amend § 927.35, "Accounting procedure", to enable a handler who receives pooled bulk tank milk from producers to assign such milk in accordance with the same accounting procedure that is prescribed for all other pooled milk.

Proposal No. 14. Amend § 927.40, "Class prices", to establish prices on pooled bulk tank milk received by a handler at the producer's milk house at 15 cents per hundredweight below the corresponding class prices for milk received at a pool plant.

Proposal No. 15. Amend § 927.46, "Announcement of prices", to include prices of pooled bulk tank milk.

Proposed by the Dairy Division, Agricultural Marketing Service:

Proposal No. 16. Make such changes as may be necessary to make the entire marketing agreement and the order conform with any amendments thereto that may result from this hearing.

Copies of this notice of hearing and the order may be procured from the Market Administrator, 205 East 42d Street, New York 17, New York, or from the Hearing Clerk, Room 112, Administration Building, United States Department of Agriculture, Washington 25, D.C., or may be there inspected.

Issued at Washington, D.C., this second day of October 1959.

ROY W. LENNARTSON,
Deputy Administrator.

[F.R. Doc. 59-8453; Filed, Oct. 7, 1959; 8:48 a.m.]

[7 CFR Part 954]

[Docket No. AO-153-A7]

MILK IN DULUTH-SUPERIOR MARKETING AREA

Notice of Extension of Time for Filing Exceptions to Recommended Decision to Proposed Amendments to Tentative Marketing Agreement and to Order

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), notice is hereby given that the time for filing exceptions to the recommended decision with respect to the proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Duluth-Superior marketing area, which was issued September 10, 1959 (24 F.R. 7409), is hereby extended to November 4, 1959.

Dated: October 2, 1959.

ROY W. LENNARTSON,
Deputy Administrator.

[F.R. Doc. 59-8454; Filed, Oct. 7, 1959; 8:48 a.m.]

Commodity Stabilization Service

[7 CFR Part 730]

RICE

Notice of Determinations To Be Made With Respect to Marketing Quotas, National, State, and County Acreage Allotments, County Normal Yields, and Proposed Date for Con- ducting Referendum on Marketing Quotas for 1960 Crop

Pursuant to the authority contained in applicable provisions of the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1301, 1352, 1353, 1354, 1377), the Secretary of Agriculture is preparing to determine whether marketing quotas are required to be proclaimed for the 1960 crop of rice, to determine and proclaim the national acreage allotment for the 1960 crop of rice, to apportion among States and counties the national acreage allotment for the 1960 crop of rice, to establish county normal yields for the 1960 crop of rice, and to establish a date for conducting a referendum on marketing quotas in the event quotas are proclaimed for the 1960 crop of rice.

Section 354 of the act provides that whenever in the calendar year 1959 the Secretary determines that the total supply of rice for the 1959-60 marketing year will exceed the normal supply for such marketing year by more than 10 per centum, the Secretary shall, not later than December 31, 1959, proclaim such fact and marketing quotas shall be in effect for the crop of rice produced in 1960. Within thirty days after the issuance of such proclamation, the Secretary shall conduct a referendum by secret ballot of farmers engaged in the production of the immediately preceding crop of rice to determine whether such farmers are in favor of or opposed to such quotas. In the event that the Secretary proclaims quotas in effect for the 1960 crop of rice, it is proposed that the date for holding the referendum be set as Tuesday, December 15, 1959.

Section 352 of the act, as amended, provides that the national acreage allotment of rice for 1960 shall be that acreage which the Secretary determines will, on the basis of the national average yield of rice for the five calendar years 1955 through 1959 produce an amount of rice adequate, together with the estimated carry-over from the 1959-60 marketing year, to make available a supply for the 1960-61 marketing year not less than the normal supply. The Secretary is required under this section of the act to proclaim such national acreage allotment not later than December 31, 1959.

Section 353(c)(6) of the act, as amended, provides that the national acreage allotment of rice for 1960 shall be not less than the national acreage allotment for 1956, including the 13,512 acres apportioned to States pursuant to paragraph (5) of section 353(c) of the act. Under this provision, the national acreage allotment of rice for 1960 will be not less than 1,652,596 acres.

As defined in section 301 of the act, for purposes of these determinations, "total supply" for any marketing year

is the carryover of rice for such marketing year, plus the estimated production of rice in the United States during the calendar year in which such marketing year begins and the estimated imports of rice into the United States during such marketing year; "normal supply" for any marketing year is the estimated domestic consumption of rice for the marketing year ending immediately prior to the marketing year for which normal supply is being determined, plus the estimated exports of rice for the marketing year for which normal supply is being determined, plus 10 per centum of such consumption and exports, with adjustments for current trends in consumption and for unusual conditions as deemed necessary; and "marketing year" for rice is the period August 1-July 31.

Section 353 (a) and (c) (6) of the act require that the national acreage allotment of rice for the 1960 crop, less a reserve of not to exceed one per centum thereof for apportionment to farms receiving inadequate allotments because of insufficient State or county allotments or because rice was not planted on the farm during all the years of the base period, be apportioned among the several States in which rice is produced in the same proportion that they shared in the total acreage allotted to States in 1956 (State acreage allotments plus the additional acreage allocated to States under section 353(c) (5) of the act, as amended).

Section 353(b) of the act requires that the State acreage allotment of rice for the 1960 crop shall be apportioned to farms owned or operated by persons who have produced rice in the State in any one of the five calendar years, 1955 through 1959, on the basis of past production of rice in the State by the producer on the farm taking into consideration the acreage allotments previously established in the State for such owners or operators; abnormal conditions affecting acreage; land, labor, and equipment available for the production of rice; crop rotation practices; and the soil and other factors affecting the production of rice. Provision is made that if the State committee recommends such action and the Secretary determines that such action will facilitate the effective administration of the act, he may provide for the apportionment of part or all of the State acreage allotment to farms on which rice has been produced during any one of such period of years on the basis of the foregoing factors, using past production of rice on the farm and the acreage allotments previously established for the farm in lieu of past production of rice by the producer and the acreage allotments previously established for such owners or operators. Provision is also made that if the Secretary determines that part of the State acreage allotment shall be apportioned on the basis of past production of rice by the producer on the farm and part on the basis of the past production of rice on the farm, he shall divide the State into two administrative areas, to be designated "producer administrative area" and "farm administrative area",

respectively, which areas shall be separated by a natural barrier which would prevent each area from being readily accessible to rice producers in one area from producing rice in the other area, and each area shall be composed of whole counties. Not more than 3 per centum of the State acreage allotment shall be apportioned among farms operated by persons who will produce rice in the State in 1960 but who have not produced rice in the State in any one of the years, 1955 through 1959, on the basis of the applicable apportionment factors set forth herein: *Provided*, That in any State in which allotments are established for farms on the basis of past production of rice on the farm such percentage of the State acreage allotment shall be apportioned among the farms on which rice is to be planted during 1960 but on which rice was not planted during any of the years, 1955 through 1959, on the basis of the applicable apportionment factors set forth herein. In determining the eligibility of any producer or farm for an allotment as an old producer or farm under the first sentence of this subsection or as a new producer or farm under the second sentence of this subsection, such producer or farm shall not be considered to have produced rice on any acreage which under subsection (c) (2) is either not to be taken into account in establishing acreage allotments or is not to be credited to such producer. For purposes of this section in States which have been divided into administrative areas pursuant to this subsection the term "State acreage allotment" shall be deemed to mean that part of the State acreage allotment apportioned to each administrative area and the word "State" shall be deemed to mean "administrative area", wherever applicable.

Section 353(c) (1) of the act provides that if farm acreage allotments are established by using past production of rice on the farm and the acreage allotments previously established for the farm in lieu of past production of rice by the producer and the acreage allotments previously established for owners or operators, the State acreage allotment shall be apportioned among counties in the State on the same basis as the national acreage allotment is apportioned among the States and the county acreage allotments shall be apportioned to farms on the basis of the applicable factors set forth in subsection (b) of the section: *Provided*, That if the State is divided into administrative areas pursuant to subsection (b) of this section the allotment for each administrative area shall be determined by apportioning the State acreage allotment among counties as provided in this subsection and totaling the allotments for the counties is such area: *Provided*, That the State committee may reserve not to exceed 5 per centum of the State allotment, which shall be used to make adjustments in county allotments for trends in acreage and for abnormal conditions affecting plantings.

Section 301(b) (13) (D) of the act provides that the "normal yield" of rice for 1960 for any county shall be the

average yield per acre of rice for the county during the five calendar years 1955 through 1959 adjusted for abnormal weather conditions and trends in yields. Provision is made therein that if for any such year data are not available, or there is no actual yield, an appraised yield for such year, determined in accordance with regulations of the Secretary, taking into consideration the yields obtained in surrounding counties during such year and the yield in years for which data are available, shall be used as the actual yield for such year.

Section 301(b) (13) (F) of the act provides that if on account of drought, flood, insect pests, plant disease, or other uncontrollable natural cause, the yield for any county for any year during the years 1955 through 1959 is less than 75 per centum of the average, 75 per centum of such average shall be substituted therefor in calculating the normal yield per acre; and if on account of abnormally favorable weather conditions, the yield for any county for any year during the years 1955 through 1959 is in excess of 125 per centum of the average, 125 per centum of such average shall be substituted therefor in calculating the normal yield per acre.

Section 377 of the act provides that in any case in which the acreage planted to rice on any farm in 1960 is less than the 1960 rice acreage allotment for the farm, the entire acreage allotment for such farm shall be considered for purposes of future State, county, and farm acreage allotments to have been planted to rice in 1960, if, except for federally owned land, an acreage equal to or greater than 75 per centum of the farm acreage allotment for 1958, 1959, or 1960 was actually planted to rice in such year or was regarded as planted to rice under the soil bank program.

Sections 106 and 112 of the Soil Bank Act provide that the acreage on any farm which is determined to have been diverted from the production of rice under the acreage reserve or conservation reserve program shall be considered as rice acreage for the purpose of establishing future farm, county, and State acreage allotments under the Agricultural Adjustment Act of 1938, as amended.

Prior to making any of the foregoing determinations with respect to marketing quotas and national, State and county acreage allotments and county normal yields for the 1960 crop of rice, including national, State, and county reserves, consideration will be given to data, views, and recommendations pertaining thereto which are submitted in writing to the Director, Grain Division, Commodity Stabilization Service, United States Department of Agriculture, Washington 25, D.C. All written submissions must be postmarked not later than fifteen days after the date of publication of this notice in the FEDERAL REGISTER.

Issued at Washington, D.C., this 2d day of October 1959.

CLARENCE D. PALMBY,
Associate Administrator.

[F.R. Doc. 59-8457; Filed, Oct. 7, 1959; 8:48 a.m.]

FEDERAL AVIATION AGENCY

I 14 CFR Part 507 I

[Reg. Docket No. 148]

AIRWORTHINESS DIRECTIVES

Forney Ercoupe Aircraft

Pursuant to the authority delegated to me by the Administrator, (§ 405.27, 24 F.R. 2196), notice is hereby given that the Federal Aviation Agency has under consideration a proposal to amend Part 507 of the regulations of the Administrator to include an airworthiness directive requiring corrective action involving Forney (Ercoupe) aircraft.

Interested persons may participate in the making of the proposed rule by submitting such written data, views or arguments as they may desire. Communications should be submitted in duplicate to the Docket Section, Federal Aviation Agency, Room B-316, 1711 New York Avenue NW., Washington 25, D.C. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received. All comments submitted will be available for examination by interested persons in the Docket Section when the prescribed time for return of comments has expired. This proposal will not be given further distribution as a draft release.

This amendment is proposed under the authority of sections 313(a), 601 and 603 of the Federal Aviation Act of 1958 (72 Stat. 752, 775, 776; 49 U.S.C. 1354(a), 1421, 1423).

In consideration of the foregoing, it is proposed to amend § 507.10(a) by adding the following airworthiness directive:

FORNEY (ERCOUPE). Applies to all (Ercoupe) Forney aircraft with Serial Numbers up to 3,335 inclusive.

Compliance required by December 31, 1959, and thereafter every 100 hours of operation or periodic inspection, whichever occurs first.

Fatigue failures have continued to occur in the rudder main rib where the control horn is attached after installation of the reinforcement plates.

Therefore, it is required that a visual inspection be made of the area around the rudder control horn for excessive deflection of the horn, canning of rudder skin, or any other unusual peculiarity which would indicate main rudder rib damage. If damage is evident, rudder rib Erco P/N 415-240 12 L/R must be replaced with Forney P/N F-24015 L/R, or equivalent.

This inspection may be discontinued when the heavier gauge rib is installed. (Forney Service Bulletin No. 105 covers this subject.)

This supersedes AD 47-20-7 (21 F.R. 9462).

Issued in Washington, D.C., on October 1, 1959.

WILLIAM B. DAVIS,
Director,
Bureau of Flight Standards.

[F.R. Doc. 59-8434; Filed, Oct. 7, 1959; 8:45 a.m.]

I 14 CFR Part 507 I

[Reg. Docket No. 149]

AIRWORTHINESS DIRECTIVES

Boeing 707 Aircraft

Pursuant to the authority delegated to me by the Administrator (§ 405.27, 24 F.R. 2196), notice is hereby given that the Federal Aviation Agency has under consideration a proposal to amend Part 507 of the regulations of the Administrator to include an airworthiness directive requiring corrective action involving Boeing 707 Series aircraft.

Interested persons may participate in the making of the proposed rule by submitting such written data, views or arguments as they may desire. Communications should be submitted in duplicate to the Docket Section, Federal Aviation Agency, Room B-316, 1711 New York Avenue NW., Washington 25, D.C. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received. All comments submitted will be available for examination by interested persons in the Docket Section when the prescribed time for return of comments has expired. This proposal will not be given further distribution as a draft release.

This amendment is proposed under the authority of sections 313(a), 601 and 603 of the Federal Aviation Act of 1958 (72 Stat. 752, 775, 776; 49 U.S.C. 1354(a), 1421, 1423).

In consideration of the foregoing, it is proposed to amend § 507.10(a) by adding the following airworthiness directive:

BOEING. Applies to all 707 Series aircraft operating in accordance with Parts 40, 41, and 42 of the Civil Air Regulations.

Compliance required as indicated.

As a result of detailed examinations of flight recorder data subsequent to recent incidents involving 707 Series aircraft, it has been determined the power switch for this recorder should be removed from the nose gear oleo actuated relay and placed on another appropriate switch such that all elements of this installation will be operating within prescribed limits at the start of take-off. This modification shall be accomplished as indicated.

Unless already accomplished, within the next 200 hours of service time install a three position switch, AN3027-8 or equivalent, on the pilot's overhead panel, F13, and connect to appropriate circuits in the flight recorder for TEST-OFF-ON functions. Switch position shall be appropriately marked. Deletion of the present wiring to the oleo actuated relay is considered optional. Suitable operating instructions shall be provided to assure proper operation of the flight recorder prior to aircraft take-off roll. Appropriate operating instructions will be included in the Airplane Flight Manual.

(Boeing Service Bulletin No. 77 (R-1) pertains to this same subject.)

Issued in Washington, D.C., on October 1, 1959.

WILLIAM B. DAVIS,
Director,
Bureau of Flight Standards.

[F.R. Doc. 59-8435; Filed, Oct. 7, 1959; 8:45 a.m.]

I 14 CFR Part 507 I

[Reg. Docket No. 150]

AIRWORTHINESS DIRECTIVES

Certain Lockheed Aircraft

Pursuant to the authority delegated to me by the Administrator (§ 405.27, 24 F.R. 2196), notice is hereby given that the Federal Aviation Agency has under consideration a proposal to amend Part 507 of the regulations of the Administrator to include an airworthiness directive requiring corrective action involving forward passenger door latch brackets on certain Lockheed Models 649, 749, and 1049 aircraft.

Interested persons may participate in the making of the proposed rule by submitting such written data, views or arguments as they may desire. Communications should be submitted in duplicate to the Docket Section, Federal Aviation Agency, Room B-316, 1711 New York Avenue NW., Washington 25, D.C. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received. All comments submitted will be available for examination by interested persons in the Docket Section when the prescribed time for return of comments has expired. This proposal will not be given further distribution as a draft release.

This amendment is proposed under the authority of sections 313(a), 601 and 603 of the Federal Aviation Act of 1958 (72 Stat. 752, 775, 776; 49 U.S.C. 1354(a), 1421, 1423).

In consideration of the foregoing, it is proposed to amend § 507.10(a) by adding the following airworthiness directive:

LOCKHEED. Applies to Model 649 and 749 aircraft, Serial Numbers 2518 through 2524, 2529 through 2535, 2548, 2549, 2554 through 2556, 2610, 2611, 2614 through 2618, 2642, 2653, 2659, 2660, 2662 through 2673, Model 1049-54 Serial Numbers 4001 through 4024 and Model 1049C, Serial Numbers 4523 through 4538.

Compliance required as indicated.

As a result of cracks discovered in forward passenger door latch brackets the following shall be accomplished on the above Serial Numbered aircraft which have accumulated flight time of 10,000 hours or more.

Unless already accomplished, within the next 200 hours of service time the following inspections are required:

(a) Model 649 and 749 aircraft.

(1) Remove and inspect by the dye penetrant method the top and bottom P/N 291924-2 and -3 brackets of the P/N 291941-2 and -3 top and bottom latch assemblies of the P/N 290809 forward passenger door assembly for cracks in the fillet radius of attach flanges of the brackets. (Lockheed Field Service Letters FS/222746 and FS/220393-W pertain to this subject.)

Cracked latch brackets must be replaced. The replacement part may be either a new bracket of the same part number, the improved latch assembly P/N 554278-1, P/N 554289-1 or P/N 554289-3, whichever is applicable, or an equivalent item.

(2) Check door rigging and condition of safety bar and hooks.

(b) Model 1049-54 and 1049C aircraft.

(1) Remove and inspect by the dye penetrant method the upper and lower aft P/N 291925 and/or P/N 308236 brackets of the P/N 291940 and P/N 338239 upper and lower aft latch assemblies of the P/N 308269 and P/N 308269-600 forward passenger door assemblies for cracks in the fillet radius of the attach flanges of the brackets. (Lockheed Field Service Letters FS/222746 and FS/220393-W pertain to this subject.)

Cracked latch brackets must be replaced. The replacement part may be either a new bracket of the same part number, the improved latch assembly P/N 554278-3, P/N 554289-1 or P/N 554289-3, whichever is applicable, or an equivalent item.

(2) Check door rigging and condition of safety bar and hooks.

When the improved latch assemblies (identified above by part number) are installed, this inspection procedure may be terminated. When the replacement bracket is identical to the originally installed bracket, this inspection procedure is to be re-established upon accumulation of 10,000 flight-hours on the replacement brackets.

(Lockheed Service Bulletins 49/SE-882 and 1049/SE-3052 describe the installation of the improved latch assemblies mentioned herein.)

Issued in Washington, D.C., on October 1, 1959.

WILLIAM B. DAVIS,
Director,

Bureau of Flight Standards.

[F.R. Doc. 59-8436; Filed, Oct. 7, 1959; 8:45 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 9]

[Docket No. 13215; FCC 59-1021]

AVIATION SERVICES

Issuance of Aircraft Radio Station Licenses to Aliens and Their Representatives

1. Notice is hereby given of proposed rule making in the above-entitled matter.

2. It is proposed to amend § 9.2, Part 9—Aviation Services, to provide for the issuance of aircraft radio station licenses to aliens or their representatives who hold valid United States pilot certificates.

3. This proposal is designed to implement the provisions of Public Law 85-817, approved August 28, 1958, which, among other things, amended section 310(a) of the Communications Act to read as follows:

Section 310(a). The station license required hereby shall not be granted to or held by—(1) Any alien or the representative of any alien; * * * "Notwithstanding paragraph (1) of this subsection, a license for a radio station on an aircraft may be granted to and held by a person who is an alien or a representative of an alien if such person holds a United States pilot certificate or a foreign aircraft pilot certificate which is valid in the United States on the basis of reciprocal agreements entered into with foreign governments" (quotations denote language added by Pub. Law 85-817).

4. Prior to the enactment of the above-quoted portion of Public Law 85-817, aliens or their representatives were in-

eligible, under the Communications Act, for radio station licenses of any class. The passage of Public Law 85-817 alters this situation to the extent that aliens or their representatives may now be granted aircraft radio station licenses if they meet the following conditions:

(a) The applicant must be a pilot holding either:

(1) A U.S. pilot certificate, or

(2) A foreign aircraft pilot certificate which is valid in the U.S. on the basis of reciprocal agreements entered into with foreign governments.

5. It is proposed in this proceeding to provide for the issuance of aircraft radio station licenses only to those aliens and their representatives holding U.S. pilot certificates (condition (a) (1), paragraph 4).

6. With respect to those aliens and their representatives who might claim eligibility for aircraft radio station licenses by virtue of their possession of foreign aircraft pilot certificates (condition (a) (2), paragraph 4), the following is pertinent:

The types of aircraft on which radio station authorizations might be sought would be those of either foreign registry or of U.S. registry.

(a) If the aircraft is of foreign registry, § 9.313 of the Commission's rules, and Article 30 of the Chicago Convention (1944) from which it derives, permit civil aircraft of ICAO member states to carry radio transmitting apparatus while in or over U.S. territory if a license to install and operate such apparatus has been issued by the State in which the aircraft is registered. A foreign pilot holding proper foreign pilot and radio operator certificates, issued by the country in which the aircraft is registered, is permitted to use the radio equipment aboard such aircraft while operated within U.S. territory. Under these circumstances, a radio station license issued by the Commission would not be required. The improbability of the Commission's being called upon to issue aircraft radio station licenses to foreign nationals for use aboard foreign aircraft, on the basis of their possession of foreign pilot certificates alone is further underscored by section 301(e) of the Communications Act, which provides only for the issuance of such licenses for equipment aboard "aircraft of the United States", the ownership of which, by a foreign national, is prohibited by section 501 of the Civil Aeronautics Act of 1938, as amended.

(b) If the aircraft is of U.S. registry, a foreign aircraft pilot certificate would not be valid for the operation of such aircraft in the United States, since § 43.40 of the current Civil Air Regulations requires that any person, irrespective of citizenship, must hold a U.S. pilot certificate before he may pilot a U.S. registered aircraft in the United States. If, pursuant to this requirement, a foreign pilot obtained a U.S. pilot certificate, he would thereby have satisfied the first proviso of Public Law 85-817 (condition (a) (1), paragraph 4) and therefore would not find it necessary to apply to the Commission for an aircraft radio station license on the strength of his foreign pilot certificate alone (condition (a) (2), paragraph 4).

To summarize, the self-executing provisions of Article 30 of the Chicago Convention, together with the recent adoption of § 43.40 of the Civil Air Regulations, make it appear that there would be no situation in which the Commission would be called upon to issue an aircraft radio station license to an alien or his representative claiming eligibility therefor solely on the basis that he holds a foreign aircraft pilot license recognized as

valid in the United States. No specific implementation of the second proviso of Public Law 85-817 (condition (a) (2), paragraph 4) is therefore proposed at this time.

7. The proposed amendment is issued under the authority of sections 303(r) and 310(a) of the Communications Act of 1934, as amended.

8. Any interested person who is of the opinion that the proposed amendment should not be adopted, or should not be adopted in the form set forth herein, may file with the Commission on or before November 2, 1959, written data, views, or arguments setting forth his comments. Comments in support of the proposed amendment may also be filed on or before the same date. Rebuttal comments may be filed within ten days from the last day for filing of original comments. No additional comments may be filed unless (1) specifically requested by the Commission, or (2) good cause for the filing of such additional comments is established. The Commission will consider all such comments prior to taking final action in this matter, and if comments are submitted warranting oral argument, notice of the time and place of such oral argument will be given.

9. In accordance with the provisions of § 1.54 of the Commission's rules, an original and 14 copies of all statements, briefs, or comments shall be furnished the Commission.

Adopted: September 30, 1959.

Released: October 5, 1959.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

Amend paragraph (a) of § 9.2, to read as follows:

(a) Any alien or the representative of any alien: *Provided, however,* That a license for a radio station on an aircraft may be granted to and held by a person who is an alien or a representative of an alien if such person holds a valid United States pilot certificate.

[F.R. Doc. 59-8464; Filed, Oct. 7, 1959; 8:49 a.m.]

[Docket No. 13216; FCC 59-1022]

COMMERCIAL RADIO OPERATOR LICENSES

[47 CFR Part 13]

Issuance to Certain Alien Aircraft Pilots

1. Notice is hereby given of proposed rule making in the above-entitled matter.

2. Section 303 of the Communications Act of 1934 was amended on August 28, 1958 by Public Law 85-817, authorizing the Commission to waive the requirement of United States citizenship in the case of certain alien applicants for radio operator licenses who are aircraft pilots. As amended, section 303 in relevant part, reads as follows:

Sec. 303. Except as otherwise provided in this Act, the Commission, from time to

time, as public convenience, interest, or necessity requires, shall—

(1) Have authority to prescribe the qualifications of station operators, to classify them according to the duties to be performed, to fix the forms of such licenses, and to issue them to such citizens of the United States as the Commission finds qualified; "except that in issuing licenses for the operation of radio stations on aircraft the Commission may, if it finds that the public interest will be served thereby, waive the requirement of citizenship in the case of persons holding United States pilot certificates, or in the case of persons holding foreign aircraft pilot certificates which are valid in the United States on the basis of reciprocal agreements entered into with foreign governments." (Language added by Public Law 85-817 is quoted.)

3. Certain changes in the Commission's rules are necessary in order to provide for issuance of operator licenses to alien aircraft pilots pursuant to the added authority under section 303(1). It is proposed to amend §§ 13.4, 13.5, and 13.11, and add new § 13.77, as set forth below. The amendments would provide for:

(a) Waiver of the citizenship requirement only in the case of persons who hold aircraft pilot certificates issued by the FAA or CAA. Under the amendment there are two categories of persons for whom the Commission may waive the citizenship requirement: (1) Persons holding a United States pilot certificate, or (2) persons holding a foreign pilot certificate which is valid in the United States on the basis of reciprocal agreements entered into with foreign governments. Provision is made in the proposed rule amendments for waiving the citizenship requirement for persons in category (1), however, no provision is made for persons in category (2) for the following reasons:

(i) Under Article 30 of the Chicago Convention, 1944, foreign nationals who are citizens of ICAO¹ member states may operate radio equipment on board aircraft of foreign registry when in or over United States territory provided that the radio equipment on board the aircraft and the operator of the equipment both are properly licensed by the country of registry. Under this condition no United States radio operator license would be involved.

(ii) In the case of aircraft of United States registry, § 43.40 of the Civil Air Regulations requires that any person piloting a U.S. registered aircraft within the United States must hold a U.S. Pilot Certificate. Foreign pilot certificates are thus excluded and therefore no provision for the issuance of operator licenses to persons holding foreign pilot

certificates would be required at this time.

(b) Issuance of operator licenses for terms not to exceed one year.

(c) Suspension of a license issued to an alien without advance notice or hearing at any time prior to its normal expiration date, if the Commission determines that there is a need for such action because of willful violation by the alien licenses of any statute, or rules and regulations of the Commission, or those cases which public interest, or safety requires.

(d) Limiting the authority under a license issued to an alien to such radio station operation as is complementary to his functions and duties as a pilot. This would provide for the normal operation of radio apparatus as a safety feature on board aircraft.

4. Authority for the adoption of the amendments herein is contained in section 4(i) and in sections 303(1) and 303(r) of the Communications Act of 1934, as amended.

5. Any interested party who is of the view that the proposed amendments should not be adopted, or should not be adopted in the form set forth herein, may file with the Commission on or before November 2, 1959, a written statement or brief setting forth his comments. Comments or briefs in support of the proposed amendments may also be filed on or before the same date. Comments or briefs in reply to the original comments may be filed within ten days from the last day for filing said original comments. No additional comments may be filed unless (1) specifically requested by the Commission or (2) good cause for the filing of such additional comments is established.

6. In accordance with the provisions of § 1.54 of the Commission's rules and regulations, an original and 14 copies of all statements, briefs, or comments shall be furnished the Commission.

Adopted: September 30, 1959.

Released: October 5, 1959.

FEDERAL COMMUNICATIONS
COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

It is proposed to amend Part 13, Commercial Radio Operators, as follows:

1. Amend § 13.4 to read as follows:

§ 13.4 Term of licenses.

(a) Except as provided in paragraphs (b) and (c) of this section, commercial operator licenses will normally be issued for a term of five years from the date of issuance.

(b) Restricted Radiotelephone Operator Permits issued to U.S. citizens will normally be issued for the lifetime of the operator. The terms of all Restricted

Radiotelephone Operator Permits issued prior to November 15, 1953 which were outstanding on that date were extended to encompass the lifetime of such operators.

(c) A commercial operator license, of any grade, granted to an alien aircraft pilot under a waiver of the U.S. citizenship provisions of section 303(1) of the Communications Act, until such time as the question of a national security policy has been determined with respect to such persons, will normally be issued for a period not in excess of one year from the date of issuance. Any such license may be suspended without advance notice or hearing if the Commission determines that there is a need for such action because of a willful violation by the alien licensee of any statute, or rules and regulations of the Commission, or in those cases which public interest or safety requires. An operator license issued to an alien shall be valid only if the operator continues to hold an Aircraft Pilot Certificate issued by the Civil Aeronautics Administration or the Federal Aviation Agency and is lawfully in the United States.

2. Amend § 13.5(a) to read as follows:

§ 13.5 Eligibility for new license.

(a) Normally, commercial licenses are issued only to U.S. citizens. As an exception, in the case of an alien who holds an Aircraft Pilot Certificate issued by the Civil Aeronautics Administration or the Federal Aviation Agency and is lawfully in the United States, the Commission, if it finds that the public interest will be served, may waive the requirement of citizenship.

§ 13.11 [Amendment]

3. Amend § 13.11 by adding new paragraph (c) as follows:

(c) A license, other than a restricted radiotelephone operator permit, issued for a term of less than five years (see § 13.4(c)) may be extended for a period not exceeding the portion of the five-year term remaining without further examination provided proper application for extension is filed prior to expiration of the license.

4. Add new § 13.77 as follows:

§ 13.77 Limitation on aircraft pilots.

Notwithstanding any other provision of these rules, a license issued to an aircraft pilot under a waiver of the requirement of U.S. citizenship pursuant to section 303(1) of the Communications Act shall be valid only for such operation of radio stations on aircraft as is complementary to his functions and duties as a pilot.

[F.R. Doc. 59-8465; Filed, Oct. 7, 1959; 8:50 a.m.]

¹ International Civil Aviation Organization.

NOTICES

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

LOUISIANA AND TEXAS

New Offshore Leasing Maps

OCTOBER 2, 1959.

The following Outer Continental Shelf Leasing Maps for areas offshore from Louisiana and Texas were approved respectively on September 8 and 24, 1959:

Louisiana Map No.—

- 1B, West Cameron Area, South Addition.
- 2A, East Cameron Area, South Addition.
- 3B, Vermillion Area, South Addition.
- 3C, South Marsh Island Area, South Addition.
- 4A, Eugene Island Area, South Addition.
- 5A, Ship Shoal Area, South Addition.
- 6A, South Timbalier Area, South Addition.
- 7A, Grand Isle Area, South Addition.
- 8A, West Delta Area, South Addition.
- 9A, South Pass Area, South and East Addition.
- 10A, Main Pass Area, South and East Addition.
- 11A, Chandeleur Area, East Addition.

Texas Map No.—

- 5A, Brazos Area, South Addition.
- 6A, Galveston Area, South Addition.
- 7B, High Island Area, South Addition.
- 7C, High Island Area, East Addition, South Extension.

Reduced scale copies of these maps have been assembled in two separate sets. Copies of the maps may be obtained at the established price of \$1 per set from the Manager, Bureau of Land Management Office, Room 1001-A, Maritime Building, 203 Carondelet Street, New Orleans, Louisiana, or Director, Bureau of Land Management, Washington 25, D.C.

EDWARD WOZLEY,
Director.

[F.R. Doc. 59-8441; Filed, Oct. 7, 1959; 8:46 a.m.]

NEVADA

Notice of Proposed Withdrawal and Reservation of Lands

OCTOBER 1, 1959.

The Bureau of Indian Affairs has filed an application, Serial No. Nevada-048831, for the withdrawal of the lands described below, from all forms of appropriation, including the mining and mineral leasing laws. The applicant desires the land to further consolidate their present holdings in the Wildhorse Reservoir Area, and to facilitate the administration of this area for recreational development and use, and to provide access to the lake shore.

For a period of 30 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned official of the Bureau of Land Manage-

ment, Department of the Interior, P.O. Box 1551, Reno, Nevada.

If circumstances warrant it, a public hearing will be held at a convenient time and place, which will be announced.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

The lands involved in the application are:

MOUNT DIABLO MERIDIAN, NEVADA

T. 44 N., R. 55 E.,
Sec. 29, NW¼NW¼.

The area described contains 40 acres.

W. REED ROBERTS,
Acting State Supervisor.

[F.R. Doc. 59-8442; Filed, Oct. 7, 1959; 8:46 a.m.]

COLORADO

Notice of Filing of Plat of Survey

OCTOBER 5, 1959.

1. Pursuant to authority delegated by B.L.M. Order No. 541 dated April 21, 1954 (19 F.R. 2473), as amended, notice is hereby given that the plat of survey (1 sheet), accepted December 24, 1958, supplemented by plat, accepted May 21, 1959, of T. 34 N., R. 20 W., N.M.P.M., including lands hereinafter described, will be officially filed in the Land Office, Denver, Colorado, effective at 10:00 A.M., on the 35th day after the date of this notice:

Township 34 North, Range 20 West, N.M.P.M.
Section 1; All.
Section 2; All.
Section 3; All.
Section 10; All.
Section 11; All.
Section 12; All.

The area described aggregates 2,938.92 acres of public lands.

2. The lands are within the exterior boundaries of the Ute Mountain Indian Reservation, ceded to the United States by treaty with the Ute Indians on March 2, 1868, as amended, accepted and ratified by the Act of June 15, 1880 (21 Stat. 199).

3. The area is under the jurisdiction of the Bureau of Indian Affairs, Department of the Interior, and is not available for disposal under the Public Land Laws, General Mining Regulations, the Mineral Leasing Act of February 25, 1920, or other acts administered by the Bureau of Land Management.

4. All inquiries concerning the land described in this notice should be addressed to the Manager, Colorado Land Office, Bureau of Land Management, 371 New Custom House, P.O. Box 1018, Denver 1, Colorado.

LOWELL M. PUCKETT,
State Supervisor.

[F.R. Doc. 59-8443; Filed, Oct. 7, 1959; 8:46 a.m.]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

NORTH ARKANSAS LIVESTOCK AUCTION INC., GREEN FOREST, ARKANSAS, ET AL.

Proposed Posting of Stockyards

The Director of the Livestock Division, Agricultural Marketing Service, United States Department of Agriculture, has information that the livestock markets named below are stockyards as defined in section 302 of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 202), and should be made subject to the provisions of the act.

- North Arkansas Livestock Auction Inc., Green Forest, Ark.
- Kohl Dairy Auction, Tempe, Ariz.
- Shoshone Sale Yard, Inc., Shoshone, Idaho.
- Middletown Sale Barn, Middletown, Ind.
- Scottsburg Sales Barn, Scottsburg, Ind.
- Pocahontas Livestock Exchange, Pocahontas, Iowa.
- Adair County Stock Yards Co., Columbia, Ky.
- Albany Stock Yards, Albany, Ky.
- Allen County Livestock Commission Market, Inc., Scottsville, Ky.
- Berry and Whitford, Mayfield, Ky.
- Bowling Green Livestock Market, Inc., Bowling Green, Ky.
- C. & H. Stockyards, Isom, Ky.
- Carlisle Stock Yards, Carlisle, Ky.
- Catlettsburg Livestock Sales Co., Catlettsburg, Ky.
- Christian County Livestock Market, Inc., Hopkinsville, Ky.
- Falmouth Stockyards, Falmouth, Ky.
- Farmers Livestock Market, London, Ky.
- Farmer's Livestock Sales, Inc., Louisa, Ky.
- Farmers Livestock Auction Co., Mayfield, Ky.
- Farmers Livestock Market, Inc., Somerset, Ky.
- Farmers Commission Co., Inc., Tompkinsville, Ky.
- Franklin Livestock Market, Inc., Franklin, Ky.
- Glasgow Live Stock Market, Inc., Glasgow, Ky.
- Grayson County Livestock Market, Letchfield, Ky.
- Green County Stock Yards, Greensburg, Ky.
- Hart County Livestock Market, Munfordville, Ky.
- Hollingsworth Livestock Market, Russellville, Ky.
- Hopkinsville Live Stock Co., Inc., Hopkinsville, Ky.
- Horse Cave Stockyards, Horse Cave, Ky.
- Hutcherson Livestock Market, Glasgow, Ky.
- Knox County Stockyards, Inc., Barbourville, Ky.
- Laurel Sales Co., London, Ky.
- Lebanon Stockyard Inc., Lebanon, Ky.
- Lincoln County Stockyards, Inc., Stanford, Ky.
- Livermore Auction Co., Livermore, Ky.
- Logan County Live Stock Co., Russellville, Ky.
- Marion County Stockyards, Inc., Lebanon, Ky.
- Middlesboro Livestock Auction Co., Middlesboro, Ky.
- Monticello Stock Yards, Monticello, Ky.
- More Head Stock Yards, More Head, Ky.
- Muhlenberg County Livestock Market, Inc., Greenville, Ky.

Murray Live Stock Co., Murray, Ky.
 Owsley County Stock Yards, Booneville, Ky.
 Paintsville Livestock Market, Staffordsville, Ky.
 Pikeville Livestock Market, Pikeville, Ky.
 Princeton Livestock Co., Inc., Princeton, Ky.
 Ratliff Stock Yards, Mt. Sterling, Ky.
 Russell County Stock Yards, Russell Springs, Ky.
 Science Hill Stockyards, Science Hill, Ky.
 Sparta Stockyards Co., Sparta, Ky.
 Taylor County Stock Yards, Campbellsville, Ky.
 T. E. Vasseur & Son, Paducah, Ky.
 Tompkinsville Livestock Market, Inc., Tompkinsville, Ky.
 Walton Sales Barn, Walton, Ky.
 Washington County Stock Yards Company, Inc., Springfield, Ky.
 Williamstown Stock Yards, Williamstown, Ky.
 Frederick Livestock Auction, Inc., Frederick, Md.
 Wolverine Dairy Consignment Sale, Wolverine, Mich.
 Belgrade Community Sale, Belgrade, Minn.
 Cabool Live Stock, Cabool, Mo.
 Napoleon Livestock Auction, Inc., Napoleon, N. Dak.
 Minot Livestock Auction, Minot, N. Dak.
 Bridgeport Auction Barn, Bridgeport, Tex.
 Clarksville Livestock Exchange, Clarksville, Tex.
 Antigo Auction Sales, Antigo, Wis.

Notice is hereby given, therefore, that the said Director, pursuant to authority delegated under the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.), proposes to issue a rule designating the stockyards named above as posted stockyards subject to the provisions of the act, as provided in section 302 thereof.

Any person who wishes to submit written data, views, or arguments concerning the proposed rule may do so by filing them with the Director, Livestock Division, United States Department of Agriculture, Washington 25, D.C., within 15 days after publication hereof in the FEDERAL REGISTER.

Done at Washington, D.C., this 2d day of October 1959.

DAVID M. PETTUS,
 Director, Livestock Division,
 Agricultural Marketing Service.

[F.R. Doc. 59-8455; Filed, Oct. 7, 1959;
 8:48 a.m.]

DEPARTMENT OF COMMERCE

Bureau of Foreign Commerce

RO-NARD, INC., ET AL.

Order Temporarily Denying Export Privileges

In the matter of Ro-Nard, Inc., Lily S. S. Wolfenson, 300 West 53rd Street, New York, New York, File 26-432; Alberto Azar, 965 San Jose, Montevideo, Uruguay, respondents.

The Director, Investigation Staff, Bureau of Foreign Commerce, U.S. Department of Commerce, pursuant to the provisions of § 382.11 of the Bureau of Foreign Commerce Export Regulations (Title 15, Chapter III, Subchapter B, Code of Federal Regulations), has ap-

plied to the Compliance Commissioner for an order temporarily denying to Ro-Nard, Inc., Lily S. S. Wolfenson, and Alberto Azar, the respondents herein, all United States export privileges pending the continued investigation of the facts giving rise to this application and the commencement of such administrative proceedings, as may be deemed proper, against the respondents.

The Compliance Commissioner, having considered the evidence submitted in support of said application, has reported the facts upon which the application is based and has recommended that the application be granted. After careful consideration of the report and the evidence submitted together therewith, it is found that the evidence reasonably supports the conclusion that all the respondents herein have been and are engaged in a continuing conspiracy to procure, from time to time, large quantities of electronic materials and thereafter export them from the United States without regard to the export control regulations governing such exportations by delivering packages thereof to messengers or couriers who then smuggle them out of this country. The nature of respondents' activities has been such that it appears that, unless an order is entered and published denying temporarily to them all export privileges, they may continue to obtain such commodities and thereafter cause them to be exported in violation of the applicable regulations. Now, having concluded that the protection of the public interest requires and that it is necessary to achieve effective enforcement of the law that the respondents be denied all export privileges, at least for the period hereinafter provided, during which they may have an opportunity to contest the findings herein, it is ordered as follows:

(1) The respondents, Ro-Nard, Inc., Lily S. S. Wolfenson, and Alberto Azar, their officers, agents, servants, and employees, and all persons and firms associated with them, are hereby denied all privileges of participating directly or indirectly in any manner, form, or capacity in any exportation of any commodity or technical data from the United States to any foreign destination, including Canada. Without limitation of the generality of the foregoing, participation in an exportation shall include and prohibit respondents' participation (a) as parties or as representatives of a party to any validated export license application; (b) in the obtaining or using of any validated or general export license or other export control document; (c) in the receiving, ordering, buying, selling, delivering, or disposing of any commodities in whole or in part exported or to be exported from the United States; and (d) in the financing, forwarding, transporting, or other servicing of exports from the United States;

(2) Such denial of export privileges shall apply not only to the said respondents, but also to any other person, firm, corporation, or business organization with which the respondents may be now or hereafter related by ownership, affiliation, control, position of responsibility, or other connection in the conduct of

trade which may involve exports from the United States or services connected therewith;

(3) This order shall take effect forthwith and shall remain in effect for a period of thirty days from the date hereof unless it is hereafter extended, amended, modified, or vacated in accordance with the provisions of the Export Regulations;

(4) No person, firm, corporation, or other business organization, within the United States or elsewhere, and whether or not engaged in trade relating to exports from the United States, without prior disclosure of the facts to, and specific authorization from the Bureau of Foreign Commerce, shall directly or indirectly in any manner, form, or capacity (a) apply for, obtain, transfer, or use any license, shipper's export declaration, bill of lading, or other export control document relating to any exportation of commodities from the United States, or (b) order, receive, buy, sell, use, deliver, dispose of, finance, transport, forward, or otherwise service or participate in an exportation from the United States, or in a re-exportation of any commodity exported from the United States, with respect to which any of the persons or companies within the scope of paragraphs (1) and (2) hereof may receive any benefit or have any interest or participation of any kind or nature, direct or indirect.

(5) A certified copy of this order shall be served upon the respondents.

(6) In accordance with the provisions of § 382.11(c) of the Export Regulations, the respondents may move at any time to vacate or modify this temporary denial order by filing an appropriate motion therefor, supported by evidence, with the Compliance Commissioner and may request oral hearing thereon, which, if requested, shall be held before the Compliance Commissioner at Washington, D.C., at the earliest convenient date.

Dated: October 5, 1959.

JOHN C. BORTON,
 Director,
 Office of Export Supply.

[F.R. Doc. 59-8473; Filed, Oct. 7, 1959;
 8:51 a.m.]

ATOMIC ENERGY COMMISSION

[Docket No. 27-3]

CALIFORNIA SALVAGE CO.

Notice of Issuance of Byproduct, Source and Special Nuclear Material License

Please take notice that no requests for a formal hearing have been filed following the filing of notice of the proposed action with the Federal Register Division on September 9, 1959, the Atomic Energy Commission has this date issued Byproduct, Source and Special Nuclear Material License No. 4-5479-1 authorizing California Salvage Company to receive, possess, package, and dispose of byproduct, source and special nuclear materials in the Pacific Ocean in ac-

cordance with the terms and conditions of said license. Notice of the proposed action was published in the FEDERAL REGISTER on September 10, 1959, 24 F.R. 7,282.

Dated at Germantown, Md., this 30th day of September 1959.

For the Atomic Energy Commission.

R. L. KIRK,
Deputy Director, Division of
Licensing and Regulation.

[F.R. Doc. 59-8432; Filed, Oct. 7, 1959;
8:45 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 11866; FCC 59-1018]

ALLOCATION OF FREQUENCIES IN BANDS ABOVE 890 Mc.

Order With Respect to Certain Requests

At a session of the Federal Communications Commission held at its offices in Washington, D.C., on the 30th day of September 1959;

The Commission having under consideration (1) the general requests, filed on September 8, 1959, by the American Telephone and Telegraph Company, The Western Union Telegraph Company, and the General Telephone Service Corporation, for a stay of any action by the Commission looking toward the implementation of the policies and determinations made by the Commission in its Report and Order released August 6, 1959, in Docket No. 11866, pending action on their respective petitions for reconsideration of said Report and Order, and (2) the specific request of General Telephone Service Corporation that the time during which interested parties may file comments on the Notice of Proposed Rule Making in Docket No. 13083 be extended to at least 30 days following action on its petition for reconsideration; and

It appearing that, in its rule-making proceeding in Docket No. 13083, the Commission invited comments on a proposal looking toward the adoption of certain technical criteria to govern the grant of applications for private microwave systems (excluding broadcasters) pending such time as rules are promulgated covering the technical criteria to be applied to the issuance of regular authorizations for such private systems; and

It further appearing that such proposed criteria would be applicable to the issuance of authorizations for private microwave systems not only to persons who are now eligible for such grants under the Commission's rules governing the Safety and Special Radio Services, but also to persons who prior to the Report and Order in Docket No. 11866 would not have been eligible for such authorizations; and

It further appearing that, by Order in Docket No. 13083, released September 1, 1959, the Commission considered a similar request by General Telephone

Service Corporation to extend the time in which to file comments in such rule-making proceeding, and that the Commission therein determined that the public interest would not be served by the grant of such a request; and

It further appearing that no new or additional reasons have been advanced; and

It further appearing that for the reasons set forth herein and those stated in the above-described order in Docket No. 13083, which is hereby incorporated by reference, the public interest would not be served by the grant of the requests to stay action in such rule-making proposal; and

It further appearing that with respect to other matter, in the interest of orderly development of actions by the Commission in the microwave field, a stay of temporary duration in implementation of the policies and determinations made by the Commission in its report and order in Docket No. 11866, would be desirable and the public interest served thereby;

It is ordered, That the above-described requests for stay of Commission action are denied insofar as they request the Commission to defer action on its rule-making proposal in Docket No. 13083 and are granted for a period of temporary duration insofar as they otherwise request the Commission to withhold any action looking toward the implementation of the policies and determinations made by the Commission in said report and order in Docket No. 11866.

Released: October 5, 1959.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 59-8466; Filed, Oct. 7, 1959;
8:50 a.m.]

[Docket No. 13181; FCC 59-1014]

MARIN BROADCASTING CO., INC.

Corrected Order Designating Application for Hearing on Stated Issues

In re application of Marin Broadcasting Company, Inc., Radio Station KTIM, San Rafael, California, Docket No. 13181, File No. BP-12540; for construction permit to change transmitter site.

At a session of the Federal Communications Commission held at its offices in Washington, D.C., on the 30th day of September 1959:

The Commission having under consideration its order released September 9, 1959 (FCC 59-897) and published in the FEDERAL REGISTER September 12, 1959 (24 F.R. 7390), designating the above-captioned and described application for hearing at a time and place to be later specified; and

It appearing that upon further consideration of said order, it appears that an issue should be added (Issue No. 1, infra) to determine the areas and populations which may be expected to gain or lose primary service from the proposed operation of Radio Station KTIM and

the availability of other primary service to such areas and populations; and

It further appearing that except as indicated by the issues specified below, the applicant is legally, technically, financially, and otherwise qualified to construct and operate the instant proposal; and

It further appearing that pursuant to section 309(b) of the Communications Act of 1934, as amended, the Commission, by letter dated May 20, 1959, and incorporated herein by reference, notified the applicant and Radio Station KAFP, the only other known party in interest, of the grounds and reasons for the Commission's inability to make a finding that a grant of the application would serve the public interest, convenience and necessity; and that a copy of the aforementioned letter is available for public inspection at the Commission's offices; and

It further appearing that the applicant filed a timely reply to the aforementioned letter which reply has not, however, entirely eliminated the grounds and reasons precluding a grant without hearing of the application; and

It further appearing that after consideration of the applicant's reply, the Commission is still unable to make the statutory finding that a grant of the application would serve the public interest, convenience, and necessity; and is of the opinion that the application must be designated for hearing on the issues specified below:

It is ordered, That, pursuant to section 309(b) of the Communications Act of 1934, as amended, the above-captioned application is designated for hearing, at a time and place to be specified in a subsequent order, upon the following issues:

1. To determine the areas and populations which may be expected to gain or lose primary service from the proposed operation of Station KTIM and the availability of other primary service to such areas and populations.

2. To determine whether the instant proposal of Radio Station KTIM would involve objectionable interference with Radio Station KAFP, or any other existing standard broadcast stations, and, if so, the nature and extent thereof, the areas and populations affected thereby, and the availability of other primary service to such areas and populations.

3. To determine whether overlap of the respective 2 mv/m and 25 mv/m contours would occur between the instant proposal of Radio Station KTIM and Radio Station KAFP in contravention of § 3.37 of the Commission's rules, and if so whether circumstances would warrant a waiver of the said section.

4. To determine, in the light of the evidence adduced under the foregoing issues, whether a grant of the instant application would serve the public interest, convenience, and necessity.

It is further ordered, That Broadcast Associates, Incorporated, licensee of Radio Station KAFP, is made a party to this proceeding.

It is further ordered, That, to avail themselves of the opportunity to be heard, the applicant and party respondent herein, pursuant to § 1.140 of the

Commission's rules, in person or by attorney, shall within 20 days of the mailing of this order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this order.

It is further ordered, That the order released September 9, 1959, is superseded by this order with respect to issues only.

Released: October 5, 1959.

FEDERAL COMMUNICATIONS
COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 59-8467; Filed, Oct. 7, 1959;
8:50 a.m.]

[Docket No. 12831 etc.; FCC 59-1004]

NORTH SHORE BROADCASTING CO., INC. ET AL.

Order Amending Issues

In re applications of North Shore Broadcasting Co., Inc., Wauwatosa, Wisconsin, requests: 1590 kc, 1 kw, DA-Day, Docket No. 12831, File No. BP-11768; Suburbanaire, Inc., West Allis, Wisconsin, requests: 1590 kc, 1 kw, DA-Day, Docket No. 12832, File No. BP-12511; Watertown Radio, Inc. (WTTN), Watertown, Wisconsin, has: 1580 kc, 250 w, Day, requests: 1580 kc, 250 w, 1 kw (CR), Day, Docket No. 12948, File No. BP-12920; for construction permits.

At a session of the Federal Communications Commission held at its offices in Washington, D.C., on the 30th day of September 1959:

The Commission having under consideration (1) the matters of record, (2) the joint petition for modification of the issues filed on September 10, 1959, by North Shore Broadcasting Co., Inc., Suburbanaire, Inc., Watertown Radio, Inc., and Russell G. Salter, and (3) the comment by Broadcast Bureau on Joint Petition to Modify Issues.

It appearing that all of the parties concur in the request for the modification except that the Broadcast Bureau suggests the deletion of the reference to Station WTTN in requested issue 1(a) to avoid redundancy;

It is ordered That the Order (FCC 59-876), released August 12, 1959, designating the above-captioned applications for hearing is amended by deleting the existing Issue 1 and substituting therefor the following Issue 1(a) and 1(b):

1(a). To determine the areas and populations which would receive primary service from the proposed operations of North Shore Broadcasting Co., Inc., and Suburbanaire, Inc., and the availability of other primary service to such areas and populations.

1(b). To determine whether there would be objectionable interference between the operation of Station WTTN, as proposed, and the operations proposed by North Shore Broadcasting Co., Inc., and Suburbanaire, Inc., and, if so, the areas and populations involved and

the availability of other primary service to such areas and populations.

Released: October 2, 1959.

FEDERAL COMMUNICATIONS
COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 59-8468; Filed, Oct. 7, 1959;
8:50 a.m.]

[Docket Nos. 12957-12959; FCC 59M-1291]

PIONEER BROADCASTING CO. ET AL.

Order Continuing Hearing

In re applications of Pioneer Broadcasting Company, Spanish Fork, Utah, Docket No. 12957, File No. BP-11678; Jack E. Falvey and Harry Saxe, d/b as Fortune Broadcasting, Salt Lake City, Utah, Docket No. 12958, File No. BP-12239; United Broadcasting Company (KVOG), Ogden, Utah, Docket No. 12959, File No. BP-12260; for construction permits.

The Hearing Examiner having under consideration agreement of parties participating at prehearing conference on October 2, 1959, regarding date for hearing:

It is ordered, This 2d day of October 1959, that the hearing now scheduled for October 7, 1959, is continued to December 14, 1959, at 10:00 a.m.

Released: October 2, 1959.

FEDERAL COMMUNICATIONS
COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 59-8469; Filed, Oct. 7, 1959;
8:50 a.m.]

[Docket No. 13085; FCC 59-1007]

NATIONAL BROADCASTING CO., INC.

Order Continuing Oral Argument

In re applications of National Broadcasting Company, Inc., Philadelphia, Pennsylvania, Docket No. 13085, File Nos. BR-562, BRCT-4, BRTP-22, BRTP-133, BRTP-204, BRTS-21; for renewal of licenses of Stations WRCV, WRCV-TV, KA-4465, KA-7914, KC-8393 and KGC-93.

At a session of the Federal Communications Commission held at its offices in Washington, D.C., on the 30th day of September 1959;

The Commission having before it for consideration (a) order of July 31, 1959 (FCC 59-859) setting oral argument in this proceeding, and (b) motion for continuance and extension of time, filed by National Broadcasting Company, Inc. on September 29, 1959, representing that counsel who is to present oral argument on its behalf is ill and that all parties have agreed to a continuance;

It is ordered, That so much of the order of July 31, 1959, as sets oral argument for 10:00 a.m. on October 1, 1959, is

amended to read 2:15 p.m. on October 8, 1959.

Released: October 1, 1959.

FEDERAL COMMUNICATIONS
COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 59-8470; Filed, Oct. 7, 1959;
8:50 a.m.]

[FCC 59-1019]

FIELD ENGINEERING AND MONITORING BUREAU

Delegation of Authority to Waive U.S. Citizenship Requirements and Issue Provisional Radio Operator Cer- tificates

In the matter of amendment of the Commission's Statement of Delegations of Authority (Part 0) to Delegate Authority to Field Engineering and Monitoring Bureau to Waive U.S. Citizenship Requirements and Issue Provisional Radio Operator Certificates.

At a session of the Federal Communications Commission held in its offices at Washington, D.C., on the 30th day of September 1959;

The Commission having under consideration the need for issuance of radio operator licenses for temporary periods pending submission of proof of eligibility and qualifications, and the authority added by Public Law 85-817 amending section 303 of the Communications Act of 1934, to waive the U.S. citizenship requirement in the case of certain applicants for a radio operator license who are aircraft pilots, upon a finding that the public interest will be served; and

It appearing that the Commission on the aforementioned date issued a Notice of Proposed Rule-Making proposing to amend Part 13 of its rules in accord with the foregoing considerations; and

It further appearing that subsequent to the enactment of Public Law 85-817, the Commission has received several applications for radio operator licenses from alien aircraft pilots and more such applications may be received before procedures are regularly established for licensing such persons; and

It further appearing that provision should be made immediately for waiving the U.S. citizenship requirement for limited periods in the public interest; and that acting on requests for such waiver is a function which should be delegated to the staff in the interest of expediting operator licensing; and

It further appearing that the amendments hereinafter ordered relate to internal Commission organization and procedure and that publication of Notice of Proposed Rule-Making pursuant to section 4(a) of the Administrative Procedure Act is not required.

It is ordered, Pursuant to authority contained in sections 4(1), 5(d)(1), and 303(1) of the Communications Act of 1934, as amended, that effective September 30, 1959, the Commission's Statement

of Delegations of Authority (Part 0) is amended as set forth below.

Released: October 5, 1959.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] MARY JANE MORRIS,
Secretary.

Section 0.271 of the Commission's Statement of Delegations of Authority is amended by adding paragraphs (a) (8) and (a) (9) as follows:

(8) To act on requests for a provisional radio operator certificate.

(9) To act on requests by holders of a pilot certificate issued by the Civil Aeronautics Administration or the Federal Aviation Agency for a waiver of the United States citizenship requirement under section 303(1) of the Communications Act of 1934, as amended.

[F.R. Doc. 59-8471; Filed, Oct. 7, 1959; 8:50 a.m.]

CIVIL AERONAUTICS BOARD

[Docket Nos. 10501, 10602]

MODERN AIR TRANSPORT, INC., AND JOHN P. BECKER

Notice of Hearing

In the matter of applications by Modern Air Transport, Inc., and John P. Becker for approval of control and interlocking relationships and of an aircraft lease.

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, that a hearing in the above entitled proceeding is assigned to be held on October 15, 1959, at 10:00 a.m., e.d.s.t., in Room 1027, Universal Building, Connecticut and Florida Avenues NW., Washington, D.C., before Examiner Baron Fredricks.

Dated at Washington, D.C., October 5, 1959.

[SEAL] FRANCIS W. BROWN,
Chief Examiner.

[F.R. Doc. 59-8475; Filed, Oct. 7, 1959; 8:51 a.m.]

[Docket No. SA-345]

ACCIDENT ON GREAT SITKIN ISLAND, ALASKA

Notice of Hearing

In the matter of investigation of accident involving aircraft of United States Registry N 63396, which occurred on Great Sitkin Island, Alaska, September 24, 1959:

Notice is hereby given, pursuant to the Federal Aviation Act of 1958, particularly Title VII of said Act, in the above-entitled proceeding that hearing is hereby assigned to be held on Tuesday, October 13, 1959, at 9:30 a.m. (local time) at the Westward Hotel, Anchorage, Alaska.

Dated at Washington, D.C., October 2, 1959.

[SEAL] VAN R. O'BRIEN,
Hearing Officer.

[F.R. Doc. 59-8476; Filed, Oct. 7, 1959; 8:51 a.m.]

[Docket No. 10903; Order E-14522]

NATIONAL AIRLINES, INC.

Surcharges Proposed for Jet Service Between New York and Miami; Investigation and Suspension

National Airlines, Inc. (National), by tariff revisions filed September 2, 1959, and marked to become effective October 5, 1959,¹ proposes to add a surcharge of \$10 to basic fares applicable in the forward deluxe and the rear high-density compartments of Boeing 707 aircraft on flights between New York and Miami.² National proposes to charge, as basic fares, (1) the presently effective first-class fare for the deluxe compartment during daytime operations, (2) presently effective day coach fare for the rear compartment, as well as for the deluxe compartment, in off-peak service,³ and (3) off-peak coach fare in the rear compartment in off-peak service.⁴

The surcharge of \$10 applicable to the deluxe compartment of the Boeing 707 during daytime operations is the same surcharge National imposed last winter for these same accommodations, and which we permitted to become effective.⁵ Similarly we will permit National's proposed surcharge for the deluxe compartment during daytime operations to become effective this year without investigation.

Neither shall we investigate the tariff rules regarding the application of presently effective day and off-peak coach fares to day and off-peak flights of the dual configuration Boeing 707. These do not appear, prima facie, unreasonable.

We find, however, that the addition of a \$10 surcharge to National's coach fares either on day or off-peak flights may be unwarranted. We base this opinion on the fact that the \$10 surcharge relative to the basic fare is substantially higher than surcharges for similar jet services which we permitted to become effective for other carriers. Thus, National's surcharge is 18 percent of its day coach fare, as compared with an average of 9 percent for other carriers. National has submitted no justification for such a high surcharge, nor can we find, with the data and information available to us, any lawful basis for such a high surcharge. In view of this the Board finds that the surcharge may be unlawful and we are herein ordering that it be investigated and suspended.

The Board, however, would not suspend a \$5 surcharge to be added to all of National's presently effective coach fares applicable in Boeing 707 aircraft.

¹ These tariff proposals expire by their own terms on December 31, 1959.

² Agent Squire's C.A.B. No. 44.

³ Off-peak service is defined to mean service between the hours of 10:00 p.m. and 3:59 a.m.

⁴ National's reduced off-peak New York-Miami fare of \$35.10 which applies on Monday, Tuesday, Wednesday, and Thursday nights and National's \$45 economy fare are restricted so as not to apply on Boeing 707 aircraft.

⁵ Order No. E-13232 dated December 4, 1958. Tariffs containing this surcharge expired May 16, 1959.

Such a surcharge would be consistent with surcharges we have previously permitted to become effective for other carriers.

The Board finds that its action herein is necessary and appropriate in order to carry out the provisions and objectives of the Federal Aviation Act of 1958, particularly sections 204(a), 403, 404, and 1002 thereof.

Accordingly, it is ordered, That:

1. An investigation be instituted to determine whether the provisions shown on 1st Revised Page 186-A to Agent C. C. Squire's C.A.B. No. 44, insofar as such provisions are applicable to services provided on Boeing 707 aircraft at other than first-class fares are, or will be unjust or unreasonable, unjustly discriminatory or unduly preferential or unduly prejudicial, or otherwise unlawful, and if found to be unlawful to determine and prescribe the lawful fares and provisions.

2. Pending such investigation, hearing and decision by the Board, the provisions shown on 1st Revised Page 186-A to Agent C. C. Squire's C.A.B. No. 44, insofar as they are applicable to services provided on Boeing 707 aircraft at other than first-class fares, are suspended and their use deferred to and including January 2, 1960, unless otherwise ordered by the Board, and no changes whatsoever be made therein during the period of suspension except by order or special permission of the Board.

3. The proceeding ordered herein be assigned for hearing before an examiner of the Board at a time and place hereinafter to be designated.

4. Copies of this order be filed with Agent C. C. Squire's tariff C.A.B. No. 44 and a copy be served upon National Airlines, Inc., which is hereby made a party to this proceeding. This order shall also be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] MABEL McCART,
Acting Secretary.

[F.R. Doc. 59-8477; Filed, Oct. 7, 1959; 8:51 a.m.]

FEDERAL POWER COMMISSION

[Docket No. G-18313 etc.]

MIDWESTERN GAS TRANSMISSION CO. AND MICHIGAN WISCONSIN PIPE LINE CO.

Order Waiving Intermediate Decision Procedure Setting Date for Filing Briefs and Fixing Date for Oral Argument

OCTOBER 2, 1959.

In the matters of Midwestern Gas Transmission Company, Docket Nos. G-18313, G-18314 and G-18315; Michigan Wisconsin Pipe Line Company, Docket No. G-18316.

On September 25, 1959, the presiding examiner in the above-entitled proceeding filed a "Certification of Motion for Waiver of the Intermediate Decision Procedure" to which were attached transcript pages setting forth motions made by counsel for Midwestern Gas

Transmission Company (Midwestern) and Iowa Southern Utilities Company (Iowa Southern), together with the various answers of other counsel thereto.

The first motion as to omission of the intermediate decision procedure was made on September 23, 1959, by counsel for Iowa Southern. This motion requests that the normal decisional process, including the filing of an examiner's intermediate decision, be utilized as to the issue of allocating gas to the existing customers of Michigan Wisconsin Pipe Line Company (Michigan Wisconsin) and as to matters concerning certain of the interveners seeking gas for new communities. However, Iowa Southern desires that the intermediate decision procedure be omitted as to the major issue of considering importation of Canadian gas and the sale thereof by Midwestern. While questions concerning Michigan Wisconsin's proposed initial service to the Wisconsin River Valley and the Upper Peninsula of Michigan were included among the issues on which Iowa Southern requested omission of the intermediate decision procedure, Iowa Southern added an alternative as to the last-named issues indicating that it had no objections to the Commission's treating these matters under the normal decisional process. The practical limitations governing the examiner's severance of portions of the record prior to certifying it to the Commission, *inter alia*, prohibit the granting of Iowa Southern's motion requesting partial omission of the intermediate decision procedure.

On September 24, 1959, counsel for Midwestern made a second motion as to omission of the intermediate decision procedure in which he requested (1) that the intermediate decision procedure be waived as to all aspects of the consolidated proceeding, (2) that the Commission set October 15, 1959, as the date for the filing of simultaneous briefs, and (3) that oral argument, in lieu of reply briefs, be held on October 19, 1959. In support of the motion, it was stated that "Midwestern's gas purchase contract with Trans-Canada Pipe Lines Limited is subject to cancellation by Trans-Canada if Midwestern fails to obtain the required authorizations from the Federal Power Commission by November 1, 1959. The precedent agreements between Midwestern and Michigan Wisconsin and Midwestern's other customers are also subject to termination if both Midwestern and Michigan Wisconsin have not received satisfactory certificates by November 1, 1959. As this record shows, the termination date of April 1, 1956, in the original Midwestern contract has been extended three times since Midwestern's original application was filed almost four years ago. Two of these extensions resulted in increases in the price of Canadian gas. * * * The Commission indicated in its Opinion No. 316 that it intends to expedite the handling and disposition of new applications which might be filed by the various applicants in the proceeding looking toward

service in the midwestern areas of the United States. * * *

Counsel for Michigan Wisconsin and several interveners concurred in the Midwestern motion for omission of the intermediate decision procedure. Staff counsel took no position. Only counsel for the Coal Interveners¹ opposed the motion, his objections being primarily directed to emphasizing that there is no proof in the record that Trans-Canada would in fact cancel the contract with Midwestern if no certificate should be issued by November 1, 1959, and that there is no certainty that the Oil and Gas Conservation Board of Alberta and the newly-created National Energy Board of Canada will approve the exportation of Canadian gas even if this Commission does hasten its own decision as to the importation issue.

Consistent with its action in the proceedings in the Matters of Midwestern Gas Transmission Company, et al., Docket Nos. G-16841, et al., and in the Matters of Northern Natural Gas Company, et al., Docket Nos. G-17485, et al., where the intermediate decision procedure was omitted, it appears that the intermediate decision procedure should also be waived in this proceeding where Midwestern and Michigan Wisconsin propose service to the remainder of the market areas which were previously considered in the proceedings culminating in issuance of Opinion No. 316.

The Commission finds:

(1) The due and timely execution of the Commission's functions imperatively and unavoidably requires the omission of the intermediate decision procedure.

(2) Good cause has been shown for waiving and omitting the intermediate decision procedure and for allowing oral argument before the Commission at the time hereinafter fixed.

The Commission orders:

(A) The intermediate decision procedure in the above-entitled proceeding be and it is hereby waived and omitted.

(B) Simultaneous briefs shall be filed on or before October 15, 1959, and oral argument, in lieu of reply briefs, shall be held as hereinafter provided in paragraph (C).

(C) Oral argument before the Commission shall be held on October 20, 1959, at 10:00 a.m., e.d.s.t., in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, D.C. All parties desiring to participate in the oral argument shall inform the Secretary of the Commission in writing of the length of time desired for argument not later than October 14, 1959.

By the Commission.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 59-8437; Filed, Oct. 7, 1959;
8:45 a.m.]

¹ National Coal Association, United Mine Workers of America, Fuels Research Council, Inc., Mid-West Coal Producers Institute, Inc., Upper Lake Docks Coal Bureau, Inc., and The Chesapeake and Ohio Railway Company.

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Area 239]

KANSAS

Declaration of Disaster Area

Whereas, it has been reported that during the month of September 1959, because of the effects of certain disasters, damage resulted to residences and business property located in certain areas in the State of Kansas;

Whereas, the Small Business Administration has investigated and has received other reports of investigations of conditions in the areas affected;

Whereas, after reading and evaluating reports of such conditions, I find that the conditions in such areas constitute a catastrophe within the purview of the Small Business Act.

Now, therefore, as Administrator of the Small Business Administration, I hereby determine that:

1. Applications for disaster loans under the provisions of section 7(b) of the Small Business Act may be received and considered by the Offices below indicated from persons or firms whose property situated in the following Counties (including any areas adjacent to said Counties) suffered damage or destruction as a result of the catastrophe hereinafter referred to:

Counties: Barton, Ness and Rush (Flood occurring on or about September 22, 23 and 24, 1959).

Offices: Small Business Administration Regional Office, Home Savings Building, Fifth Floor, 1006 Grand Avenue, Kansas City 6, Mo.

Small Business Administration Branch Office, Board of Trade Building, Room 215, 120 South Market Street, Wichita 2, Kans.

2. No Special field offices will be established at this time.

3. Applications for disaster loans under the authority of this Declaration will not be accepted subsequent to March 31, 1960.

Dated: September 25, 1959.

WENDELL B. BARNES,
Administrator.

[F.R. Doc. 59-8446; Filed, Oct. 7, 1959;
8:47 a.m.]

[Declaration of Disaster Area 240]

MISSOURI

Declaration of Disaster Area

Whereas, it has been reported that during the month of September 1959, because of the effects of certain disasters, damage resulted to residences and business property located in certain areas in the State of Missouri;

Whereas, the Small Business Administration has investigated and has received other reports of investigations of conditions in the areas affected;

Whereas, after reading and evaluating reports of such conditions, I find that the

conditions in such areas constitute a catastrophe within the purview of the Small Business Act.

Now, therefore, as Administrator of the Small Business Administration, I hereby determine that:

1. Applications for disaster loans under the provisions of section 7(b) of the Small Business Act may be received and considered by the Office below indicated from persons or firms whose property situated in the following County (including any areas adjacent to said County) suffered damage or destruction as a result of the catastrophe hereinafter referred to:

County: Wright (Tornado occurring on or about September 26, 1959).

Office: Small Business Administration Regional Office, Home Savings Building, Fifth Floor, 1006 Grand Avenue, Kansas City 6, Mo.

2. No special field offices will be established at this time.

3. Applications for disaster loans under the authority of this Declaration will not be accepted subsequent to March 31, 1960.

Dated: September 29, 1959.

WENDELL B. BARNES,
Administrator.

[F.R. Doc. 59-8447; Filed, Oct. 7, 1959; 8:47 a.m.]

[Power of Attorney 2]

**ACTING BRANCH MANAGER,
SAN JUAN, PUERTO RICO**

**Power of Attorney Relating to Loans
in the Commonwealth of Puerto Rico**

Notice is hereby given that Power of Attorney No. 2 issued to Mr. Aristides J. Armstrong, and published at 23 F.R. 3605, is revoked, such revocation being effective immediately.

Dated: September 29, 1959.

WENDELL B. BARNES,
Administrator.

[F.R. Doc. 59-8448; Filed, Oct. 7, 1959; 8:47 a.m.]

[Power of Attorney 3]

**ACTING BRANCH MANAGER,
SANTURCE, PUERTO RICO**

**Power of Attorney Relating to Loans
in the Commonwealth of Puerto Rico**

Pursuant to the authority vested in the Administrator by the Small Business Act (Pub. Law 85-536), as amended (Pub. Law 85-699), and the Small Business Investment Act of 1958 (Pub. Law 85-699), there is hereby issued the following Power of Attorney:

Know all men by these presents:

That I, Wendell B. Barnes, of age, married and a resident of Sumner, Maryland, in my capacity as Administrator of the Small Business Administration, an Agency of the United States

No. 197—8

of America, created by said Small Business Act, as amended, and in the exercise of the powers conferred upon me as Administrator under said Act, and said Small Business Investment Act of 1958, do hereby nominate, constitute and appoint Mr. Juan C. Lopez, of age, and a resident of The Commonwealth of Puerto Rico (hereinafter referred to as the Attorney in Fact), my true and lawful attorney, for and within The Commonwealth of Puerto Rico, whenever and during such time as he shall be designated by the Branch Manager, Santurce Office of the Small Business Administration, to be Acting Branch Manager of said Office, to exercise, do and perform subject to the limitations and restrictions expressed hereinafter any and all of the following things and acts:

1. To accept on behalf of the Small Business Administration ownership of, or other interest in, any property (real, personal, or mixed, tangible or intangible), whenever deemed necessary or appropriate to the conduct of the activities authorized by said Small Business Act, as amended, and said Small Business Investment Act of 1958.

2. To convey and execute in the name of the Small Business Administration, deeds of conveyance, full or partial deeds of release, assignments and satisfactions of mortgages and any other written instrument relating to real, personal, tangible or intangible property, or any interest therein, necessary in the granting, administration, collection and liquidation of loans made by the Small Business Administration, pursuant to the provisions of said Small Business Act, as amended, and said Small Business Investment Act of 1958.

3. To demand and accept securities, real or personal, which guarantee debts heretofore or hereafter acknowledged in favor of the Small Business Administration, or which guarantee the fulfillment of any other existing or future obligations contracted in favor of the Small Business Administration.

4. To appear on behalf of the Small Business Administration in all deeds or mortgages executed in The Commonwealth of Puerto Rico in favor of the Small Business Administration in connection with the making of loans; assessing the property mortgaged for the purpose of the first sale to be held in case of foreclosure and in case that more than one property is mortgaged, for the purpose of distributing among the properties mortgaged, the amount of the mortgage responsibility on each property mortgaged; and for other purposes as may be necessary to produce an instrument recordable in the Registry of Property of The Commonwealth of Puerto Rico.

5. To register and record, or to present for registration and recording, any and all deeds, documents, and other papers, which it may be necessary or proper to register or record in The Commonwealth of Puerto Rico.

Giving and granting upon the said Juan C. Lopez, full power and authority to do and perform each and every act and thing whatsoever requisite or necessary to be done in and about the premises as fully and effectually to all intents and purposes as the Administrator himself might or could do if personally present and acting; hereby ratifying and confirming all that the said Juan C. Lopez or his duly appointed substitute shall lawfully do or cause to be done by virtue hereof; and in the exercise of the faculties conferred in the present Power of Attorney, said Juan C. Lopez is empowered to appear in, and execute, any and all public instruments or authentic documents as may be necessary to authenticate acts or contracts subject to recordation; and whenever he may appear or execute such public instruments or authentic documents, he is authorized to comply with, and fulfill all and any conditions, clauses, and formalities as may be required under the Civil Code, the Mortgage Law and Regulations, and other statutes of The Commonwealth of Puerto Rico, as may be necessary to produce instruments and deeds acceptable for recordation in the Property Registries of The Commonwealth of Puerto Rico.

Unless sooner revoked or terminated by me in writing, this Power of Attorney shall remain in full force and effect until the Attorney in Fact resigns or is removed from the employ of the Small Business Administration, whichever happens first.

Washington, D.C., this 29th day of September 1959.

[SEAL] WENDELL B. BARNES,
Administrator,
Small Business Administration.

[F.R. Doc. 59-8449; Filed, Oct. 7, 1959; 8:47 a.m.]

**INTERSTATE COMMERCE
COMMISSION**

**FOURTH SECTION APPLICATIONS
FOR RELIEF**

OCTOBER 5, 1959.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the general rules of practice (49 CFR 1.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 35737: *Commercial alcohols—New Orleans to Illinois points.* Filed by O. W. South, Jr., Agent (SFA No. A3846), for interested rail carriers. Rates on denatured alcohol and solvents and other alcohols, in carloads, from New Orleans, La., to Chicago Heights, Joliet, Lemont, South Chicago, Ill., East Chicago, Gary, Hammond, and Whiting, Ind.

Grounds for relief: Barge competition. Tariff: Supplement 216 to New Orleans Freight Tariff Bureau tariff I.C.C. 400

[Notice 202]

MOTOR CARRIER TRANSFER PROCEEDINGS

OCTOBER 5, 1959.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 179), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC 62201. By order of September 30, 1959, The Transfer Board approved the transfer to Geneva Transfer, Incorporated, Geneva, Nebraska, of a certificate in No. MC 85788 Sub 1, issued July 20, 1950, to J. Walter Doremus and Lyle I. Peterson, a partnership, doing business as Geneva Transfer, Geneva, Nebraska, authorizing the transportation of general commodities, excluding household goods, as defined by the Commission, and commodities in bulk, and other specified commodities, over regular routes, between Geneva, Nebr., and Lincoln, Nebr., serving all intermediate points. Mr. John C. Gewacke, Waring & Gewacke, Geneva State Bank Building, Geneva, Nebraska.

No. MC-FC 62577. By order of September 30, 1959, The Transfer Board approved the transfer to Golden Van Lines, Inc., Longmont, Colorado, of portions of Certificates in Nos. MC 3384, and MC 3384 Sub 2, issued February 12, 1943, and April 8, 1947, respectively, to Vane Golden, doing business as Golden Transfer Company, Longmont, Colorado, authorizing the transportation of household goods, as defined by the Commission, over irregular routes, between specified points in Colorado, Kansas, Nebraska, Wyoming, Idaho, Iowa, Oklahoma, South Dakota, New Mexico, Utah, Arizona, Montana, and Texas. Marion F. Jones, Jones & Meiklejohn, Suite 526 Denham Building, Denver 2, Colorado.

No. MC-FC 62578. By order of September 30, 1959, The Transfer Board approved the transfer to Golden Transfer Company, A Corporation, Longmont, Colorado, portions of Certificates in Nos. MC 3384, and MC 3384 Sub 2, issued February 12, 1943, and April 8, 1947, respectively, to Vane Golden, doing business as Golden Transfer Company, Longmont, Colorado, authorizing the transportation of general commodities, including household goods, as defined by the Commission, and excluding commodities in bulk and other specified commodities, between specified points in Colorado, and specific commodities, from, to, and between, specified points in Wyoming, Colorado, Nebraska, Kansas, and Missouri. Marion F. Jones, Jones & Meiklejohn, Suite 526 Denham Building, Denver 2, Colorado.

(Marque series), Southern Freight Association, Agent.

FSA No. 35738: *Iron and steel articles—Interstate points to Bobsher, Tex.* Filed by Southwestern Freight Bureau, Agent (No. B-7649), for interested rail carriers. Rates on iron and steel articles, in carloads, from specified producing points in Alabama, Colorado, Illinois, Minnesota, Missouri, Oklahoma, and Wisconsin to Bobsher, Tex.

Grounds for relief: Commercial competition with nearby Beaumont and Orange, Tex.

Tariff: Supplement 66 to Southwestern Freight Bureau tariff I.C.C. 4308.

FSA No. 35739: *Bituminous coal and briquettes—Western Kentucky Mines to Austin, Ind.* Filed by Illinois Freight Association, Agent (No. 79), for the Illinois Central Railroad Company, the Louisville and Nashville Railroad Company, and The Pennsylvania Railroad Company. Rates on bituminous coal and briquettes, in carloads, from mines in western Kentucky on the Illinois Central and Louisville and Nashville railroads to Austin, Ind.

Grounds for relief: Market competition with like coal moving via barge and truck through Madison, Ind., from Kanawha River Valley points.

Tariffs: Supplement 57 to Southern Freight Association tariff I.C.C. 1603. Supplement 48 to Illinois Central Railroad Company's tariff I.C.C. E-1850.

By the Commission.

[SEAL] HAROLD D. McCoy, Secretary.

[F.R. Doc. 59-8458; Filed, Oct. 7, 1959; 8:48 a.m.]

[SEAL] HAROLD D. McCoy, Secretary.

[F.R. Doc. 59-8459; Filed, Oct. 7, 1959; 8:49 a.m.]

CUMULATIVE CODIFICATION GUIDE—OCTOBER

A numerical list of parts of the Code of Federal Regulations affected by documents published to date during October. Proposed rules, as opposed to final actions, are identified as such.

3 CFR	Page
<i>Proclamations:</i>	
3160.....	7893
3225.....	7893
3285.....	7893
3315.....	7891
3316.....	7891
3317.....	7893
3318.....	7979
<i>Executive Orders:</i>	
Sept. 1, 1887.....	8175
July 20, 1905.....	8175
July 21, 1905.....	8175
May 11, 1915.....	8175
May 17, 1921.....	8175
1579.....	8175
8509.....	8175
10791.....	7939
10839.....	7939
10840.....	7939
10841.....	7941
5 CFR	
6.....	7942, 7979
24.....	7981
6 CFR	
10.....	7894
331.....	7942
485.....	7987

7 CFR	Page
52.....	8162
401.....	7894
847.....	7942
903.....	8087
905-908.....	8087
911-913.....	8087
916-919.....	8087
921.....	8087
922.....	8001
923-925.....	8087
928-932.....	8087
933.....	8002, 8003
935.....	8087
941-944.....	8087
946.....	8087
948-949.....	8087
951.....	8004
952.....	8087
953.....	8004
954.....	8087
956.....	8087
958.....	8089
959.....	8004
965-968.....	8087
971-972.....	8087
974-978.....	8087
980.....	8087
982.....	8087

7 CFR—Continued	Page
985-988.....	8087
991.....	8087
994-995.....	8087
998.....	8087
1000.....	8087
1002.....	8087
1004-1005.....	8087
1008-1009.....	8087
1011-1014.....	8087
1015.....	8089
1016.....	8087
1018.....	8087
1023.....	8087
1104.....	8162
1105.....	8170
<i>Proposed rules:</i>	
52.....	8112
55.....	7899
81.....	8114
722.....	7900
730.....	8186
904.....	8116
924.....	8116
927.....	8184
954.....	8186
957.....	7962
961.....	8117
990.....	8116

7 CFR—Continued	Page
996.....	8116
999.....	8116
1005.....	7963
1010.....	8117
1015.....	8118
1019.....	8116
1027.....	7964
9 CFR	
<i>Proposed rules:</i>	
92.....	7900
12 CFR	
563.....	7894
13 CFR	
121.....	7943
14 CFR	
40.....	8089
41.....	8090
42.....	8090
375.....	8091
507.....	7981, 8092
514.....	7943
600.....	7895, 7896, 8092, 8093
601.....	7895, 7896, 7982, 8092, 8093
608.....	7982
609.....	7944, 7983
610.....	7985
<i>Proposed rules:</i>	
507.....	8188
514.....	7965
600.....	7966, 8118, 8119
601.....	7966, 7967, 8118, 8119
602.....	7967
608.....	7967
15 CFR	
371.....	8170
373.....	8170
374.....	8170
385.....	8170
399.....	8173
16 CFR	
13.....	7897
17 CFR	
1.....	8141
19 CFR	
23.....	7949
21 CFR	
9.....	8065
<i>Proposed rules:</i>	
18.....	7964
121.....	7965

22 CFR	Page
42.....	8005
25 CFR	
171.....	7949
172.....	7949
173.....	7949
174.....	7949
184.....	7949
217.....	8065
<i>Proposed rules:</i>	
221.....	7901
26 (1954) CFR	
<i>Proposed rules:</i>	
1.....	8177
29 CFR	
406.....	7949
407.....	7951
782.....	8019
30 CFR	
<i>Proposed rules:</i>	
250.....	8080
31 CFR	
316.....	8019
332.....	8045
32 CFR	
595.....	8143
606.....	8143
808.....	8145
861.....	8145
1001.....	8146
1051—1055.....	8146, 8147, 8152, 8157
1057—1059.....	8157, 8161
1080.....	8162
32A CFR	
<i>NSA (Chapter XVIII):</i>	
AGE-1.....	7951
AGE-4.....	7951
33 CFR	
210.....	7952
36 CFR	
<i>Proposed rules:</i>	
1.....	7961, 8184
13.....	7961
37 CFR	
1.....	7954
38 CFR	
1.....	8174
39 CFR	
168.....	8143

41 CFR	Page
201.....	8067
43 CFR	
194.....	8067
295.....	7955
<i>Proposed rules:</i>	
147.....	8078
149.....	8078
<i>Public land orders:</i>	
1588.....	7956
1927.....	7958
1943.....	7956
1995.....	7956
1996.....	7956
1997.....	7957
1998.....	7957
1999.....	7958
2000.....	8006
2001.....	8093
2002.....	8175
2003.....	8175
2004.....	8176
45 CFR	
531.....	8068
46 CFR	
157.....	7960
172.....	7961
308.....	8093
47 CFR	
1.....	8176
7.....	8068
8.....	8071
12.....	7951
13.....	8176
14.....	8075
<i>Proposed rules:</i>	
9.....	8189
13.....	8189
49 CFR	
71.....	8056
72.....	8056
73.....	8056
74.....	8059
78.....	8060
95.....	8006
<i>Proposed rules:</i>	
174a.....	8006
50 CFR	
6.....	7959
17.....	8177
31.....	7897, 7898, 8075-8077
32.....	8077
34.....	7959
35.....	7899, 7960, 7981, 8177

